

1                   **NATURAL GAS HEAVY DUTY TAX CREDIT AMENDMENTS**

2   2017 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Daniel Hemmert**

5                                   House Sponsor: Jon E. Stanard

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7   **LONG TITLE**

8   **Committee Note:**

9           The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

11          This bill amends the corporate and individual natural gas heavy duty tax credits.

12 **Highlighted Provisions:**

13          This bill:

- 14           ▶ clarifies that a corporate tax credit is nonrefundable;
- 15           ▶ amends definitions;
- 16           ▶ removes references to qualified conversions; and
- 17           ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19          None

20 **Other Special Clauses:**

21          This bill provides retrospective operation.

22 **Utah Code Sections Affected:**

23 AMENDS:

24           **59-7-618**, as last amended by Laws of Utah 2016, Chapter 375

25           **59-10-1033**, as last amended by Laws of Utah 2016, Chapter 375

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27 *Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section **59-7-618** is amended to read:

29 **59-7-618. Tax credit related to natural gas heavy duty vehicles.**

30 (1) As used in this section:

31 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
32 Conservation Act.

33 (b) "Director" means the director of the Division of Air Quality appointed under  
34 Section 19-2-107.

35 ~~[(b)]~~ (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according  
36 to vehicle classifications established by the Federal Highway Administration.

37 ~~[(c)]~~ (d) "Natural gas" includes compressed natural gas and liquified natural gas.

38 ~~[(d)]~~ (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

39 (i) has never been titled or registered and has been driven less than 7,500 miles; and

40 (ii) is fueled by natural gas.

41 ~~[(e)]~~ (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

42 ~~[(f)]~~ (g) "Qualified taxpayer" means a taxpayer ~~[who]~~ that:

43 (i) purchases a qualified heavy duty vehicle; and

44 (ii) receives a tax credit certificate from the ~~[board]~~ director.

45 ~~[(g)]~~ (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and  
46 owned by a single taxpayer.

47 ~~[(h)]~~ (i) "Tax credit certificate" means a certificate issued by the ~~[board]~~ director  
48 certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the  
49 amount of the tax credit.

50 (2) ~~[For a taxable year beginning on or after January 1, 2015, a]~~ A qualified taxpayer  
51 may claim a nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8,  
52 Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or  
53 Income Tax Act:

54 (a) in an amount equal to:

55 (i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year  
56 2016, or calendar year 2017;

57 (ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

58 (iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

59 (iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and  
60 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the  
61 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be  
62 within the state.

63 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an  
64 application for, and the ~~[board]~~ director may not issue to the taxpayer, a tax credit certificate  
65 under this section in any taxable year for a ~~[qualifying]~~ qualified purchase if the ~~[board]~~  
66 director has already issued tax credit certificates to the taxpayer for 10 ~~[qualifying]~~ qualified  
67 purchases in the same taxable year.

68 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of  
69 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application  
70 for, and the ~~[board]~~ director may issue to the taxpayer, one or more tax credit certificates for up  
71 to eight additional ~~[qualifying]~~ qualified purchases, even if the ~~[board]~~ director has already  
72 issued to that taxpayer tax credit certificates for the maximum number of ~~[qualifying]~~ qualified  
73 purchases allowed under Subsection (3)(a).

74 (4) (a) Subject to Subsection (4)(b), the ~~[board]~~ director shall reserve 25% of all tax  
75 credits available under this section for qualified taxpayers with a small fleet.

76 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or  
77 the ~~[board]~~ director from issuing, a tax credit certificate if ~~[the]~~, before October 1, qualified  
78 taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full  
79 amount reserved under Subsection (4)(a) [for taxpayers with a small fleet has not been claimed  
80 by a date that is 90 days before the end of the year].

81 (5) (a) The aggregate annual total amount of tax credits represented by tax credit  
82 certificates that the ~~[board]~~ director issues under this section~~[, when combined with the~~  
83 ~~aggregate annual total amount of tax credits represented by tax credit certificates that the board~~  
84 ~~issues under] and~~ Section 59-10-1033[;] may not exceed \$500,000.

85 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
86 Rulemaking Act, make rules to establish a process ~~[whereby]~~ under which a taxpayer may  
87 reserve a potential tax credit under this section for a limited time to allow the taxpayer to make  
88 a ~~[qualifying]~~ qualified purchase with the assurance that the aggregate limit under Subsection  
89 (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit

90 certificate.

