

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 897

By: Capps of the Senate

and

Bonny of the House

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 2103.1, 2357.29, 2888 and 2892, which relate to motor vehicle excise taxes, income taxes and ad valorem taxes; modifying vehicles to which certain motor vehicle excise tax credit applies; allowing certain income tax credit for certain owners of residential real property damaged or destroyed by October 9, 2001, tornado; specifying tax years for which such credit allowed; specifying qualifications therefore; clarifying application of certain provisions; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2103.1, is amended to read as follows:

Section 2103.1 There shall be a credit allowed with respect to the excise tax paid for a vehicle which is a:

1. A replacement for a vehicle which was destroyed by a tornado on May 3, 1999, and upon which excise tax had been paid pursuant to the provisions of Section 2103 of ~~Title 68 of the Oklahoma Statutes~~ this title on or after May 3, 1998; or

2. A replacement for a vehicle which was destroyed by a tornado on October 9, 2001, and upon which excise tax had been paid pursuant to the provisions of Section 2103 of this title on or after October 9, 2000.

The credit shall be in the amount of the excise tax which was paid for the destroyed vehicle and shall be applied to the excise

tax due on the replacement vehicle. In no event shall the credit be refunded.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 2357.29, is amended to read as follows:

Section 2357.29 A. For tax years beginning after December 31, 1999, there shall be allowed a credit against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title for owners of residential real property whose primary residence was damaged or destroyed in the May 3, 1999, tornado. For tax years beginning after December 31, 2001, there shall be allowed a credit against the tax imposed by Section 2355 of this title for owners of residential real property whose primary residence was damaged or destroyed in the October 9, 2001, tornado. The amount of the credit shall be the difference between the ad valorem property tax paid on such property and improvements in the year prior to the tornado damage or destruction and the amount of ad valorem property tax paid on the property and improvements the first year after the improvement is completely or fully repaired or rebuilt. For purposes of this credit, the amount of ad valorem property tax paid the first year after the improvement is repaired or rebuilt shall be based on the same or similar square footage as the improvement which was damaged or destroyed.

B. The credit shall be a refundable credit. Eligible taxpayers shall be entitled to claim this credit for five (5) consecutive years. After the first year the credit is claimed, the amount of the credit shall be eighty percent (80%) of the previous year's credit. If the taxpayer has no income tax liability, or if the credit exceeds the amount of the income tax liability of the taxpayer, then the credit, or balance thereof, shall be paid out in the same manner and out of the same fund as refunds of income taxes are paid and so much of the fund as is necessary for such purposes is hereby appropriated.

C. In order to qualify for this credit:

1. The property shall have been damaged or destroyed by the tornado or similar cyclonic winds on May 3, 1999, or October 9, 2001;

2. The property shall be within an area which has been declared a federal disaster area;

3. The property shall be the primary residence of the owner both prior to and after the ~~May 3, 1999,~~ tornado;

4. The owner shall have been granted a homestead exemption or be eligible to claim a homestead exemption both prior to and after the ~~May 3, 1999,~~ tornado;

5. The primary residence shall be repaired or rebuilt on the same property as it existed prior to the ~~May 3, 1999,~~ tornado; and

6. The primary residence shall be repaired or rebuilt and used as the primary residence no later than December 31, 2001, with respect to the May 3, 1999, tornado, or no later than December 31, 2003, with respect to the October 9, 2001, tornado.

D. The credit shall not be allowed if the property is transferred or title is changed or conveyed as defined in Section 2802.1 of ~~Title 68 of the Oklahoma Statutes~~ this title. Any credit claimed and allowed prior to the transfer of the property or the change or conveyance of title shall not be affected.

E. The Oklahoma Tax Commission shall promulgate any necessary rules and develop any necessary forms to implement the provisions of this section.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 2888, is amended to read as follows:

Section 2888. A. 1. The term "homestead", as used in the provisions of the Ad Valorem Tax Code governing homestead exemptions, shall mean and include the actual residence of a natural person who is a citizen of the State of Oklahoma, provided the record actual ownership of such residence be vested in such natural

person residing and domiciled thereon. Any single person of legal age, married couple and their minor child or children, or the minor child or children of a deceased person, whether residing together or separated, or surviving spouse shall be allowed under ~~this Code~~ Section 2801 et seq. of this title only one homestead exemption in this state. No person or the family of such person shall be required to be domiciled thereon if such person is in the armed service of the United States in time of war or during a state of national emergency as declared by the Congress or the President of the United States, and such person shall not be required to be domiciled thereon in order to assert or claim the exemption provided in Section 2889 of this title, and such exemption may be claimed by any agent of, or member of the family of, such person. The surviving spouse and/or minor children of a deceased person shall be considered record owners of the homestead where the title of record in the office of the county clerk on January 1 is in the name of the deceased, but in all other cases the deed or other evidence of ownership must be of record in the office of the county clerk on January 1 in order for any person to be qualified as the record owner. However, a natural person actually owning, residing and domiciled in the residence on January 1 shall be deemed to be the record owner of the residence on January 1, within the meaning of this section, if the deed or other evidence of ownership of such person, executed on or before January 1, be of record in the office of the county clerk on or before February 1 immediately following. Despite any provision to the contrary in this section, if a parent or parents residing and domiciled in the residence own the residence jointly with one or more of their children, whether residing together or separated, and where the record joint ownership of the property is recorded in the office of the county clerk in accordance with the provisions of this section, the parent or parents residing and domiciled in the residence shall be entitled to the entire

homestead exemption. A rural homestead shall not include more than one hundred sixty (160) acres of land and the improvements thereon. An urban homestead shall not include any land except the lot or lots, or the unplatted tract, upon which are located the dwelling, garage, barn and/or other outbuildings necessary or convenient for family use.

