

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

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Form #2

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: WV State Tax Department TITLE NUMBER: 110

RULE TYPE: Interpretive CITE AUTHORITY: W. Va. Code §§11-6D-1, et seq.

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6D

TITLE OF RULE BEING AMENDED: Alternative-Fuel Motor Vehicle Tax Credit


IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON December 9th AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Legal Division  
\_\_\_\_\_  
State Tax Department  
\_\_\_\_\_  
P.O. Box 1005  
\_\_\_\_\_  
Charleston, WV 25324-1005  
\_\_\_\_\_

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
\_\_\_\_\_  
Authorized Signature

11-7-13

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**110 C.S.R. 6D**  
**ALTERNATIVE-FUEL MOTOR VEHICLES TAX CREDIT**  
**STATEMENT OF CIRCUMSTANCES**

The Legislature in 1996 enacted S.B. 363 creating West Virginia Code §§11-6D-1 et seq., the Alternative-Fuel Motor Vehicles Tax Credit. The tax credit expired by operation of law 10 years after the effective date of the Article which was June 5, 1996. However, Article 6D was not repealed.

The Legislature in 2011 reenacted the Alternative-Fuel Motor Vehicles Tax Credit as a part of S.B. 465 so as to encourage residents of West Virginia to acquire alternative-fuel motor vehicles and take advantage of the State's abundant supply of alternative fuels. The Legislature in 2013 passed SB 185 which sunset a number of eligibility criteria for the credits effective April 15, 2013 and January 1, 2014.

This interpretive rule provides necessary guidance and clarification for the transition.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

ALTERNATIVE-FUEL MOTOR VEHICLE TAX CREDIT

Rule Title: \_\_\_\_\_

Type of Rule:  Legislative  Interpretive  Procedural

Agency: State Tax Department

Address: 1001 Lee Street  
Charleston, WV 25301

Phone Number: (304) 558-5330 Email: \_\_\_\_\_

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The Rule, as written, provides guidelines to clarify and explain State law as it relates to the Alternative-Fuel Motor Vehicle Tax Credit, as amended. Since the Rule merely clarifies guidelines and does not increase or decrease the tax credit, approval of the Rule will have no impact on State costs and revenues.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

ALTERNATIVE-FUEL MOTOR VEHICLE TAX CREDIT

Rule Title: \_\_\_\_\_

Rule Title: \_\_\_\_\_

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

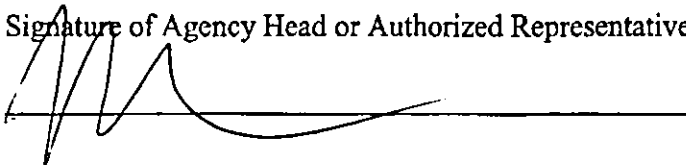
Approval of this Rule will not increase or decrease the Alternative-Fuel Motor Vehicle Tax Credit.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: 11/7/13

Signature of Agency Head or Authorized Representative

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over a solid horizontal line.

TITLE 110  
INTERPRETIVE RULE  
STATE TAX DEPARTMENT

SERIES 6D  
ALTERNATIVE-FUEL MOTOR VEHICLE TAX CREDIT

FILED  
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SECRETARY OF STATE

**§110-6D-1. General.**

1.1. Scope. – This legislative rule is intended to explain and clarify the Alternative-Fuel Motor Vehicle Tax Credit as set forth in W. Va. Code §§11-6D-1, *et seq.* This rule repeals and replaces all prior Alternative-Fuel Motor Vehicle Fuel rules.

The Alternative-Fuel Motor Vehicle Tax Credit became effective July 1, 1997 and expired June 6, 2006. W. Va. Code §§11-6D-1, *et seq.*, was amended in 2011, and the Alternative-Fuel Motor Vehicle Tax Credit was reinstated, effective July 1, 2011. The Tax Credit was most recently amended and became effective April 13, 2013.

W. Va. Code §11-6D-1, *et seq.* provides a tax credit for qualified alternative-fuel motor vehicles and qualified alternative-fuel vehicle refueling infrastructures. The credit for qualified alternative-fuel vehicle home refueling infrastructures was eliminated .

1.2. Authority. – W. Va. Code §11-6D-8(b).

1.3. Filing date. –

1.4. Effective date. –

1.5. General. – Repeal and replace.

**§110-6D-2. Definitions.**

For purposes of this rule, the following terms shall have the meaning ascribed to them in this rule, unless the context in which used clearly requires a different meaning.

