

79-32,239. Same; amount of credit; requirements. (a) For taxable years commencing after December 31, 2005, and before January 1, 2011, any taxpayer who is awarded a tax credit under this act by the commission and complies with the conditions set forth in this act and the agreement entered into by the commission and the taxpayer under this act shall be allowed a credit against the taxpayer's tax liability under the Kansas income tax act as provided in subsection (b). Expenditures used to qualify for this credit shall not be used to qualify for any other type of Kansas income tax credit.

(b) The amount of the credit to which a taxpayer is entitled shall be equal to the sum of: (1) An amount equal to 10% of the taxpayer's qualified investment for the first \$250,000,000 invested and (2) an amount equal to 5% of the amount of the taxpayer's qualified investment that exceeds \$250,000,000. Such credit shall be taken in 10 equal, annual installments, beginning with the year in which the taxpayer places into service the new integrated coal gasification power plant or the expansion of an existing integrated coal gasification power plant.

(c) If the amount of an annual installment of a tax credit allowed under this section exceeds the taxpayer's income tax liability for the taxable year in which the annual installment is allowed, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the annual installment of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the 14th taxable year succeeding the taxable year in which the first annual installment is allowed.

(d) (1) Before making a qualified investment, a taxpayer shall apply to the commission to enter into an agreement for a tax credit under this act. The commission shall prescribe the form of the application. After receipt of such application, the commission may enter into an agreement with the applicant for a credit under this act if the commission determines that the taxpayer's proposed investment satisfies the requirements of this act. The commission shall enter into an agreement with an applicant which is awarded a credit under this act. The agreement shall include: (A) A detailed description of the power plant project that is the subject of the agreement, (B) the first taxable year for which the credit may be claimed, (C) the maximum amount of tax credit that will be allowed for each taxable year, (D) a requirement that the taxpayer shall maintain operation of the new or expanded power plant for at least 10 years during the term that the tax credit is available, (E) a requirement that the taxpayer shall use at the taxpayer's integrated coal gasification power plant in any taxable year for which an annual installment of the credit is allowed that percentage of Kansas coal which the commission determines is prudent, based on availability and cost of Kansas coal, in such year and (F) a requirement that the taxpayer obtain from the commission a determination that the public necessity and convenience require, or will require, construction of the taxpayer's integrated coal gasification power plant.

(2) A taxpayer must comply with the terms of the agreement described in subsection (d)(1) to receive an annual installment of the tax credit awarded under this act. The commission, in accordance with rules and regulations of the commission, shall annually determine whether the taxpayer is in compliance with the agreement. Such determination of compliance shall include, but not be limited to, operation of the new or expanded integrated coal gasification power plant during the tax years when any installments of tax credits are claimed by the taxpayer. If the commission determines that the taxpayer is in compliance, the commission shall issue a certificate of compliance to the taxpayer. If the secretary determines that the taxpayer is not in compliance with the agreement, the secretary shall notify the taxpayer and the secretary of revenue of such determination of noncompliance, and any tax credits claimed pursuant to this section for any tax year shall be forfeited.

(3) The state corporation commission may adopt rules and regulations to administer the provisions of this subsection.

History: L. 2006, ch. 209, § 23; L. 2007, ch. 113, § 31; July 1.