

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 502

By: Mazzei

AS INTRODUCED

An Act relating to income tax; amending 68 O.S. 2011, Section 2357.4, which relates to tax credits; conforming language; prohibiting allowance of credits for specified entities; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.4, is amended to read as follows:

Section 2357.4. A. Except as otherwise provided in subsection F of Section 3658 of this title and ~~in subsection J~~ subsections J and K of this section, for taxable years beginning after December 31, 1987, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property placed in service during those years for use in a manufacturing operation, as defined in Section 1352 of this title, which has received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title or a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of Section 1357 of

1 this title in this state or a qualified web search portal as defined
2 paragraph 35 of Section 1357 of this title; or

3 2. A net increase in the number of full-time-equivalent
4 employees engaged in manufacturing, processing or aircraft
5 maintenance in this state including employees engaged in support
6 services.

7 B. Except as otherwise provided in subsection F of Section 3658
8 of this title and ~~in subsection J~~ subsections J and K of this
9 section, for taxable years beginning after December 31, 1998, there
10 shall be allowed a credit against the tax imposed by Section 2355 of
11 this title for:

12 1. Investment in qualified depreciable property with a total
13 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
14 within three (3) years from the date of initial qualifying
15 expenditure and placed in service in this state during those years
16 for use in the manufacture of products described by any Industry
17 Number contained in Division D of Part I of the Standard Industrial
18 Classification (SIC) Manual, latest revision; or

19 2. A net increase in the number of full-time-equivalent
20 employees in this state engaged in the manufacture of any goods
21 identified by any Industry Number contained in Division D of Part I
22 of the Standard Industrial Classification (SIC) Manual, latest
23 revision, if the total cost of qualified depreciable property placed
24 in service by the business entity within the state equals or exceeds

1 Forty Million Dollars (\$40,000,000.00) within three (3) years from
2 the date of initial qualifying expenditure.

3 C. The business entity may claim the credit authorized by
4 subsection B of this section for expenditures incurred or for a net
5 increase in the number of full-time-equivalent employees after the
6 business entity provides proof satisfactory to the Oklahoma Tax
7 Commission that the conditions imposed pursuant to paragraph 1 or
8 paragraph 2 of subsection B of this section have been satisfied.

9 D. If a business entity fails to expend the amount required by
10 paragraph 1 or paragraph 2 of subsection B of this section within
11 the time required, the business entity may not claim the credit
12 authorized by subsection B of this section, but shall be allowed to
13 claim a credit pursuant to subsection A of this section if the
14 requirements of subsection A of this section are met with respect to
15 the investment in qualified depreciable property or net increase in
16 the number of full-time-equivalent employees.

17 E. The credit provided for in subsection A of this section, if
18 based upon investment in qualified depreciable property, shall not
19 be allowed unless the investment in qualified depreciable property
20 is at least Fifty Thousand Dollars (\$50,000.00). The credit
21 provided for in subsection A or B of this section shall not be
22 allowed if the applicable investment is the direct cause of a
23 decrease in the number of full-time-equivalent employees. Qualified
24 property shall be limited to machinery, fixtures, equipment,

1 buildings or substantial improvements thereto, placed in service in
2 this state during the taxable year. The taxable years for which the
3 credit may be allowed if based upon investment in qualified
4 depreciable property shall be measured from the year in which the
5 qualified property is placed in service. If the credit provided for
6 in subsection A or B of this section is calculated on the basis of
7 the cost of the qualified property, the credit shall be allowed in
8 each of the four (4) subsequent years. If the qualified property on
9 which a credit has previously been allowed is acquired from a
10 related party, the date such property is placed in service by the
11 transferor shall be considered to be the date such property is
12 placed in service by the transferee, for purposes of determining the
13 aggregate number of years for which credit may be allowed.