91 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms  
92 the board requires by rule:

93 (A) submit to the ~~[board]~~ director an application for a tax credit;

94 (B) provide the ~~[board]~~ director proof of a ~~[qualifying]~~ qualified purchase; and

95 (C) submit to the ~~[board]~~ director the certification under oath required under  
96 Subsection (2)(b).

97 (ii) Upon receiving the application, proof, and certification required under Subsection  
98 (6)(a)(i), the ~~[board]~~ director shall provide the taxpayer a written statement from the ~~[board]~~  
99 director acknowledging receipt of the proof.

100 (b) If the ~~[board]~~ director determines that a taxpayer qualifies for a tax credit under this  
101 section, the ~~[board]~~ director shall:

102 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

103 (ii) provide the ~~[qualifying]~~ taxpayer with a written tax credit certificate:

104 (A) stating that the taxpayer has qualified for a tax credit; and

105 (B) showing the amount of tax credit for which the taxpayer has qualified under this  
106 section.

107 (c) A qualified taxpayer shall retain the tax credit certificate.

108 (d) The ~~[board]~~ director shall at least annually submit to the commission a list of all  
109 qualified taxpayers to ~~[whom the board]~~ which the director has issued a tax credit certificate  
110 and the amount of each tax credit represented by the tax credit certificates.

111 (7) The tax credit under this section is allowed only:

112 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain  
113 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year  
114 by the qualified taxpayer;

115 (b) for the taxable year in which the ~~[qualifying]~~ qualified purchase occurs; and

116 (c) once per vehicle.

117 (8) A ~~[qualifying]~~ qualified taxpayer may not assign a tax credit or a tax credit  
118 certificate under this section to another person.

119 (9) If the ~~[amount of]~~ qualified taxpayer receives a tax credit ~~[claimed by a qualifying~~  
120 taxpayer] certificate under this section that allows a tax credit in an amount that exceeds the

121 ~~[qualifying]~~ qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts  
 122 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for  
 123 a taxable year, the qualified taxpayer may carry forward the amount of the tax credit  
 124 ~~[exceeding]~~ that exceeds the tax liability ~~[may be carried forward]~~ for a period that does not  
 125 exceed the next five taxable years.

126 (10) (a) In accordance with any rules prescribed by the commission under Subsection  
 127 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the  
 128 Education Fund the aggregate amount of all tax credits claimed under this section.

129 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 130 commission may make rules for making a transfer from the General Fund into the Education  
 131 Fund as required by Subsection (10)(a).

132 Section 2. Section **59-10-1033** is amended to read:

133 **59-10-1033. Tax credit related to natural gas heavy duty vehicles.**

134 (1) As used in this section:

135 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
 136 Conservation Act.

137 (b) "Director" means the director of the Division of Air Quality appointed under  
 138 Section [19-2-107](#).

139 ~~[(b)]~~ (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according  
 140 to vehicle classifications established by the Federal Highway Administration.

141 ~~[(c)]~~ (d) "Natural gas" includes compressed natural gas and liquified natural gas.

142 ~~[(d)]~~ (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

143 (i) has never been titled or registered and has been driven less than 7,500 miles; and

144 (ii) is fueled by natural gas~~;~~ ~~and~~.

145 ~~[(iii) meets air quality standards.]~~

146 ~~[(e)]~~ (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

147 ~~[(f)]~~ (g) "Qualified taxpayer" means a claimant, estate, or trust that:

148 (i) purchases a qualified heavy duty vehicle; and

149 (ii) receives a tax credit certificate from the ~~[board]~~ director.

150 ~~[(g)]~~ (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and  
 151 owned by a single claimant, estate, or trust.

152           ~~(h)~~ (i) "Tax credit certificate" means a certificate issued by the ~~board~~ director  
153 certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section  
154 and stating the amount of the tax credit.

155           (2) ~~[For a taxable year beginning on or after January 1, 2015, a]~~ A qualified taxpayer  
156 may claim a nonrefundable tax credit against tax otherwise due under this chapter:

157           (a) in an amount equal to:

158           (i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year  
159 2016, or calendar year 2017;

160           (ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

161           (iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

162           (iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and

163           (b) if the ~~[claimant, estate, or trust]~~ qualified taxpayer certifies under oath that over  
164 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase ~~[or~~  
165 ~~qualified conversion]~~ will travel annually will be within the state.

166           (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not  
167 submit an application for, and the ~~board~~ director may not issue to the claimant, estate, or  
168 trust, a tax credit certificate under this section in any taxable year for a ~~[qualifying]~~ qualified  
169 purchase if the ~~board~~ director has already issued tax credit certificates to the claimant, estate,  
170 or trust for 10 ~~[tax credits for qualifying]~~ qualified purchases in the same taxable year.

