OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
DAWN CASH, DIRECTOR

PHONE (405) 521-3133
FACSIMILE (405) 522-0063

October 5, 2010

Re: LR 10-131; Income Tax Credit - CNG Fueling Stations

This is in response to your inquiry of August 26, 2010 wherein you requested a ruling regarding whether certain assets qualify for the credit under 68 O.S. § 2357.22. What follows is verbatim your facts and question and our response thereto.

FACTS:

[redacted] is in the process of installing CNG equipment this year to allow us to provide CNG to the public. I'm requesting a letter ruling concerning the Oklahoma tax credits applicable to the CNG equipment we are installing. The equipment and other items related to these public CNG fueling retail locations are:

CNG dispenser
CNG compressor
CNG dryer
CNG compressor enclosure
CNG electronic soft start system
CNG storage tanks
CNG priority panel including Auto-dialer for emergency notification
CNG compressor skid with compressor plumbing and electrical wiring
CNG trenching for electrical and plumbing
Installation of electrical for compressor and dispenser
Installation of plumbing for compressor and dispenser
Dispenser island installation and materials
Compressor pad installation and materials
Compressor and dispenser freight and taxes
Other installation costs related to compressor or dispenser
Compressor start up costs

Bumper poles to protect dispenser
Computer point of sale system to handle CNG pump transactions
Engineering of site
Permitting of site
Supervision of installation
Fencing and or block wall around compressor
Driveway to pumps
Canopy including lights and footing
Site preparation
High speed internet connection for credit card transaction and for reporting purposes
Price sign for CNG

I am aware of some of the OTC's prior rulings on CNG so I tried to put the items which I believe qualify for the credit all together. I am not certain on how you would rule on the bumper poles and the point of sale system, I don't anticipate the lower list of fencing, block wall, and canopies to qualify for the credit but they are cost that we will incur in getting these CNG public fueling locations operational.

All of the above items will be used exclusively for the delivery of CNG into motor vehicles. All of the above items are new and we are the original owner and user of them. We will be taking ownership in three separate LLC's, [redacted] and [redacted] These LLC's will be reporting the tax credits so it would be helpful if your response was addressed to all three of these CNG equipment LLC's.

OTC RESPONSE

Under 68 O.S. § 2357.22 an income tax credit is available for investment in clean burning motor vehicle property. A copy of the complete statute is enclosed for your review.

Specifically 68 O.S. § 2357.22 (B) (3) provides for which type of property is eligible for the credit:

3. Property, not including a building and its structural components, which is:
a. directly related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, or hydrogen, for commercial purposes or for a fee or charge, into the fuel tank of a motor vehicle propelled by such fuel including compression equipment and storage tanks for such fuel at the point where such fuel is so delivered but only if such property is not used to deliver such fuel into any other type of storage tank or receptacle and such fuel is not used for any purpose other than to propel a motor vehicle...

Based on this the following items in your list would appear to qualify, **provided that the referenced property is directly related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas for commercial purposes or for a fee or charge:**

CNG dispenser
CNG compressor
CNG dryer
CNG compressor enclosure
CNG electronic soft start system
CNG storage tanks
CNG priority panel including Auto-dialer for emergency notification
CNG compressor skid with compressor plumbing and electrical wiring

The following items do not qualify since they are not property:

CNG trenching for electrical and plumbing
Installation of electrical for compressor and dispenser
Installation of plumbing for compressor and dispenser
Dispenser island installation and materials
Compressor pad installation and materials
Compressor and dispenser freight and taxes
Other installation costs related to compressor or dispenser
Compressor start up costs
Engineering of site
Permitting of site
Supervision of installation
Site preparation

The following items do not qualify since they are either 1) not directly related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, for commercial purposes or for a fee or charge or 2) they are a structural component:

Bumper poles to protect dispenser
Computer point of sale system to handle CNG pump transactions
Fencing and or block wall around compressor
Driveway to pumps
Canopy including lights and footing
High speed internet connection for credit card transaction and for reporting purposes
Price sign for CNG

This response applies only to the circumstances set out in your request of August 26, 2010. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity, as to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

Further, per your request, this ruling may be generally relied upon by [redacted] assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

If I can be of further assistance, please feel free to call me at (405) 521-3133.

Sincerely,

OKLAHOMA TAX COMMISSION

Michael C. Kaufmann
Tax Policy Analyst