14 F. The credit provided for in subsection A or B of this
15 section, if based upon an increase in the number of full-time-
16 equivalent employees, shall be allowed in each of the four (4)
17 subsequent years only if the level of new employees is maintained in
18 the subsequent year. In calculating the credit by the number of new
19 employees, only those employees whose paid wages or salary were at
20 least Seven Thousand Dollars (\$7,000.00) during each year the credit
21 is claimed shall be included in the calculation. Provided, that the
22 first year a credit is claimed for a new employee, such employee may
23 be included in the calculation notwithstanding paid wages of less
24 than Seven Thousand Dollars (\$7,000.00) if the employee was hired in

1 the last three quarters of the tax year, has wages or salary which
2 will result in annual paid wages in excess of Seven Thousand Dollars
3 (\$7,000.00) and the taxpayer submits an affidavit stating that the
4 employee's position will be retained in the following tax year and
5 will result in the payment of wages in excess of Seven Thousand
6 Dollars (\$7,000.00). The number of new employees shall be
7 determined by comparing the monthly average number of full-time
8 employees subject to Oklahoma income tax withholding for the final
9 quarter of the taxable year with the corresponding period of the
10 prior taxable year, as substantiated by such reports as may be
11 required by the Tax Commission.

12 G. The credit allowed by subsection A of this section shall be
13 the greater amount of either:

14 1. One percent (1%) of the cost of the qualified property in
15 the year the property is placed in service; or

16 2. Five Hundred Dollars (\$500.00) for each new employee. No
17 credit shall be allowed in any taxable year for a net increase in
18 the number of full-time-equivalent employees if such increase is a
19 result of an investment in qualified depreciable property for which
20 an income tax credit has been allowed as authorized by this section.

21 H. The credit allowed by subsection B of this section shall be
22 the greater amount of either:

23 1. Two percent (2%) of the cost of the qualified property in
24 the year the property is placed in service; or

1 2. One Thousand Dollars (\$1,000.00) for each new employee.

2 No credit shall be allowed in any taxable year for a net
3 increase in the number of full-time-equivalent employees if such
4 increase is a result of an investment in qualified depreciable
5 property for which an income tax credit has been allowed as
6 authorized by this section.

7 I. Except as provided by subsection G of Section 3658 of this
8 title, any credits allowed but not used in any taxable year may be
9 carried over in order as follows:

10 1. To each of the four (4) years following the year of
11 qualification;

12 2. To the extent not used in those years in order to each of
13 the fifteen (15) years following the initial five-year period; and

14 3. If a C corporation that otherwise qualified for the credits
15 under subsection A of this section subsequently changes its
16 operating status to that of a pass-through entity which is being
17 treated as the same entity for federal tax purposes, the credits
18 will continue to be available as if the pass-through entity had
19 originally qualified for the credits subject to the limitations of
20 this section.

21 To the extent not used in paragraphs 1 and 2 of this subsection,
22 such credits from qualified depreciable property placed in service
23 on or after January 1, 2000, may be utilized in any subsequent tax
24 years after the initial twenty-year period.

1 J. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure or other act occurring on or after July 1, 2010, for
4 which the credit would otherwise be allowable until the provisions
5 of this subsection shall cease to be operative on July 1, 2012.
6 Beginning July 1, 2012, the credit authorized by this section may be
7 claimed for any event, transaction, investment, expenditure or other
8 act occurring on or after July 1, 2010, according to the provisions
9 of this section; provided, credits accrued during the period from
10 July 1, 2010, through June 30, 2012, shall be limited to a period of
11 two (2) taxable years. The credit shall be limited in each taxable
12 year to fifty percent (50%) of the total amount of the accrued
13 credit. Any tax credits which accrue during the period of July 1,
14 2010, through June 30, 2012, may not be claimed for any period prior
15 to the taxable year beginning January 1, 2012. No credits which
16 accrue during the period of July 1, 2010, through June 30, 2012, may
17 be used to file an amended tax return for any taxable year prior to
18 the taxable year beginning January 1, 2012.

19 K. No credit shall be allowed pursuant to this section by a
20 taxpayer engaged in electric power generation by means of wind, as
21 described by the North American Industry Classification System No.
22 221119.
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SECTION 2. This act shall become effective January 1, 2016.

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