2. Despite any provision to the contrary in this section, the person actually owning, residing and domiciled in the residence on May 15, 2000, shall be deemed to be the record owner of the residence on May 15, 2000, within the meaning of this section, if the deed or other evidence of ownership of such person, executed on or before May 15, 2000, be of record in the office of the county clerk on or before such date. However, the provisions of this paragraph shall only apply to any person who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title with respect to the May 3, 1999, tornado, or to any person whose primary residence was damaged or destroyed in the May 3, 1999, tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence.

B. The term "rural homestead" as used herein shall mean and include any homestead located outside a city or town or outside any platted subdivision or addition.

C. The term "urban homestead" as used herein shall mean and include any homestead located within any city or town whether incorporated or unincorporated, or located within a platted subdivision or addition, whether such subdivision or addition be a part of a city or town. In no case shall an urban homestead exceed in area one (1) acre.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 2892, is amended to read as follows:

Section 2892. A. To receive a homestead exemption, a taxpayer shall be required to file an application with the county assessor. Such application may be filed at any time. However, the county assessor shall, if such applicant otherwise qualifies, grant a homestead exemption for a tax year only if the application is filed on or before March 15 of such year. Except as provided in this subsection, if an application for a homestead exemption is filed after March 15, the county assessor shall, if such applicant otherwise qualifies, grant the homestead exemption beginning with the following tax year. For any owner of real property who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title with respect to the May 3, 1999, tornado, or for any owner of real property whose primary residence was damaged or destroyed in the May 3, 1999, tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence, the application for a homestead exemption may be filed after March 15, 2000, but no later than June 1, 2000, and the homestead exemption shall be granted for such year.

B. Any taxpayer who has been granted a homestead exemption and who continues to occupy such homestead property as a homestead, shall not be required to reapply for such homestead exemption.

C. Once granted, the homestead exemption shall remain in full force and effect for each succeeding year, so long as:

1. The record of actual property ownership is vested in the taxpayer;

2. The instrument of ownership is on record in the county clerk's office;

3. The owner-taxpayer is in all other respects entitled by law to the homestead exemption; and

4. The taxpayer has no delinquent accounts appearing on the personal property tax lien docket in the county treasurer's office.

On October 1st of each year, the county treasurer will provide a copy of the personal property tax lien docket to the county assessor. Based upon the personal property tax lien docket, the county assessor shall act to cancel the homestead exemption of all property owners having delinquent personal property taxes. Such cancellation of the homestead exemption will become effective January 1 of the following year and will remain in effect for at least one (1) calendar year; however, such cancellation will not become effective January 1 of the following year if the taxpayer pays such delinquent personal property taxes prior to January 1. Cancellation of the homestead exemption will require the county assessor to notify each taxpayer no later than January 1 of the next calendar year whose homestead is canceled and will require the taxpayer to refile an application for homestead exemption by those dates so indicated in this section and the payment of all delinquent personal property taxes before the homestead can be reinstated.

D. Any purchaser or new owner of real property must file an application for homestead exemption as herein provided.

E. The application for homestead exemption shall be filed with the county assessor of the county in which the homestead is located. A taxpayer applying for homestead exemption shall not be required to appear before the county assessor in person to submit such application.

F. The property owner shall sign and swear to the truthfulness and correctness of the application's contents. If the property owner is a minor or incompetent, the legal guardian shall sign and swear to the contents of the application.

G. The county assessor and duly appointed deputies are authorized and empowered to administer the required oaths.

H. The taxpayer shall notify the county assessor following any change in the use of property with homestead exemption thereon. The notice of change in homestead exemption status of property shall be

in writing and may be filed with the county assessor at any time on or before March 15 of the next following year after which such change occurs. The filing of a deed or other instrument evidencing a change of ownership or use shall constitute sufficient notice to the county assessor.

I. Any single person of legal age, married couple and their minor child or children, or the minor child or children of a deceased person, whether residing together or separated, or surviving spouse shall be allowed under this Code only one homestead exemption in the State of Oklahoma.

J. Any property owner who fails to give notice of change to the county assessor and permits the allowance of homestead exemption for any succeeding year where such homestead exemption is unlawful and improper shall owe the county treasurer:

1. An amount equal to twice the amount of the taxes lawfully due but not paid by reason of such unlawful and improper allowance of homestead exemption; and

2. The interest and penalty on such total sum as provided by statutes on delinquent ad valorem taxes. There shall be a lien on the property while such taxes are unpaid, but not for a period longer than that provided by statute for other ad valorem tax liens.

K. Any person who has intentionally or knowingly permitted the unlawful and improper allowance of homestead exemption shall forfeit the right to a homestead exemption on any property in this state for the two (2) succeeding years.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.