RULES
OF
DEPARTMENT OF REVENUE
INCOME TAX DIVISION

CHAPTER 560-7-8
RETURNS AND COLLECTIONS

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560-7-8-.53 Alternative Fuel Heavy-Duty Vehicle and Alternative Fuel Medium-Duty Vehicle Tax Credits.

(1) **Purpose.** This regulation provides guidance concerning the implementation and administration of the tax credits under O.C.G.A. §§ 48-7-29.18 and 48-7-29.19.

(2) **Coordination of Agencies.** The Georgia Department of Natural Resources is the state agency responsible for certifying that a vehicle is an alternative fuel heavy-duty vehicle, or an alternative fuel medium-duty vehicle.

(3) **Definitions.** As used in this regulation, the terms "affiliated entity", "alternative fuel", "alternative fuel heavy-duty vehicle", "alternative fuel medium-duty vehicle", "new commercial vehicle", and "taxpayer" shall have the same meaning as in O.C.G.A. § 48-7-29.18.

(4) **Credit Amount for Alternative Fuel Heavy-Duty Vehicle.** A taxpayer shall be allowed a tax credit for the amount ex-

pended on or after July 1, 2015, and before June 30, 2017, to purchase an alternative fuel heavy-duty vehicle not to exceed $20,000.00 per vehicle.

(5) **Credit Amount for Alternative Fuel Medium-Duty Vehicle.** A taxpayer shall be allowed a tax credit for the amount expended on or after July 1, 2015, and before June 30, 2017, to purchase an alternative fuel medium-duty vehicle not to exceed $12,000.00 per vehicle.

(6) **Per Taxpayer or Affiliated Entity of the Taxpayer Credit Limitation and No Carry Forward**. The credit amounts allowed under paragraphs (4) and (5) of this regulation shall be further limited for each taxpayer or affiliated entity of the taxpayer for a taxable year and shall not exceed the taxpayer's or affiliated entity's income tax liability or $250,000.00, whichever is less. The amount preapproved for a taxable year for the taxpayer and all of its affiliated entities shall not exceed $250,000.00. No unused portion of the tax credits shall be allowed the taxpayer or an affiliated entity of the taxpayer against succeeding years' tax liability.

(7) **Credit Cap**. The total amount of tax credits preapproved under both paragraph (4) and (5) of this regulation are limited to the following amounts:

(a) For fiscal year 2016 (July 1, 2015 through June 30, 2016), $2.5 million; and

(b) For fiscal year 2017 (July 1, 2016 through June 30, 2017), $2.5 million.

(8) **Preapproval and Claiming the Credit**. Any taxpayer seeking preapproval to claim tax credits under paragraphs (4) and

(5) of this regulation, must submit the appropriate forms to the Department through the Georgia Tax Center as provided in this paragraph. Before submitting an application to the Department of Revenue, the taxpayer shall have completed the purchase and shall have registered the qualified vehicle or vehicles in Georgia. The taxpayer must apply for preapproval for the fiscal year in which the purchase of the qualified vehicle is completed.

(a) Application. A taxpayer seeking preapproval to claim the tax credits under paragraphs (4) and (5) of this regulation must electronically submit Form IT-AFV-AP and certification from the Department of Natural Resources for approval through the Georgia Tax Center. The required sworn affidavit under O.C.G.A. § 48-7-29.19(a)(2) is a part of Form IT-AFV-AP and therefore is not submitted separately.

(b) Notification. The Department will notify each taxpayer of the tax credits preapproved and allocated to such taxpayer, within sixty (60) days from the date the Form IT-AFV-AP was submitted through the Georgia Tax Center.

(c) Allocation of Tax Credit. The Commissioner shall allow the tax credits under paragraphs (4) and (5) of this regulation on a first-come, first-served basis. The date the Form IT-AFV-AP is electronically submitted shall be used to determine such first-come, first-served basis.

