This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see https://lpdd.org

# MODEL STATE INCOME TAX CREDIT FOR THE PURCHASE OR LEASE OF NEW AFVs

Effective: __, 2021

## 1. PURPOSE AND INTENT

a. To reduce greenhouse gas emissions in the United States by at least 80% from 1990 levels by 2050 will require that 80%-95% of the miles driven be in vehicles powered by lower carbon energy sources like electricity and hydrogen.

b. The purpose of this act is to accelerate the adoption of such alternative fuel vehicles by reducing the up-front cost of alternative fuel vehicles by providing a state income tax credit for the purchase or lease of qualifying vehicles.

## 2. DEFINITIONS

Alternative Fuel Vehicle ("AFV")[1]: means:

OPTION #1: Alternative Fuel Vehicle ("AFV"): means any vehicle that is powered solely by electricity or by hydrogen fuel cells.

OPTION #2: Alternative Fuel Vehicle ("AFV"): means (1) any vehicle that is powered solely by electricity or hydrogen fuel cells; or (2) any plug-in hybrid vehicle that is powered in part by electricity from a battery pack that must be recharged using an external electricity source.

OPTION #3: Alternative Fuel Vehicle ("AFV"): means (1) any vehicle that is powered solely by electricity or hydrogen fuel cells; (2) any plug-in hybrid vehicle that is powered in part by electricity from a battery pack that must be recharged using an external electricity source; or (3) any vehicle that is powered in part by electricity generated by regenerative braking and that achieves the Minimum MPG Rating.

Lessee: means a taxpayer who enters into a lease for a Qualified AFV but does not include a lessor of such vehicle or a state or any political subdivision of such state. A lessee seeking

[1] Note to Draft: The options set forth in the model statute are intended to provide state legislatures with the opportunity to assess, based on data at the time of enactment, which definition option will best meet the needs of the government and the promotion of AFVs.

to claim a credit allowed in this section must enter into a lease with a term of not less than two years.

Minimum MPG Rating: means, for tax year 2021, an EPA rating of 50 miles per gallon combined city and highway driving.[2] The [*state's transportation or environmental agency, whichever is so tasked*] shall adjust the Minimum MPG Rating for each taxable year to a level that is keyed to the EPA mpg rating for combined city and highway driving achieved by the third highest performing hybrid electric vehicle on the market in the taxable year.

Purchaser: means the buyer of a Qualified AFV for personal use from a Qualified Seller, but does not include a state or any political subdivision of such state.

Qualified AFV: means an AFV that has never been owned except by a manufacturer, distributor or dealer and has never been registered for operation on public highways.

Qualified Seller: means a registered car dealership or business that is actively engaged in the sale of new vehicles and derives over 75% of its annual revenue from the sale of automobiles used predominantly for driving on public highways.

3. **Tax Credit[3] for Purchasers**
    a. With respect to the tax years commencing on or after January 1, 2021, but prior to January 1, 2024, there is allowed to any Purchaser a credit against the income tax imposed by [*the state tax code*] against such Purchaser, not to exceed two thousand five hundred dollars ($2,500), for the purchase of a Qualified AFV from a Qualified Seller.

    b. With respect to the tax years commencing on or after January 1, 2024, but prior to January 1, 2027, there is allowed to any Purchaser a credit against the income tax imposed by [*the state tax code*] against such Purchaser, not to exceed one thousand seven hundred fifty dollars ($1,750), for the purchase of a Qualified AFV from a Qualified Seller.

---

[2] Note to Draft: This should be subject to change based on the development of new technologies. The remainder of the definition is suggested to assure that the Minimum MPG Rating is adjusted each year to reflect technological advances achieved by top-tier HEVs.

[3] Note to Draft: The flat tax credit and amount are suggestions. The legislature can be expected to also consider implementing (i) a tax credit based on a percentage of the purchase price of the vehicle, with a maximum credit amount; (ii) a credit structure based on current legislation in place; or (iii) some other approach. The flat tax credit seems preferable as it provides clarity for unsophisticated purchasers. The amount may need to be adjusted to balance the needs of the state government and the desire to increase the proliferation of AFVs. If a state does not impose an income tax on individuals, consideration may be given to having the credit apply to other state taxes paid by the Purchaser. Alternatively, a state that does not impose an income tax on individuals might consider providing rebates for the purchase of new AFVs.

c. With respect to the tax years commencing on or after January 1, 2027, but prior to January 1, 2030, there is allowed to any Purchaser a credit against the income tax imposed by [*the state tax code*] against such Purchaser, not to exceed one thousand dollars ($1,000), for the purchase of a Qualified AFV from a Qualified Seller.

d. If a credit authorized in this section exceeds the income tax due on the income of the taxpayer for the taxable year, the excess credit may not be carried forward and shall be refunded to the taxpayer.

e. A Purchaser may not receive the credit authorized in this section more than once every five (5) years. However, a Purchaser who has received a credit authorized in this section within the past five (5) years will not preclude a spouse or dependent of such Purchaser from receiving a credit authorized in this section during such period, regardless of whether they file jointly or separately.

**4. Tax Credit for Lessees**

a. With respect to the tax years commencing on or after January 1, 2021, but prior to January 1, 2023, there is allowed to any Lessee a credit against the income tax imposed by [*the state tax code*] against such Lessee, not to exceed one thousand dollars ($1,000).

b. With respect to the tax years commencing on or after January 1, 2023, but prior to January 1, 2027, there is allowed to any Lessee a credit against the income tax imposed by [*the state tax code*] against such Lessee, not to exceed seven hundred and fifty dollars ($750).

c. With respect to the tax years commencing on or after January 1, 2027, but prior to January 1, 2029, there is allowed to any Lessee a credit against the income tax imposed by [*the state tax code*] against such Lessee, not to exceed five hundred dollars ($500).

d. If a credit authorized in this section exceeds the income tax due on the income of the taxpayer for the taxable year, the excess credit may not be carried forward and shall be refunded to the taxpayer.