

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1077

By: McCortney

6 AS INTRODUCED

7 An Act relating to income tax; amending 68 O.S. 2011,
8 Section 2357.104, as amended by Section 1, Chapter
9 325, O.S.L. 2016 (68 O.S. Supp. 2017, Section
10 2357.104), which relates to credits for qualified
11 railroad reconstruction or rehabilitation
12 expenditures; limiting time period during which
13 credits are transferrable; and providing an effective
14 date.

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

14 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.104, as
15 amended by Section 1, Chapter 325, O.S.L. 2016 (68 O.S. Supp. 2017,
16 Section 2357.104), is amended to read as follows:

17 Section 2357.104. A. Except as otherwise provided by
18 subsections G and H of this section, for taxable years beginning
19 after December 31, 2005, there shall be allowed a credit against the
20 tax imposed by Section 2355 of this title equal to fifty percent
21 (50%) of an eligible taxpayer's qualified railroad reconstruction or
22 replacement expenditures.

23 B. 1. Except as provided in paragraph 2 of this subsection,
24 the amount of the credit shall be limited to the product of Five

1 Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars
2 (\$2,000.00) for tax year 2008 and subsequent tax years and the
3 number of miles of railroad track owned or leased within this state
4 by the eligible taxpayer as of the close of the taxable year.

5 2. In tax year 2009 and subsequent tax years, a taxpayer may
6 elect to increase the limit provided in paragraph 1 of this
7 subsection to an amount equal to three times the limit specified in
8 paragraph 1 of this subsection for qualified expenditures made in
9 the tax year, provided the taxpayer may only claim one third (1/3)
10 of the credit in any one taxable period.

11 C. The For credits generated prior to January 1, 2018, the
12 credit allowed pursuant to subsection A of this section but not used
13 shall be freely transferable, by written agreement, to subsequent
14 transferees at any time during the five (5) years following the year
15 of qualification. An eligible transferee shall be any taxpayer
16 subject to the tax imposed by Section 2355 of this title. The
17 person originally allowed the credit and the subsequent transferee
18 shall jointly file a copy of the written credit transfer agreement
19 with the Oklahoma Tax Commission within thirty (30) days of the
20 transfer. The written agreement shall contain the name, address and
21 taxpayer identification number of the parties to the transfer, the
22 amount of credit being transferred, the year the credit was
23 originally allowed to the transferring person and the tax year or
24 years for which the credit may be claimed. The Tax Commission shall

1 promulgate rules to permit verification of the timeliness of a tax
2 credit claimed upon a tax return pursuant to this subsection but
3 shall not promulgate any rules which unduly restrict or hinder the
4 transfers of such tax credit. The Department of Transportation
5 shall promulgate rules to permit verification of the eligibility of
6 an eligible taxpayer's expenditures for the purpose of claiming the
7 credit. The rules shall provide for the approval of qualified
8 railroad reconstruction or replacement expenditures prior to
9 commencement of a project and provide a certificate of verification
10 upon completion of a project that uses qualified railroad
11 reconstruction or replacement expenditures. The certificate of
12 verification shall satisfy all requirements of the Tax Commission
13 pertaining to the eligibility of the person claiming the credit.

14 D. Any credits allowed pursuant to the provisions of subsection
15 A of this section but not used in any tax year may be carried over
16 in order to each of the five (5) years following the year of
17 qualification.

18 E. A taxpayer who elects to increase the limitation on the
19 credit under paragraph 2 of subsection B of this section shall not
20 be granted additional credits under subsection A of this section
21 during the period of such election.

22 F. As used in this section:
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1 1. "Class II and Class III railroad" means a railroad that is
2 classified by the United States Surface Transportation Board as a
3 Class II or Class III railroad;

4 2. "Eligible taxpayer" means any Class II or Class III
5 railroad; and

6 3. "Qualified railroad reconstruction or replacement
7 expenditures" means expenditures for:

- 8 a. reconstruction or replacement of railroad
9 infrastructure including track, roadbed, bridges,
10 industrial leads and track-related structures owned or
11 leased by a Class II or Class III railroad as of
12 January 1, 2006, or
13 b. new construction of industrial leads, switches, spurs
14 and sidings and extensions of existing sidings by a
15 Class II or Class III railroad.

16 G. No credit otherwise authorized by the provisions of this
17 section may be claimed for any event, transaction, investment,
18 expenditure or other act occurring on or after July 1, 2010, for
19 which the credit would otherwise be allowable. The provisions of
20 this subsection shall cease to be operative on July 1, 2012.
21 Beginning July 1, 2012, the credit authorized by this section may be
22 claimed for any event, transaction, investment, expenditure or other
23 act occurring on or after July 1, 2012, according to the provisions
24 of this section.

1 H. The credit otherwise authorized by the provisions of this
2 section shall be reduced by twenty-five percent (25%) for any
3 taxable year which begins on or after January 1, 2016. The
4 provisions of this subsection shall not be applicable to tax credits
5 carried forward from any tax year which began prior to January 1,
6 2016.

7 SECTION 2. This act shall become effective November 1, 2018.

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