

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 797

By: Bice

AS INTRODUCED

An Act relating to income tax; amending 68 O.S. 2011, Section 2357.22, as last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp. 2018, Section 2357.22), which relates to credit for investments in clean-burning motor fuel and electric motor vehicles; modifying time period during which credits may be claimed; deleting obsolete language; eliminating ability to claim credit for certain recharging property; modifying amount of credit which may be claimed for certain property and manner in which credit is calculated; establishing total annual limitation on amount of credits allowed; requiring Oklahoma Tax Commission to publish certain percentage; providing methodology for specified calculation; permitting certain excess credits under specified circumstance; requiring certain notice by Oklahoma Tax Commission; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.22, as last amended by Section 12, Chapter 328, O.S.L. 2014 (68 O.S. Supp. 2018, Section 2357.22), is amended to read as follows:

Section 2357.22. A. For tax years beginning before ~~January 1,~~ ~~2020~~ January 1, 2027, there shall be allowed a one-time credit against the income tax imposed by Section 2355 of this title for

1 investments in qualified clean-burning motor vehicle fuel property  
2 placed in service after December 31, 1990.

3 B. As used in this section, "qualified clean-burning motor  
4 vehicle fuel property" means:

5 1. Equipment installed to modify a motor vehicle which is  
6 propelled by gasoline or diesel fuel so that the vehicle may be  
7 propelled by ~~a hydrogen fuel cell~~, compressed natural gas, liquefied  
8 natural gas or liquefied petroleum gas; ~~provided, equipment~~  
9 ~~installed on a vehicle propelled by a hydrogen fuel cell shall only~~  
10 ~~be eligible for tax year 2010.~~ The equipment covered by this  
11 paragraph must:

- 12 a. be new, not previously used to modify or retrofit any  
13 vehicle propelled by gasoline or diesel fuel and be  
14 installed by an alternative fuels equipment technician  
15 who is certified in accordance with the Alternative  
16 Fuels Technician Certification Act,  
17 b. meet all Federal Motor Vehicle Safety Standards set  
18 forth in 49 CFR 571, or  
19 c. for any commercial motor vehicle (CMV), follow the  
20 Federal Motor Carrier Safety Regulations or Oklahoma  
21 Intrastate Motor Carrier Regulations;

22 2. A motor vehicle originally equipped so that the vehicle may  
23 be propelled by ~~a hydrogen fuel cell~~, compressed natural gas,  
24 liquefied natural gas or liquefied petroleum gas but only to the

1 extent of the portion of the basis of such motor vehicle which is  
2 attributable to the storage of such fuel, the delivery to the engine  
3 of such motor vehicle of such fuel, and the exhaust of gases from  
4 combustion of such fuel. ~~A motor vehicle originally equipped so  
5 that the vehicle may be propelled by a hydrogen fuel cell shall only  
6 be eligible for tax year 2010;~~

7 3. Property, not including a building and its structural  
8 components, which is:

9 ~~a.~~ directly related to the delivery of compressed natural  
10 gas, liquefied natural gas or liquefied petroleum gas,  
11 ~~or hydrogen,~~ for commercial purposes or for a fee or  
12 charge, into the fuel tank of a motor vehicle  
13 propelled by such fuel including compression equipment  
14 and storage tanks for such fuel at the point where  
15 such fuel is so delivered but only if such property is  
16 not used to deliver such fuel into any other type of  
17 storage tank or receptacle and such fuel is not used  
18 for any purpose other than to propel a motor vehicle,  
19 ~~or~~

20 ~~b. a metered-for-fee, public access recharging system for  
21 motor vehicles propelled in whole or in part by  
22 electricity. The property covered by this paragraph  
23 must be new, and must not have been previously  
24 installed or used to refuel vehicles powered by~~

~~compressed natural gas, liquefied natural gas or  
liquefied petroleum gas, hydrogen or electricity.~~

~~Any property covered by this paragraph which is related to the  
delivery of hydrogen into the fuel tank of a motor vehicle shall  
only be eligible for tax year 2010; or~~

4. Property which is directly related to the compression and  
delivery of natural gas from a private home or residence, for  
noncommercial purposes, into the fuel tank of a motor vehicle  
propelled by compressed natural gas. The property covered by this  
paragraph must be new and must not have been previously installed or  
used to refuel vehicles powered by natural gas.

C. As used in this section, "motor vehicle" means a motor  
vehicle originally designed by the manufacturer to operate lawfully  
and principally on streets and highways.

