

THE HOUSE OF REPRESENTATIVES
Tuesday, April 14, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 481

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 481 - By: LAMB, RICE, JOHNSON (CONSTANCE), MARLATT AND CRUTCHFIELD of the Senate and NELSON, SULLIVAN, BUCK AND DORMAN of the House.

(revenue and taxation - modifying tax credit – income tax exemption -
codification - effective date –
emergency)

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 1132.3, as last amended by
2 Section 1, Chapter 374, O.S.L. 2003 (47 O.S. Supp. 2008, Section 1132.3), is amended to
3 read as follows:
4 Section 1132.3 A. There shall be a credit allowed with respect to the fee for
5 registration of a vehicle which is a replacement for a vehicle which was destroyed by a
6 tornado on May 3, 1999, and which was registered pursuant to the provisions of Section
7 1132 of this title on such date. The credit shall be a prorated amount based on the fee
8 paid for the registration of the destroyed vehicle for the period of registration remaining
9 as of May 3, 1999, and shall be applied to the registration fee for the replacement vehicle
10 pursuant to the provisions of Section 1132 of this title. In no event will the credit be
11 refunded.

1 B. There shall be a credit allowed with respect to the fee for registration of a
2 vehicle which is a replacement for a vehicle which was destroyed by a tornado on October
3 9, 2001, and which was registered pursuant to the provisions of Section 1132 of this title
4 on such date. The credit shall be a prorated amount based on the fee paid for the
5 registration of the destroyed vehicle for the period of registration remaining as of October
6 9, 2001, and shall be applied to the registration fee for the replacement vehicle pursuant
7 to the provisions of Section 1132 of this title. In no event will the credit be refunded.

8 C. There shall be a credit allowed with respect to the fee for registration of a
9 vehicle which is a replacement for a vehicle which was destroyed by a tornado on May 8
10 or 9, 2003, and which was registered pursuant to the provisions of Section 1132 of this
11 title on such date. The credit shall be a prorated amount based on the fee paid for the
12 registration of the destroyed vehicle for the period of registration remaining as of May 8
13 or 9, 2003, and shall be applied to the registration fee for the replacement vehicle
14 pursuant to the provisions of Section 1132 of this title. In no event will the credit be
15 refunded.

16 D. There shall be a credit allowed with respect to the fee for registration of a
17 vehicle which is a replacement for a vehicle which was destroyed by a tornado on
18 February 10, 2009, and which was registered pursuant to the provisions of Section 1132
19 of this title on such date. The credit shall be a prorated amount based on the fee paid for
20 the registration of the destroyed vehicle for the period of registration remaining as of
21 February 10, 2009, and shall be applied to the registration fee for the replacement

1 vehicle pursuant to the provisions of Section 1132 of this title. In no event will the credit
2 be refunded.

3 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1362, as last amended by
4 Section 69, Chapter 5, O.S.L. 2004 (68 O.S. Supp. 2008, Section 1362), is amended to
5 read as follows:

6 Section 1362. A. Except as otherwise provided by Section 1361 of this title, the tax
7 levied pursuant to the provisions of the Oklahoma Sales Tax Code, Section 1350 et seq. of
8 this title, shall be remitted or paid to the Oklahoma Tax Commission by the vendor of
9 tangible personal property, services, privileges, admissions, dues, fees, or any other item
10 subject to the tax levied pursuant to the provisions of the Oklahoma Sales Tax Code.

11 B. The amount of tax to be collected by the vendor or to be remitted by the holder of
12 a direct payment permit on each sale shall be the applicable percentage of the gross
13 receipts or gross proceeds thereof as provided by Section 1354 of this title. The
14 applicable percentage shall equal the combination of the state and any applicable
15 municipal and county sales tax rates. In computing the tax to be collected or remitted as
16 the result of any transaction, the tax amount must be carried to the third decimal place
17 when the tax amount is expressed in dollars. The tax must be rounded to a whole cent
18 using a method that rounds up to the next cent whenever the third decimal place is
19 greater than four. The vendor or direct payment permit holder may elect to compute the
20 tax due on transactions on an item or invoice basis.

21 C. For the convenience of the vendor or direct payment permit holder, the Tax
22 Commission is hereby authorized to establish and revise, when necessary, bracket

1 system guidelines to be followed in collecting the tax levied pursuant to the provisions of
2 the Oklahoma Sales Tax Code, any municipal sales tax, or county sales tax.