171           (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of  
172 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit  
173 an application for, and the ~~board~~ director may issue to the claimant, estate, or trust, one or  
174 more tax credit certificates for up to eight additional ~~[qualifying]~~ qualified purchases, even if  
175 the ~~board~~ director has already issued to that claimant, estate, or trust tax credit certificates for  
176 the maximum number of ~~[qualifying]~~ qualified purchases allowed under Subsection (3)(a).

177           (4) (a) Subject to Subsection (4)(b), the ~~board~~ director shall reserve 25% of all tax  
178 credits available under this section for ~~[claimants, estates, or trusts]~~ qualified taxpayers with a  
179 small fleet.

180           (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an  
181 application for, or the ~~board~~ director from issuing, a tax credit certificate if ~~[the]~~, before  
182 October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax

183 credits for the full amount reserved under Subsection (4)(a) [~~for claimants, estates, or trusts~~  
184 ~~with a small fleet has not been claimed by a date that is 90 days before the end of the year~~].

185 (5) (a) The aggregate annual total amount of tax credits represented by tax credit  
186 certificates that the [board] director issues under this section[~~, when combined with the~~  
187 ~~aggregate annual total amount of tax credits represented by tax credit certificates that the board~~  
188 ~~issues under~~] and Section 59-7-618[;] may not exceed \$500,000.

189 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
190 Rulemaking Act, make rules to establish a process [~~whereby a taxpayer~~] under which a  
191 claimant, estate, or trust may reserve a potential tax credit under this section for a limited time  
192 to allow the [taxpayer] claimant, estate, or trust to make a [qualifying] qualified purchase with  
193 the assurance that the aggregate limit under Subsection (5)(a) will not be met before the  
194 [taxpayer] claimant, estate, or trust is able to submit an application for a tax credit certificate.

195 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section  
196 shall, using forms the board requires by rule:

197 (A) submit to the [board] director an application for a tax credit;

198 (B) provide the [board] director proof of a [qualifying] qualified purchase [~~or~~  
199 ~~qualifying conversion~~]; and

200 (C) submit to the [board] director the certification under oath required under  
201 Subsection (2)(b).

202 (ii) Upon receiving the application, proof, and certification required under Subsection  
203 (6)(a)(i), the [board] director shall provide the claimant, estate, or trust a written statement  
204 from the [board] director acknowledging receipt of the proof.

205 (b) If the [board] director determines that a claimant, estate, or trust qualifies for a tax  
206 credit under this section, the [board] director shall:

207 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this  
208 section; and

209 (ii) provide the [qualifying taxpayer] claimant, estate, or trust with a written tax credit  
210 certificate:

211 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

212 (B) showing the amount of tax credit for which the claimant, estate, or trust has  
213 qualified under this section.

214 (c) A [~~claimant, estate, or trust~~] qualified taxpayer shall retain the tax credit certificate.

215 (d) The [~~board~~] director shall at least annually submit to the commission a list of all  
216 [~~claimants, estates, and trusts~~] qualified taxpayers to which the [~~board~~] director has issued a tax  
217 credit certificate and the amount of each tax credit represented by the tax credit certificates.

218 (7) The tax credit under this section is allowed only:

219 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

220 (b) for the taxable year in which the [~~qualifying~~] qualified purchase occurs; and

221 (c) once per vehicle.

222 (8) A [~~qualifying~~] qualified taxpayer may not assign a tax credit or a tax credit  
223 certificate under this section to another person.

224 (9) If the [~~amount of~~] qualified taxpayer receives a tax credit [~~claimed by a qualifying~~  
225 taxpayer] certificate under this section that allows a tax credit in an amount that exceeds the  
226 [~~qualifying~~] qualified taxpayer's tax liability under this chapter for a taxable year, the qualified  
227 taxpayer may carry forward the amount of the tax credit [~~exceeding~~] that exceeds the tax  
228 liability [~~may be carried forward~~] for a period that does not exceed the next five taxable years.

229 (10) (a) In accordance with any rules prescribed by the commission under Subsection  
230 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the  
231 Education Fund the aggregate amount of all tax credits claimed under this section.

232 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
233 commission may make rules for making a transfer from the General Fund into the Education  
234 Fund as required by Subsection (10)(a).

235 Section 3. **Retrospective operation.**

236 This bill has retrospective operation for a taxable year beginning on or after January 1,  
237 2017.