D. The credit provided for in subsection A of this section  
shall be as follows:

1. ~~After the effective date of this act, for~~ For the qualified  
clean-burning motor vehicle fuel property defined in paragraph 1 or  
2 of subsection B of this section, ~~forty five percent (45%) of the  
cost of the qualified clean-burning motor vehicle fuel property the~~  
amount of the credit shall be as follows, based upon gross vehicle  
weight of the qualified vehicle:

- 1        a. for vehicles up to or below six thousand (6,000)  
2        pounds, the credit shall be a maximum of Five Thousand  
3        Five Hundred Dollars (\$5,500.00),  
4        b. for vehicles between six thousand one (6,001) pounds  
5        to ten thousand (10,000) pounds, the credit shall be a  
6        maximum amount of Nine Thousand Dollars (\$9,000.00),  
7        c. for vehicles of ten thousand one pounds (10,001), but  
8        not in excess of twenty-six thousand five hundred  
9        (26,500) pounds, the credit shall be a maximum amount  
10       of Twenty-six Thousand Dollars (\$26,000.00),  
11       d. for vehicles in excess of twenty-six thousand five  
12       hundred one (26,501) pounds, the credit shall be a  
13       maximum amount of Fifty Thousand Dollars (\$50,000.00);

14       2. For qualified clean-burning motor vehicle fuel property  
15 defined in paragraph 3 of subsection B of this section, a per-  
16 location credit of ~~seventy-five percent (75%)~~ forty-five percent  
17 (45%) of the cost of the qualified clean-burning motor vehicle fuel  
18 property; and

19       3. For qualified clean-burning motor vehicle fuel property  
20 defined in paragraph 4 of subsection B of this section, a per-  
21 location credit of the lesser of fifty percent (50%) of the cost of  
22 the qualified clean-burning motor vehicle fuel property or Two  
23 Thousand Five Hundred Dollars (\$2,500.00).  
24

1 E. In cases where no credit has been claimed pursuant to  
2 paragraph 1 of subsection D of this section by any prior owner and  
3 in which a motor vehicle is purchased by a taxpayer with qualified  
4 clean-burning motor vehicle fuel property installed by the  
5 manufacturer of such motor vehicle and the taxpayer is unable or  
6 elects not to determine the exact basis which is attributable to  
7 such property, the taxpayer may claim a credit in an amount not  
8 exceeding the lesser of ten percent (10%) of the cost of the motor  
9 vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

10 F. If the tax credit allowed pursuant to subsection A of this  
11 section exceeds the amount of income taxes due or if there are no  
12 state income taxes due on the income of the taxpayer, the amount of  
13 the credit not used as an offset against the income taxes of a  
14 taxable year may be carried forward, in order, as a credit against  
15 subsequent income tax liability for a period not to exceed five (5)  
16 years.

17 G. A husband and wife who file separate returns for a taxable  
18 year in which they could have filed a joint return may each claim  
19 only one-half (1/2) of the tax credit that would have been allowed  
20 for a joint return.

21 H. The Oklahoma Tax Commission is herein empowered to  
22 promulgate rules by which the purpose of this section shall be  
23 administered, including the power to establish and enforce penalties  
24 for violations thereof.

1 I. Notwithstanding the provisions of Section 2352 of this  
2 title, for the fiscal year beginning on July 1, 2014, and each  
3 fiscal year thereafter, the Tax Commission shall calculate an amount  
4 that equals five percent (5%) of the cost of qualified clean-burning  
5 motor vehicle fuel property as provided for in paragraph 1 of  
6 subsection D of this section for tax year 2012. For each subsequent  
7 fiscal year thereafter, the Tax Commission shall perform the same  
8 computation with respect to the second tax year preceding the  
9 beginning of each subsequent fiscal year. The Tax Commission shall  
10 then transfer an amount equal to the amount calculated in this  
11 subsection from the revenue derived pursuant to the provisions of  
12 subsections A, B and E of Section 2355 of this title to the  
13 Compressed Natural Gas Conversion Safety and Regulation Fund created  
14 in Section 13 of this act.

15 J. For the tax year beginning January 1, 2020, and each tax  
16 year thereafter, the total amount of credits authorized by this  
17 section used to offset tax shall be adjusted annually to limit the  
18 annual amount of credits to Twenty Million Dollars (\$20,000,000.00).  
19 The Tax Commission shall annually calculate and publish by the first  
20 day of the affected year a percentage by which the credits  
21 authorized by this section shall be reduced so the total amount of  
22 credits used to offset tax does not exceed Twenty Million Dollars  
23 (\$20,000,000.00) per year. The formula to be used for the  
24 percentage adjustment shall be Twenty Million Dollars

1 (\$20,000,000.00) divided by the credits claimed in the second  
2 preceding year.

3 K. Pursuant to subsection J of this section, in the event the  
4 total tax credits authorized by this section exceed Twenty Million  
5 Dollars (\$20,000,000.00) in any calendar year, the Tax Commission  
6 shall permit any excess over Twenty Million Dollars (\$20,000,000.00)  
7 but shall factor such excess into the percentage adjustment formula  
8 for subsequent years.

9 L. The Tax Commission shall notify the Office of the State  
10 Secretary of Energy and Environment at any time when the amount of  
11 claims for credits allowed pursuant to this subsection reaches  
12 eighty percent (80%) of the total annual limit provided in paragraph  
13 J of this subsection. Upon such notification, the Secretary shall  
14 provide notice to the Governor, President Pro Tempore of the Senate  
15 and Speaker of the House of Representatives.

16 SECTION 2. This act shall become effective January 1, 2020.

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