Flex-Fuel means fuel mixtures that contain eighty-five percent or more by volume, when combined with gasoline or other fuels, of the following:

- (i) Methanol;
- (ii) Ethanol; or
- (iii) Other alcohols;

2.8. "Placed into service" means the date:

2.8.a. A qualified alternative-fuel motor vehicle refueling infrastructure is ready and available to store and dispense alternative fuels into fuel tanks of motor vehicles; or

2.8.b. A qualified alternative-fuel vehicle home refueling infrastructure is ready and available to:

2.8.b.1. Store and dispense alternative fuels into fuel tanks of motor vehicles; or

2.8.b.2. Provide electricity to plug-in hybrid electric vehicles or electric vehicles.

**§110-6D-3. Transition Rules.**

3.1. Alternative Fuel Vehicles. Alternative fuel motor vehicles capable of running on ethanol, Flex-Fuel, Natural gas hydrocarbons and derivatives, Hydrogen, Coal-derived liquid fuels, and Electricity must have been purchased after December 31, 2010 and prior to April 15, 2013, and are subject to the following rules:

3.1.a. An original bill of sale or some other indicia of purchase must have been issued after December 31, 2010 and prior to April 15, 2013.

3.1.b. Payment for the vehicle, which may include any financing arrangement, must be completed after December 31, 2010 and prior to April 15, 2013.

3.1.c. The purchaser of the vehicle must have taken possession of the vehicle after December 31, 2010 and prior to April 15, 2013.

3.2. Qualified Alternative Fuel Vehicle Home Refueling Infrastructure. The purchase and installation of qualified alternative fuel vehicle home refueling infrastructure must have been purchased after December 31, 2010 and prior to April 15, 2013, and is subject to the following rules:

3.2.a. An original bill of sale or some other indicia of purchase must have been issued after December 31, 2010 and prior to April 15, 2013.

3.2.b. Payment for the installation of the infrastructure, which may include any financing arrangements, must be completed after December 31, 2010 and prior to April 15, 2013.

3.2.c. There must be some other overt act or indicia of installation of the infrastructure started after December 31, 2010 and prior to April 15, 2013, which may include:

3.2.c.1. A building permit, where available;

3.2.c.2. The required notification provided in W.Va. Code §11-3-3a

3.2.c.3. Any other indicia the Tax Commissioner deems acceptable.

3.2.d. Additionally, to claim the credit, the taxpayer must include with an application:

3.2.d.1. A listing of each purchased item including compression equipment, storage tanks, and dispensing units for alternative fuel at the point where the fuel is delivered, together with copies of invoices for each item;

3.2.d.2. A statement, signed by the taxpayer, stating that the property is installed and located in this state; and

3.2.d.3. A statement, signed by the taxpayer, stating that no credit has been previously claimed by any taxpayer on the cost of such property.

3.3. Qualified Alternative Fuel Vehicle Commercial Refueling Infrastructure. The purchase and installation of qualified alternative fuel vehicle commercial refueling infrastructure is subject to different credit qualification and calculation criteria depending on when the infrastructure is placed into service.

3.3.a. When the purchase and installation of qualified alternative fuel vehicle commercial refueling infrastructure is purchased, installed, and placed into service after December 31, 2010 and prior to January 1, 2014, the following rules apply:

3.3.a.1. The amount of credit available will be fifty percent of the total costs, up to a maximum of \$250,000, directly associated with the construction or purchase and installation of the alternative fuel vehicle commercial refueling infrastructure.

3.3.a.2. However, if the alternative fuel vehicle commercial refueling infrastructure is generally accessible for public use, the amount of credit available will be fifty percent of the total costs, up to a maximum of \$312,500, directly associated with the construction or purchase and installation of the alternative fuel vehicle commercial refueling infrastructure.

3.3.b. When the purchase and installation of qualified alternative fuel vehicle commercial refueling infrastructure is purchased, installed, and placed into service after January 1, 2014 but prior to January 1, 2018, the following rules apply:

3.3.a.1. The amount of credit available will be twenty percent of the total costs, per facility, up to a maximum of \$400,000, directly associated with the construction or purchase and installation of the alternative fuel vehicle commercial refueling infrastructure.

3.3.c. When the purchase and installation of qualified alternative fuel vehicle infrastructure begins prior to January 1, 2014, but is not completed and placed into service until after January 1, 2014, the taxpayer may choose to fall under the rules provided in either 3.3.a. or 3.3.b., but no taxpayer shall be eligible to claim a credit

under both sections for the same alternative fuel vehicle commercial refueling infrastructure.

3.3.d. For purposes of this rule, the following items will be determinative of when the alternative fuel vehicle commercial refueling infrastructure began:

3.3.d.1. The date of the original bill of sale or some other indicia of purchase;

3.3.d.2. The payment for the installation of the infrastructure, which may include any financing arrangements; and

3.3.d.3. The completion of some other overt act or indicia of installation of the infrastructure, which may include:

3.2.d.3.1. A building permit, where available;

3.2.d.3.2. The required notification provided in W.Va. Code §11-3-3a

3.2.d.3.3. Any other indicia the Tax Commissioner deems acceptable.