3 The use of bracket system guidelines does not relieve the vendor or direct payment
4 permit holder from the duty and liability to remit to the Tax Commission, an amount
5 equal to the applicable percentage of the gross receipts or gross proceeds derived from all
6 sales during the taxable period as provided by Section 1354 of this title.

7 D. Except as otherwise provided by Section 1361 of this title, each person required
8 pursuant to the provisions of the Oklahoma Sales Tax Code to make a sales tax report
9 shall include in the gross proceeds derived from sales to consumers or users, the sales
10 value of all tangible personal property which has been purchased for resale,
11 manufacturing, or further processing, and withdrawn from stock in trade for use or
12 consumption during the taxable period covered by such report, and shall pay the tax on
13 the sales value of this tangible personal property withdrawn from stock in trade for
14 consumption or use; provided, such tax shall not be due on such tangible personal
15 property which has been donated for the purpose of assisting persons affected by the
16 tornadoes occurring May 3, 1999, ~~or~~ May 8 or 9, 2003, or February 10, 2009.

17 E. All persons, either within or without the state, selling merchandise or other
18 tangible personal property in this state through peddlers, solicitors, or other salespersons
19 who do not have established places of business in this state, shall remit or pay the tax
20 levied pursuant to the provisions of the Oklahoma Sales Tax Code and shall be required
21 to file reports and pay the taxes due on all sales made to consumers or users by
22 themselves or by their peddlers, solicitors, or other salespersons.

1 F. All persons defined as Group Five vendors remitting sales tax based upon use of
2 motor fuel or diesel fuel as a sale shall include in a monthly sales tax report the number
3 of gallons of fuel so used and the sales price of the motor fuel or diesel fuel. The amount
4 of tax to be remitted by the Group Five vendor shall be the applicable percentage as
5 provided by Section 1354 of this title, of the sales price of the fuel used during the
6 applicable reporting period.

7 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1367.1, as last amended by
8 Section 73, Chapter 5, O.S.L. 2004 (68 O.S. Supp. 2008, Section 1367.1), is amended to
9 read as follows:

10 Section 1367.1 A. For the purpose of compensating the seller or vendor in keeping
11 sales tax records, filing reports and remitting the tax when due, a seller or vendor shall
12 be allowed a deduction as follows:

13 1. For sellers or vendors participating in the Oklahoma Tax Commission's
14 electronic funds transfer and electronic data interchange program, two and one-fourth
15 percent (2 1/4%) of the tax due under the applicable provisions of this title; and

16 2. For all other sellers or vendors, one and one-fourth percent (1 1/4%) of the tax
17 due under the applicable provisions of this title. The Tax Commission is authorized to
18 allow a vendor to deduct two and one-fourth percent (2 1/4%) if the Tax Commission
19 determines that the vendor is unable to participate in the Tax Commission's electronic
20 funds transfer and electronic data interchange program.

21 Such deduction shall not be allowed with respect to a direct payment permit.

1 B. No deductions from tax shall be allowed if any such report or payment of tax is
2 delinquent; provided, the deduction shall be allowed if the Oklahoma Tax Commission
3 determines that the reason that such report or payment of tax was delinquent was due to
4 the tornadoes occurring May 3, 1999, ~~or~~ May 8 or 9, 2003, or February 10, 2009.

5 C. Notwithstanding the formula provided by subsection A of this section, the
6 deduction provided by this section shall be limited to a maximum of Three Thousand
7 Three Hundred Dollars (\$3,300.00) per month per sales tax permit. No such sales tax
8 permit holder may change sales tax permit status in order to avoid the provisions of this
9 subsection.

10 D. Notwithstanding any other provision of law, an amount equal to the excess of
11 the amount calculated by the formula provided by subsection A of this section over the
12 Three-Thousand-Three-Hundred- Dollar limit provided by subsection C of this section
13 shall be retained by the state as an administrative expense and deposited to the General
14 Revenue Fund.

15 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2103.1, as last amended by
16 Section 4, Chapter 374, O.S.L. 2003 (68 O.S. Supp. 2008, Section 2103.1), is amended to
17 read as follows:

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

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

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

4 3. A replacement for a vehicle which was destroyed by a tornado on May 8 or 9,
5 2003, and upon which excise tax had been paid pursuant to the provisions of Section 2103
6 of this title on or after May 8 or 9, 2002; or

7 4. A replacement for a vehicle which was destroyed by a tornado on February 10,
8 2009, and upon which excise tax had been paid pursuant to the provisions of Section 2103
9 of this title on or after February 10, 2008.

