

House Bill 348 (AS PASSED HOUSE AND SENATE)

By: Representatives Parsons of the 44th, Sims of the 169th, Abrams of the 89th, and Martin of the 49th

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, computation, and exemptions regarding income tax, so as to provide a tax credit for purchasers of alternative fuel heavy-duty and medium-duty vehicles; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for a cap on the amount of the tax credits; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, computation, and exemptions regarding income tax, is amended by adding new Code sections to read as follows:

"48-7-29.18.

(a) As used in this Code section, the term:

(1) 'Affiliated entity' means a person or business entity that is a member of the taxpayer's affiliated group within the meaning of Section 1504(a) of the Internal Revenue Code.

(2) 'Alternative fuel' means electricity, liquid petroleum gas, natural gas, or hydrogen fuel. The term does not include hybrid electric drives unless the vehicle has a gross weight equal to or greater than 8,500 pounds and less than 26,000 pounds.

(3) 'Alternative fuel heavy-duty vehicle' means a new commercial vehicle, with a gross vehicle weight ratio equal to or more than 26,001 pounds, that is primarily fueled by an alternative fuel. As used in this paragraph, 'primarily fueled by an alternative fuel' means a vehicle that is produced by an original equipment manufacturer and operates on 90 percent or more alternative fuel and on 10 percent or less gasoline or diesel fuel. In order to qualify for a tax credit under this Code section, the vehicle shall be registered in Georgia and be certified by the Department of Natural Resources as meeting all requirements set forth in paragraph (1) of subsection (a) of Code Section 48-7-29.19.

(4) 'Alternative fuel medium-duty vehicle' means a new commercial vehicle, with a gross vehicle weight ratio equal to 8,500 pounds or more and less than 26,001 pounds, that is solely fueled by an alternative fuel and that is produced by an original equipment manufacturer. In order to qualify for a tax credit under this Code section, the vehicle shall be registered in Georgia and be certified by the Department of Natural Resources as meeting all requirements set forth in paragraph (1) of subsection (a) of Code Section 48-7-29.19.

(5) 'New commercial vehicle' means a new commercial vehicle that: (A) is manufactured by an original equipment manufacturer, or (B) is manufactured by an original equipment manufacturer and any third-party equipment manufacturers, provided that such third-party manufacturers provide such parts or services prior to the original sale of such vehicle to a purchaser, and all vehicle components, including the alternative fuel system, are covered by the original equipment manufacturer or covered under separate warranties by the original equipment manufacturer and the third-party equipment manufacturer that together provide warranty for the complete vehicle.

(6) 'Taxpayer' means any person or business entity required by law to file a return or to pay taxes.

(b)(1) A taxpayer shall be allowed a credit against tax imposed under this article for the amount expended on or after July 1, 2015, and before June 30, 2017, to purchase an alternative fuel heavy-duty vehicle not to exceed \$20,000.00 per vehicle.

(2) A taxpayer shall be allowed a credit against tax imposed under this article for the amount expended on or after July 1, 2015, and before June 30, 2017, to purchase an alternative fuel medium-duty vehicle not to exceed \$12,000.00 per vehicle.

(c) The tax credits allowed under this Code section shall be limited to \$2.5 million in each fiscal year beginning with fiscal year 2016 and ending with fiscal year 2017.

(d) In no event shall the total amount of any tax credit under this Code section for a taxpayer or an affiliated entity for a taxable year exceed the lesser of (i) a taxpayer's income tax liability, or (ii) \$250,000.00. No unused portion of such tax credit shall be allowed the taxpayer or an affiliated entity against succeeding years' tax liabilities. No such credit shall be allowed the taxpayer or an affiliated entity against prior years' tax liabilities. The tax credit provided for in this Code section shall not apply to any vehicle for which the taxpayer or an affiliated entity has applied for and received a tax credit as set forth in Code Section 48-7-40.16.

(e) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section.

48-7-29.19.

(a) A taxpayer seeking to claim a tax credit under the provisions of Code Section 48-7-29.18 shall submit an application to the commissioner for preapproval of such tax credit. Before any such application for such tax credit is filed, the applicant shall have completed the purchase and shall have registered the qualified vehicle or vehicles in this state. The application shall include:

(1) Certification from the Department of Natural Resources that the vehicle is an alternative fuel heavy-duty vehicle, or alternative fuel medium-duty vehicle, as defined in Code Section 48-7-29.18;

(2) A sworn affidavit from the taxpayer certifying that the vehicle shall accumulate at least 75 percent of its mileage in Georgia in each year for a five-year period, that is registered in Georgia and shall remain registered in Georgia for no less than five years; and

(3) Any other information requested by the commissioner pursuant to a rule or regulation promulgated hereunder. The commissioner shall create and make available the forms to be used for such applications. Within 60 days of receipt of a properly completed application, the commissioner shall preapprove the application if a sufficient amount of available tax credits remain.

(b) The commissioner shall preapprove the tax credits based on the order in which properly completed applications were submitted. In the event that two or more applications were submitted on the same day and the amount of funds available will not be sufficient to fully fund the tax credits requested, the commissioner shall prorate the available funds between or among the applicants.

(c) In no event shall the aggregate amount of the tax credits preapproved by the commissioner for all taxpayers under the provisions of this Code section exceed the amounts specified in subsection (c) of Code Section 48-7-29.18.

(d) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section, including provisions for repayment of any credit in the event any of the certifications of paragraph (2) of subsection (a) of this Code section are or become untrue during the five-year period following the date of application."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2015.

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SECTION 3.

98 All laws and parts of laws in conflict with this Act are repealed.