(d) Applications received on the day the maximum credit amount is reached. In the event that the credit amounts on applications received by the Commissioner exceed the maximum aggregate limits in paragraph (7) of this regulation, then the tax credits shall be allocated among the taxpayers who submitted Form IT-AFV-AP on the day the maximum aggregate limit was exceeded on a pro rata basis based upon amounts otherwise allowed under O.C.G.A. §§ 48-7-29.18, 48-7-29.19, and this regulation. Only credit amounts on applications received on the day the maximum aggregate limits were exceeded will be allocated on a pro rata basis.

(e) Once the fiscal year preapproval limit is reached for a fiscal year, taxpayers shall no longer be eligible for a credit under O.C.G.A. §§ 48-7-29.18 and 48-7-29.19, for any qualified vehicle(s) for which the purchase was completed during such fiscal year. If any Form IT-AFV-AP is received after the fiscal year limit has been reached, then it shall be denied and not be reconsidered for preapproval at any later date.

(f) Example. A taxpayer makes a payment in April of 2015 on an alternative fuel heavy-duty vehicle or an alternative fuel medium-duty vehicle. On July 3, 2015, the taxpayer makes the final payment and completes the purchase of the vehicle. The taxpayer registers the vehicle in Georgia and receives a certification from the Georgia Department of Natural Resources. The taxpayer can apply for preapproval for this qualified vehicle for fiscal year 2016 and the entire cost of the vehicle is eligible for the tax credit for fiscal year 2016. This vehicle is not eligible for the tax credit for fiscal year 2017.

(g) A taxpayer claiming the tax credits under paragraphs (4) and (5) of this regulation must attach an approved Form IT-AFV-AP and Form IT-AFV to its Georgia income tax return for each year in which the credit is claimed.

(h) The tax credits under paragraphs (4) and (5) of this regulation shall not apply to any vehicle for which the taxpayer or an affiliated entity of the taxpayer has applied for and received a tax credit under O.C.G.A. § 48-7-40.16.

(i) In the event it is determined that the taxpayer has not met all the requirements of O.C.G.A. §§ 48-7-29.18 and 48-7-29.19 and this regulation, then the amount of credits shall not be approved or the approved credits shall be retroactively denied. With respect to such denied credits, tax, interest, and penalties shall be due if the credits have already been claimed.

(9) **E-Filing Attachment Requirements**. If a taxpayer claiming the credit electronically files their tax return, the Form IT-AFV-AP shall be required to be attached to the return only if the Internal Revenue Service allows such attachments when the data is transmitted to the Department. In the event the taxpayer files an electronic return and such information is not attached because the Internal Revenue Service does not, at the time of such electronic filing, allow electronic attachments to the Georgia return, such information shall be maintained by the taxpayer and made available upon request by the Commissioner.

(10) **Pass-Through Entities.** When the taxpayer is a pass-through entity, and has no income tax liability of its own, the tax credit will pass to its individual members, shareholders, or partners based on their year ending profit/loss percentage. The credit forms will initially be filed with the tax return of the pass-through entity to establish the amount of the credit available for pass through. The credit will then pass through to its individual shareholders, members, or partners to be applied against the tax liability on their income tax returns. The credits are available for use as a credit by the individual shareholders, members, or partners for their tax year in which the income tax year of the pass-through entity ends. For example: A partnership earns the credit for its tax year ending Jan-

uary 31, 2016. The partnership passes the credit to a calendar year partner. The credit is available for use by the individual partner beginning with the calendar 2016 tax year.

(11) **Recapture**. Any credit claimed under O.C.G.A. §§ 48-7-29.18 and 48-7-29.19 shall be recaptured if any of the following occur during the five-year period following the application date of Form IT-AFV-AP:

(a) Within each year of the five-year period, the vehicle does not accumulate at least 75 percent of its mileage in Georgia; or

(b) The vehicle does not remain registered in Georgia during the five-year period.

(12) **Recapture Amount.** The amount of credit recaptured shall be added to the taxpayer's income tax liability for the taxable year in which the recapture event occurs even if the statute of limitations of O.C.G.A. § 48-7-82 has expired for the year the credit was claimed.

(13) **Effective Date**. This regulation shall be applicable to taxable years beginning on or after January 1, 2015.

Authority: O.C.G.A. §§ 48-2-12, 48-7-29.18 and 48-7-29.19.