Ohio Legislative Service Commission

Bill Analysis

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S.B. 188

129th General Assembly
(As Introduced)

Sens. Patton, LaRose, Seitz, Grendell

BILL SUMMARY

- Provides a nonrefundable personal income or commercial activity tax credit for a person who puts into operation a facility that stores or dispenses alternative motor fuel.
- Provides a nonrefundable personal income or commercial activity tax credit for a person who sells tangible personal property to persons who put into operation such a facility but are not themselves taxpayers.
- Applies to alternative fuel facilities put into operation after the bill's effective date, but before 2015.

CONTENT AND OPERATION

Alternative fuel facility tax credit

The bill authorizes a nonrefundable personal income tax or commercial activity tax credit for a person who puts into operation a facility that stores or dispenses alternative motor fuel ("operator") or a person who sells tangible personal property ("seller") to a person not subject to the personal income tax or commercial activity tax who puts such a facility into operation. The credit applies to facilities put into operation on or after the bill's effective date but before January 1, 2015.[1] The credit may not be claimed for the same facility against both the income and the commercial activity tax.[2] "Alternative fuel" is defined to include compressed or liquefied natural gas, liquefied petroleum gas, hydrogen, liquid fuel composed of at least 85% ethanol, and

[1] R.C. 5747.78(B); 5751.54(B).

[2] R.C. 5747.78(F); 5751.54(E).

electricity used to power a motor vehicle.[3] For a facility to qualify a person for a credit under this section, the facility must dispense or store alternative fuel and be labeled for those purposes.[4]

Operator credit

The amount of the credit for an operator equals 30% of the total cost of purchasing, constructing, or installing the tangible personal property incorporated into the facility.[5]

If the operator, whether an individual or a pass-through entity, claims an income tax credit and the facility is used for commercial purposes, the operator must claim one-third of the credit for the year in which the facility becomes operational and one-third of the credit for each of the two following years. The operator may not claim the credit in a year in which the commercial facility was removed from service or in any following year, but may continue to carry forward credit from a preceding year. If the facility is not a commercial facility, the operator must claim the full credit amount in the year in which the facility becomes operational. In either case, if the amount of the credit for any year exceeds the operator's tax liability for the year, the remaining balance may be carried forward to following years until the remaining balance is exhausted.[6]

If the operator claims a commercial activity tax credit, the operator must claim the credit in equal installments for each of the seller's tax periods, whether annual or quarterly, over the three calendar years following the year in which the facility becomes operational. An operator may not claim the credit in any tax period in which the facility was removed from service or any following period, but may continue to carry forward credit from a preceding year. If the amount of the credit exceeds the operator's tax liability for the year, the remaining balance may be carried forward to the following tax periods until the remaining balance is exhausted.[7]

Seller credit

The amount of the credit for a seller of property incorporated into a facility equals the price at which the seller sells the property to the purchaser. The purchaser must be a person who is not subject to the personal income tax or the commercial

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[3] R.C. 5747.78(A)(1).

[4] R.C. 5747.78(A)(2).

[5] R.C. 5747.78(B); 5751.54(B).

[6] R.C. 5747.78(B).

[7] R.C. 5751.54(B).

activity tax (including the state or its subdivisions). To be eligible for a credit, the seller must notify the purchaser that the seller is eligible to receive the credit.[8] A seller, whether an individual or pass-through entity, claiming the income tax credit must claim the credit in the same way as an operator claiming the income tax credit for commercial or residential facilities, as applicable.[9] A seller claiming a commercial activity tax credit must claim the credit in the same way as an operator claiming the personal income tax credit.[10]

HISTORY

ACTION	DATE
Introduced	06-14-11

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[8] R.C. 5747.78(C); 5751.54(C).

[9] R.C. 5747.78(C) and (E).

[10] R.C. 5751.54(C).