10 The credit shall be in the amount of the excise tax which was paid for the destroyed
11 vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event
12 shall the credit be refunded.

13 SECTION 5. AMENDATORY 68 O.S. 2001, Section 2357.29, as last amended
14 by Section 5, Chapter 374, O.S.L. 2003 (68 O.S. Supp. 2008, Section 2357.29), is amended
15 to read as follows:

16 Section 2357.29 A. For tax years beginning after December 31, 1999, there shall be
17 allowed a credit against the tax imposed by Section 2355 of this title for owners of
18 residential real property whose primary residence was damaged or destroyed in the May
19 3, 1999, tornado. For tax years beginning after December 31, 2001, there shall be
20 allowed a credit against the tax imposed by Section 2355 of this title for owners of
21 residential real property whose primary residence was damaged or destroyed in the
22 October 9, 2001, tornado. For tax years beginning after December 31, 2003, there shall

1 be allowed a credit against the tax imposed by Section 2355 of this title for owners of
2 residential real property whose primary residence was damaged or destroyed in the May
3 8 or 9, 2003, tornado. For tax years beginning after December 31, 2009, there shall be
4 allowed a credit against the tax imposed by Section 2355 of this title for owners of
5 residential real property whose primary residence was damaged or destroyed in the
6 February 10, 2009, tornado. The amount of the credit shall be the difference between the
7 ad valorem property tax paid on such property and improvements in the year prior to the
8 tornado damage or destruction and the amount of ad valorem property tax paid on the
9 property and improvements the first year after the improvement is completely or fully
10 repaired or rebuilt. For purposes of this credit, the amount of ad valorem property tax
11 paid the first year after the improvement is repaired or rebuilt shall be based on the
12 same or similar square footage as the improvement which was damaged or destroyed.

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

20 C. In order to qualify for this credit:

1 1. The property shall have been damaged or destroyed by a tornado or similar
2 cyclonic winds on May 3, 1999, October 9, 2001, ~~or~~ May 8 or 9, 2003, or February 10,
3 2009;

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

6 3. The property shall be the primary residence of the owner both prior to and after
7 the tornado;

8 4. The owner shall have been granted a homestead exemption or be eligible to claim
9 a homestead exemption both prior to and after the tornado;

10 5. The primary residence shall be repaired or rebuilt on the same property as it
11 existed prior to the tornado; and

12 6. The primary residence shall be repaired or rebuilt and used as the primary
13 residence no later than December 31, 2001, with respect to the May 3, 1999, tornado, no
14 later than December 31, 2003, with respect to the October 9, 2001, tornado, ~~or~~ no later
15 than December 31, 2005, with respect to the May 8 or 9, 2003, tornado or no later than
16 December 31, 2011, with respect to the February 10, 2009, tornado.

17 D. The credit shall not be allowed if the property is transferred or title is changed
18 or conveyed as defined in Section 2802.1 of this title. Any credit claimed and allowed
19 prior to the transfer of the property or the change or conveyance of title shall not be
20 affected.

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

1 SECTION 6. AMENDATORY Section 1, Chapter 439, O.S.L. 2005, as amended
2 by Section 16, Chapter 272, O.S.L. 2006 (68 O.S. Supp. 2008, Section 2357.46), is
3 amended to read as follows:

4 Section 2357.46 A. For tax years beginning after December 31, 2005, and ending
5 before January 1, 2010, there shall be allowed a credit against the tax imposed by
6 Section 2355 of ~~Title 68 of Oklahoma Statutes~~ this title for eligible expenditures incurred
7 by a contractor in the construction of energy efficient residential property of two
8 thousand (2,000) square feet or less. For tax years beginning on or after January 1,
9 2010, there shall be allowed a credit against the tax imposed by Section 2355 of this title
10 for eligible expenditures incurred by a contractor in the construction of energy efficient
11 residential property which is of any size. The amount of the credit shall be based upon
12 the following:

13 1. For any eligible energy efficient residential property constructed and certified as
14 forty percent (40%) or more above the International Energy Conservation Code 2003 and
15 any supplement in effect at the time of completion, the amount of the credit shall be
16 equal to the eligible expenses, not to exceed Four Thousand Dollars (\$4,000.00) for the
17 taxpayer who is the contractor; and

18 2. For any eligible energy efficient residential property constructed and certified as
19 between twenty percent (20%) and thirty-nine percent (39%) above the International
20 Energy Conservation Code 2003 and any supplement in effect at the time of completion,
21 the credit shall be equal to the eligible expenditures, not to exceed Two Thousand Dollars
22 (\$2,000.00) for the taxpayer who is the contractor.

