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NOTICE 22-05

SHORT LINE RAILROAD CREDIT

(OCTOBER 7, 2022)

During the 2022 Legislative Session House Bill 2239 was passed and signed into law. New Section 18 of the Bill creates a new income tax credit for 50% of an eligible taxpayer's qualified railroad track maintenance expenditures.

Subsection (e) of Section 18 defines the term "eligible taxpayer" to include any railroad subject to the Kansas income tax act that is a Class II or Class III railroad, or any owner or lessee of rail siding located on or adjacent to a Class II or Class III railroad in the state of Kansas. The credit is equal to 50 percent of the qualified track maintenance expenditures paid or incurred during the taxable year for track located in the state of Kansas. It is available for tax years 2022 through 2031. Expenditures used to generate a federal tax credit or funded by a state or federal grant do not qualify for the credit.

The amount of the credit is limited to $5,000 per mile of track or per rail siding owned or leased within the state as of the close of the taxable year. A mile of track may be taken into account only once in each taxable year. The total amount of statewide credits allowed for each taxable year is limited to $8.72 million.

All qualified track maintenance expenditures must be paid or incurred before an eligible taxpayer can apply for a credit. An application is made on Form K-205, Short Line Railroad Tax Credit Application. Following review and approval of the application, the Department will issue a tax credit certificate to the eligible taxpayer. The credit will be claimed by completing and submitting a Schedule K-29 with the eligible taxpayer's income tax return.

Any credit not used by an eligible taxpayer in the year it is allowed can be carried forward for up to five taxable years immediately following the taxable year for which the credit was allowed. The credit is not refundable.

Any credit not used by an eligible taxpayer may be transferred, by written agreement, from the eligible taxpayer to an eligible customer or an eligible vendor. Subsection (e) of Section 18 defines an "eligible customer" as a business that uses short line railroads or railroad-related property within Kansas, that is served by a short line railroad, or stores railcars on the short line railroad. An "eligible vendor" is defined as a person providing railroad-related services directly to the eligible taxpayer earning the credits. Eligible customers and eligible vendors do not include Class I railroads.

A transfer from an eligible taxpayer to an eligible customer or an eligible vendor must occur during the five years immediately following the taxable year for which the credit was allowed. After a tax credit certificate for the Short Line Railroad Tax Credit has been issued, all or part of the short line railroad credit may be transferred. Transfers become effective per an agreement between the two parties. Once a transfer has been made, the transferor and transferee should complete and submit Form K-260, Kansas Tax Credit Transfer Notification Form to the Department of Revenue. Submission of this form notifies the Department that a transfer has taken place and allows the Department to update ownership records for tax reporting purposes. Submission of the Form K-260 should not precede the actual transfer or agreement and does not constitute the actual transfer. A transferee may claim a transferred credit it receives on its tax return either in the year the expenditures were made or in the year the transferee received the transferred credit.

Any credit not used by an transferee in the year it is received can be carried forward for up to five taxable years immediately following the taxable year for which the credit was allowed. The credit is not refundable.

TAXPAYER ASSISTANCE

Additional copies of this notice, forms or publications are available from our web site, www.ksrevenue.gov. If you have questions about this Notice, please contact:

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