

An Act

ENROLLED SENATE
BILL NO. 410

By: Bergstrom of the Senate

and

Lepak of the House

An Act relating to the Oklahoma Research and Development Incentives Act; amending 68 O.S. 2021, Sections 54004 and 54005, which relate to the refund of sales and use taxes for qualified purchases; modifying period during which qualified purchase may be eligible for refund; providing date by which certain claims shall be submitted to the Oklahoma Tax Commission; updating statutory references; and declaring an emergency.

SUBJECT: Oklahoma Research and Development Incentives

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 54004, is amended to read as follows:

Section 54004. A. In order to administer the exemption for sales to a qualified computer services, data processing or research and development facility as provided by ~~Section 7 of this act~~ Section 54003 of this title, there shall be made a sales tax refund for state and local sales taxes paid by the account created by this section to such qualified facility.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified computer services, data processing or research and development facility upon the principal amount of any refund made to such qualified facility for purposes of administering the exemption provided by ~~Section 7 of this act~~ Section 54003 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local sales taxes paid by a contractor or subcontractor for qualified purchases as defined in ~~Section 6 of this act~~ Section 54002 of this title, purchased by that contractor or subcontractor pursuant to a contract with a qualified computer services, data processing or research and development facility shall, upon proper showing, be refunded to such qualified facility.

E. The qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax billed;

2. Affidavit of each vendor that state and local sales tax billed has not been audited, rebated, or refunded to such qualified

facility but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local sales tax was paid by a contractor or subcontractor, the qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the sales tax refund of the qualified facility is based on state and local sales tax paid by the contractor or subcontractor on qualified purchases as defined in ~~Section 6 of this act~~ Section 54002 of this title, purchased and that the amount of state and local sales tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of qualified purchases as defined in ~~Section 6 of this act~~ Section 54002 of this title, made after July 1, 1992, and before July 1, 2022, shall be eligible for the refund established by this section.

H. The qualified computer services, data processing or research and development facility shall file, within thirty-six (36) months of the date of the first purchase which is exempt from taxation pursuant to the provisions of ~~Section 7 of this act~~ Section 54003 of this title, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

I. Notwithstanding the provisions of any state tax law, the amount refunded under this section shall be assessed if the number of new full-time-equivalent employees drops below the number prescribed in ~~Section 6 of this act~~ Section 54002 of this title, at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission.

J. All claims for refunds provided pursuant to this section shall be submitted to the Oklahoma Tax Commission by July 1, 2022.

SECTION 2. AMENDATORY 68 O.S. 2021, Section 54005, is amended to read as follows:

Section 54005. A. In order to administer the exemption for sales to a qualified computer services, data processing or research and development facility as provided by ~~Section 7 of this act~~ Section 54003 of this title, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by qualified facilities for qualified purchases as defined in ~~Section 6 of this act~~ Section 54002 of this title, from the account created by this section.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified computer services, data processing or research and development facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by ~~Section 7 of this act~~ Section 54003 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local use taxes paid by a contractor or subcontractor for qualified purchases as defined in ~~Section 6 of this act~~ Section 54002 of this title, purchased by that contractor or subcontractor pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to such qualified facility.

E. The qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local use tax billed;

2. Affidavit of each vendor that state and local use tax billed has not been audited, rebated, or refunded to such qualified facility but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local use tax was paid by a contractor or subcontractor, the qualified facility shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the use tax refund of the qualified manufacturer is based on state and local use tax, paid by the contractor or subcontractor on qualified purchases as defined in ~~Section 6 of this act~~ Section 54002 of this title, purchased and that the amount of the state and local use tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after July 1, 1992, shall be eligible for the refund established by this section.

H. The qualified computer services, data processing or research and development facility shall file, within thirty-six (36) months of the date of the first purchase which is exempt from taxation pursuant to the provisions of ~~Section 7 of this act~~ Section 54003 of

this title, with the Oklahoma Tax Commission, a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section.

I. Notwithstanding the provisions of any state tax law, the amount refunded under this section shall be assessed if the number of new full-time-equivalent employees drops below the number prescribed in ~~Section 6 of this act~~ Section 54002 of this title, at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission.

J. All claims for refunds provided pursuant to this section shall be submitted to the Oklahoma Tax Commission by July 1, 2022.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or 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.

Passed the Senate the 22nd day of March, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of April, 2022.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____