1 B. As used in this section:

2 1. “Eligible expenditure” means any:

- 3 a. energy efficient heating or cooling system,
- 4 b. insulation material or system which is specifically and primarily
- 5 designed to reduce the heat gain or loss of a residential property when
- 6 installed in or on such property,
- 7 c. exterior windows, including skylights,
- 8 d. exterior doors, and
- 9 e. any metal roof installed on a residential property, but only if such roof
- 10 has appropriate pigmented coatings which are specifically and
- 11 primarily designed to reduce the heat gain of such dwelling unit and
- 12 which meet Energy Star program requirements;

13 2. “Contractor” means the taxpayer who constructed the residential property or

14 manufactured home, or if more than one taxpayer qualifies as the contractor, the

15 primary contractor; and

16 3. “Eligible energy efficient residential property” means a newly constructed

17 residential property or manufactured home property which is located in the State of

18 Oklahoma and substantially complete after December 31, 2005, and which is two

19 thousand (2,000) square feet or less for credits claimed for tax years ending before

20 January 1, 2010, and which is of any size for credits claimed for tax years beginning on

21 and after January 1, 2010:

- 1 a. for the credit provided pursuant to paragraph 1 of subsection A of this
2 section, which is certified by an accredited Residential Energy Services
3 Network Provider using the Home Energy Rating System to have:
- 4 (1) a level of annual heating and cooling energy consumption which
5 is at least forty percent (40%) below the annual level of heating
6 and cooling energy consumption of a comparable residential
7 property constructed in accordance with the standards of
8 Chapter 4 of the 2003 International Energy Conservation Code,
9 as such code is in effect on the effective date of this act,
 - 10 (2) heating and cooling equipment efficiencies which correspond to
11 the minimum allowed under the regulations established by the
12 Department of Energy pursuant to the National Appliance
13 Energy Conservation Act of 1987 and in effect at the time of
14 construction of the property, and
 - 15 (3) building envelope component improvements which account for at
16 least one-fifth of the reduced annual heating and cooling energy
17 consumption levels,
- 18 b. for the credit provided pursuant to paragraph 2 of subsection A of this
19 section, which is certified by an accredited Residential Energy Services
20 Network Provider using the Home Energy Rating System to have:
- 21 (1) a level of annual heating and cooling energy consumption which
22 is between twenty percent (20%) and thirty-nine percent (39%)

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 below the annual level of heating and cooling energy
2 consumption of a comparable residential property constructed in
3 accordance with the standards of Chapter 4 of the 2003
4 International Energy Conservation Code, as such code is in
5 effect on the effective date of this act,

6 (2) heating and cooling equipment efficiencies which correspond to
7 the minimum allowed under the regulations established by the
8 Department of Energy pursuant to the National Appliance
9 Energy Conservation Act of 1987 and in effect at the time of
10 construction of the property, and

11 (3) building envelope component improvements which account for at
12 least one-third of the reduced annual heating and cooling energy
13 consumption levels.

14 C. The credit provided for in subsection A of this section may only be claimed once
15 for the contractor of any eligible residential energy efficient property during the taxable
16 year when the property is substantially complete.

17 D. If the credit allowed pursuant to this section exceeds the amount of income taxes
18 due or if there are no state income taxes due on the income of the taxpayer, the amount
19 of credit allowed but not used in any taxable year may be carried forward as a credit
20 against subsequent income tax liability for a period not exceeding four (4) years following
21 the qualified expenditures.

1 E. For credits earned on or after the effective date of this act, the credits authorized
2 by this section shall be freely transferable to subsequent transferees.

3 F. The Oklahoma Tax Commission shall promulgate rules necessary to implement
4 this act.

5 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
6 Statutes as Section 2358.1A of Title 68, unless there is created a duplication in
7 numbering, reads as follows:

8 A. Any payment made by the United States Department of Defense as a result of
9 the death of a member of the Armed Forces of the United States who has been killed in
10 action in a United States Department of Defense designated combat zone shall be exempt
11 from Oklahoma income tax during the taxable year in which the individual is declared
12 deceased by the Armed Forces.

13 B. In any case where income tax has been paid upon any income exempt pursuant
14 to subsection A of this section the tax monies shall be refunded to the person or personal
15 representative of the person. The refund shall be made by the Oklahoma Tax
16 Commission out of the Oklahoma Income Tax Adjustment Fund, and so much of such
17 fund as is necessary for such purpose is hereby appropriated. The provisions of this
18 section shall be liberally construed to accomplish its purpose and the statute of
19 limitations with respect to refunds of income taxes shall not apply to taxpayers covered
20 by this section.

