March 7, 2017

Re: LR 17-001; Income Tax - Credit for Electricity Generated by Zero-Emission Facilities

Dear

This is in response to your inquiry of January 10, 2017 wherein you requested a ruling concerning Credit for Electricity Generated by Zero-Emission Facilities (68 O.S. § 2357.32A). What follows is verbatim your facts and requested ruling and our response thereto.

FACTS:

is considering purchasing Oklahoma Zero-Emissions Facility Production Tax Credits which were generated in 2008-2012. The Seller does not have Oklahoma tax liability to utilize the tax credits against. We are interested in purchasing the tax credits to offset our 2016 and/or 2017 Oklahoma corporate income tax liability.

RULINGS REQUESTED

The question we would greatly appreciate a letter ruling on is whether purchased Oklahoma Zero-Emissions Facility Production Tax Credits which were generated in 2008- may be claimed on our 2016 or future tax year returns, or instead, must the purchased credits be claimed on amended tax returns for 2008-2012?

We understand that letter rulings are published on the Oklahoma Tax Commission’s website and the taxpayer’s personal information (including the taxpayer’s name) is redacted from the published rulings. Would similarly request name not be included in the letter ruling ultimately published on line.

OTC RESPONSE:

Yes, credits that were generated in 2008-2012 and purchased in 2017 may be claimed on 2016 and 2017 income tax returns. 68 O.S. § 2357.32A (F) allows credits generated prior to
January 1, 2014 to be freely transferable at any time during the ten (10) years following the year of qualification. Credits earned in 2008 – 2012 currently fall within the ten (10) year period. This section further allows - upon the election of the taxpayer – that the Credit for Electricity Generated by Zero-Emission Facilities may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 1803 or Section 2355 of this title. For example, the final tax year that tax credits generated in 2008 may be claimed is tax year 2019.

Redacted letter rulings are published on the Oklahoma Tax Commission’s website. We will remove name from the redacted letter ruling. Please be advised that although 68 O.S. § 205 generally prohibits disclosure of taxpayer’s information on tax returns there are two (2) exceptions. 68 O.S. § 2357.1A-2 requires a report of transfers or allocations of credits to be published on the Oklahoma Tax Commission’s website naming the transferors and transferees. 68 O.S.§ 205.6 requires the Oklahoma Tax Commission and maintain a list of all taxpayers who have claimed any tax credit authorized by any provision of state law related to a tax administered by the Tax Commission. The list is posted on the internet by the Office of Management and Enterprise Services through the Taxpayer Transparency Act.

This response applies only to the circumstances set out in your request of January 10, 2017. 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,

[Signature]

OKLAHOMA TAX COMMISSION

Michael C. Kaufmann
Tax Policy Analyst