OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION
RICK MILLER, DIRECTOR

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

June 1, 2016

Re: LR 16-016; Income Tax Credit for Conversion of Motor Vehicles to Clean Burning Fuel (68 O.S. § 2357.22)

Dear

This is in response to your inquiry of May 11, 2016 wherein you requested a ruling concerning the income tax Credit for Conversion of Motor Vehicles to Clean Burning Fuel (68 O.S. § 2357.22). What follows is verbatim your facts and requested ruling and our response thereto.

Statement of Facts:

1. an Oklahoma corporation incurred qualified expenditures which met the requirements of 68 O.S. § 2357.22B(3) ("Qualified Expenditures") and which thereby generated credits which can be used to reduce Oklahoma Income Tax liabilities pursuant to 68 O.S. § 2357.22A (referred to as the "CNG Tax Credits"). The total operating facility for which the Qualified Expenditures were made is referred to the "CNG Station". The CNG Station consists of both Qualified Expenditures and expenditures, such as improvements to real property which do not qualify for the CNG Tax Credits. represents that all of the Qualified Expenditures which generated the CNG Tax Credits meet the qualifications of 68 O.S. § 2357.22B(3).

2. The CNG Station was placed in service by in the year ending June 30, 2012.

3. has not utilized the CNG Tax Credits to reduce any of its Oklahoma income taxes for prior years. Therefore none of the CNG Credits are "tainted" and none have been applied to reduce Oklahoma Income taxes of any taxpayer. All of the CNG Credits are still available.

4. a shareholder of has formed an Oklahoma limited liability company called an Oklahoma LLC (the "LLC"). has

contributed $5,000 to the Capital of the LLC. The LLC is formed to acquire, own and operate the CNG Station. The LLC will be taxed as a partnership.

5. The LLC anticipates that additional Members ("Additional Members") will join the LLC.

6. The total cash contributed to the LLC by the Additional Members will fall within the range of $300,000 to $400,000.

7. will be the manager of the LLC.

8. will sell the CNG Station, and all of its inventory, business and operations attributable to the CNG Station, to the LLC for the fair market value of the CNG Station. The purchase price will be satisfied, in part, using the funds contributed by the Additional Members, by the LLC's assumption of all liabilities associated with the CNG Station and the LLC's delivery of its promissory note, which will be repaid from ongoing operations of the CNG Station. The total purchase price will in no event exceed original basis in the CNG Station.

9. will manage the ongoing operations of the CNG Station pursuant to a management services agreement.

10. The LLC Operating Agreement will include provisions pursuant to which liquidation proceeds will be allocated among the Members in accordance with the positive capital account balances of the Members.

11. All income, gains, losses and deductions will be allocated 99% to and 1% to the Additional Members.

12. All distributions likewise will be allocated 99% to and 1% to the Additional Members.

13. A portion of the contributed cash paid by the Additional Members equal to approximately 1% of the purchase price of the CNG Station will be treated by the parties as a capital contribution to the LLC, and the balance of the contribution by the Additional Members will be treated as consideration for the allocation of tax credits to the Other Member.

14. After the foregoing allocation, the capital accounts of the Members will be 99% to and 1% to the Additional Members.

15. The CNG Tax Credits will be allocated 1% to and 99% to the Additional Members. Because the purchase price will not exceed the original basis of the CNG Station, the total CNG Tax Credits so allocated will not exceed the CNG Tax Credits that could have been previously taken, but were not.

16. The LLC will report the allocation of the CNG Tax Credits to the and the Other Member, and the receipt by the LLC of the capital contributions attributable to the CNG Tax Credits, as a sale of the CNG Tax Credits for both Federal and State income tax purposes.

17. and the Additional Members will each individually hold the power to liquidate the LLC, or their interest in the LLC, at any time after 24 months. Upon any such liquidation, the liquidating Member will be distributed its capital account.

Rulings Requested:

The LLC and on behalf of himself and on behalf of the Additional Members, respectfully requests a letter ruling from the Tax Policy and Research Division of the Oklahoma Tax Commission in light of the facts and assumptions set forth in this letter ruling request, assuming all Qualified Expenditures meet the qualifications of 68 O.S. § 2357.22B(3).

1. Because CNG Credits attributable to the CNG Station have not previously been utilized, the acquisition of the CNG Station by the LLC will be treated as the initial acquisition and placement in service of the Qualified Expenditures for purposes of applying 68 O.S. § 2357.22.

   OTC Response:

   No. The investment in "qualified clean-burning motor vehicle fuel property" was made by is an Oklahoma C Corporation subject to Oklahoma income tax. Further, the clear reading of 68 O.S. § 2357.22 specifies that the credit is a one-time credit against income tax. As such, the proper application of this credit is for to claim this credit on their FYE June 30, 2012 Oklahoma income tax return. To the extent that the credit exceeds the Oklahoma income tax, the unused credit may be carried forward for up to five (5) years.

2. The portion of the purchase price paid by the LLC for the CNG Station allocated to the property described in 68 O.S. § 2357.22B(3)(a) will qualify for the CNG Credits to be allocated by the LLC to its Members. In no event wil such CNG Credits to be allocated by the LLC exceed the CNG Credits originally created by which have not been utilized.

   OTC Response:

   No response required due to response to Ruling Request #1 above.

3. will be entitled to use the CNG Tax Credits allocated to him by the LLC to reduce his Oklahoma income tax liability.

OTC Response:

No response required due to response to Ruling Request #1 above.

4. The Additional Members will be entitled to use the CNG Tax Credits allocated to him by the LLC to reduce the Oklahoma income tax liability of the Additional Members.

OTC Response:

No response required due to response to Ruling Request #1 above.

5. The rulings requested herein may be relied upon by the LLC when making the contemplated allocations of the CNG Credits and by

OTC Response:

No response required due to response to Ruling Request #1 above.

This response applies only to the circumstances set out in your request of May11, 2016. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity 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.

Please be advised that the issuance of this ruling does not preclude the Oklahoma Tax Commission from conducting an audit or examination under 68 Okla. Stat. §206 of any report or return claiming a credit for the transactions outlined in this letter ruling. The Commission reserves the right to issue any assessment, correction, or adjustment authorized under 68 Okla. Stat. §221.

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