1 SECTION 8. AMENDATORY 68 O.S. 2001, Section 2888, as last amended by
2 Section 6, Chapter 374, O.S.L. 2003 (68 O.S. Supp. 2008, Section 2888), is amended to
3 read as follows:

4 Section 2888. A. 1. The term “homestead”, as used in the provisions of the Ad
5 Valorem Tax Code governing homestead exemptions, shall mean and include the actual
6 residence of a natural person who is a citizen of the State of Oklahoma, provided the
7 record actual ownership of such residence be vested in such natural person residing and
8 domiciled thereon. Any single person of legal age, married couple and their minor child
9 or children, or the minor child or children of a deceased person, whether residing
10 together or separated, or surviving spouse shall be allowed under Section 2801 et seq. of
11 this title only one homestead exemption in this state. No person or the family of such
12 person shall be required to be domiciled thereon if such person is in the armed service of
13 the United States in time of war or during a state of national emergency as declared by
14 the Congress or the President of the United States, and such person shall not be required
15 to be domiciled thereon in order to assert or claim the exemption provided in Section
16 2889 of this title, and such exemption may be claimed by any agent of, or member of the
17 family of, such person. The surviving spouse and/or minor children of a deceased person
18 shall be considered record owners of the homestead where the title of record in the office
19 of the county clerk on January 1 is in the name of the deceased, but in all other cases the
20 deed or other evidence of ownership must be of record in the office of the county clerk on
21 January 1 in order for any person to be qualified as the record owner. However, a
22 natural person actually owning, residing and domiciled in the residence on January 1

1 shall be deemed to be the record owner of the residence on January 1, within the
2 meaning of this section, if the deed or other evidence of ownership of such person,
3 executed on or before January 1, be of record in the office of the county clerk on or before
4 February 1 immediately following. Despite any provision to the contrary in this section,
5 if a parent or parents residing and domiciled in the residence own the residence jointly
6 with one or more of their children, whether residing together or separated, and where the
7 record joint ownership of the property is recorded in the office of the county clerk in
8 accordance with the provisions of this section, the parent or parents residing and
9 domiciled in the residence shall be entitled to the entire homestead exemption. A rural
10 homestead shall not include more than one hundred sixty (160) acres of land and the
11 improvements thereon. An urban homestead shall not include any land except the lot or
12 lots, or the unplatted tract, upon which are located the dwelling, garage, barn and/or
13 other outbuildings necessary or convenient for family use.

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

1 tornado and who purchased or built a new primary residence at a location within this
2 state other than the location of the damaged or destroyed residence.

3 3. Despite any provision to the contrary in this section, the person actually owning,
4 residing and domiciled in the residence on May 15, 2004, shall be deemed to be the record
5 owner of the residence on May 15, 2004, within the meaning of this section, if the deed or
6 other evidence of ownership of such person, executed on or before May 15, 2004, be of
7 record in the office of the county clerk on or before such date. However, the provisions of
8 this paragraph shall only apply to any person who is eligible to claim the income tax
9 credit pursuant to Section 2357.29 of this title with respect to the May 8 or 9, 2003,
10 tornado or to any person whose primary residence was damaged or destroyed in the May
11 8 or 9, 2003, tornado and who purchased or built a new primary residence at a location
12 within this state other than the location of the damaged or destroyed residence.

13 4. Despite any provision to the contrary in this section, the person actually owning,
14 residing and domiciled in the residence on May 15, 2010, shall be deemed to be the record
15 owner of the residence on May 15, 2010, within the meaning of this section, if the deed or
16 other evidence of ownership of such person, executed on or before May 15, 2010, be of
17 record in the office of the county clerk on or before such date. However, the provisions of
18 this paragraph shall only apply to any person who is eligible to claim the income tax
19 credit pursuant to Section 2357.29 of this title with respect to the February 10, 2009,
20 tornado or to any person whose primary residence was damaged or destroyed in the
21 February 10, 2009, tornado and who purchased or built a new primary residence at a
22 location within this state other than the location of the damaged or destroyed residence.

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

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

7 SECTION 9. Section 6 of this act shall become effective January 1, 2010.

8 SECTION 10. It being immediately necessary for the preservation of the public
9 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
10 this act shall take effect and be in full force from and after its passage and approval.

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
12 dated 04-13-09 - DO PASS, As Amended and Coauthored.