

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

Form #5

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2014 FEB 20 A 11:08

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: WV State Tax Department TITLE NUMBER: 110

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

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE x

EXEMPT LEGISLATIVE RULE \_\_\_\_\_

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW  
\_\_\_\_\_

AMENDMENT TO AN EXISTING RULE: YES x 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: \_\_\_\_\_  
\_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS March 22, 2014



Authorized Signature



# STATE OF WEST VIRGINIA

## Department of Revenue State Tax Department

**Earl Ray Tomblin**  
Governor

**Mark W. Matkovich**  
State Tax Commissioner

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AGENCY: TAX  
DATE: February 20, 2014  
RE: ALTERNATIVE-FUEL MOTOR VEHICLE TAX CREDIT

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On or about November 8, 2013, the State Tax Department filed for public comment this proposed rule, Alternative-Fuel Motor Vehicle Tax Credit, 110 CSR 6D. The comment period closed on December 9, 2013, at 5:00 p.m. There were no comments received by the State Tax Department.

TITLE 110  
INTERPRETIVE RULE  
STATE TAX DEPARTMENT

SERIES 6D  
ALTERNATIVE-FUEL MOTOR VEHICLE TAX CREDIT

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**§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. – February 20, 2014

1.4. Effective date. – March 22, 2014

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. The bill of sale or other indicia of purchase must contain all information related to the consideration paid for the vehicle, including the amount of any trade-in or rebate claimed by the purchaser.

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.