

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4   ENGROSSED SENATE  
5   BILL NO. 410

By: Bergstrom of the Senate

and

Lepak of the House

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

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

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

21       Section 54004.   A.   In order to administer the exemption for  
22      sales to a qualified computer services, data processing or research  
23      and development facility as provided by ~~Section 7 of this act~~  
24      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.

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

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

1 any amount transferred during the month and upon the amounts  
2 previously transferred to the account together with interest  
3 previously accrued upon such amounts.

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

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

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

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

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

22 F. In the event that state and local sales tax was paid by a  
23 contractor or subcontractor, the qualified computer services, data  
24 processing or research and development facility shall file with the

1 Oklahoma Tax Commission all documentation required in subsection E  
2 of this section but in lieu of the affidavit of each vendor the  
3 qualified facility shall file, for any refund claimed, an affidavit  
4 from the contractor or subcontractor stating that the sales tax  
5 refund of the qualified facility is based on state and local sales  
6 tax paid by the contractor or subcontractor on qualified purchases  
7 as defined in ~~Section 6 of this act~~ Section 54002 of this title,  
8 purchased and that the amount of state and local sales tax claimed  
9 was paid to the vendor and no credit, refund, or rebate has been  
10 claimed by the contractor or subcontractor.

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

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

22 I. Notwithstanding the provisions of any state tax law, the  
23 amount refunded under this section shall be assessed if the number  
24 of new full-time-equivalent employees drops below the number

1 prescribed in ~~Section 6 of this act~~ Section 54002 of this title, at  
2 any time within thirty-six (36) months of the date certification is  
3 issued by the Oklahoma Employment Security Commission.

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

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

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

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

20 C. Any refund shall be paid from the account prescribed by this  
21 section at the time the claim for refund is approved by the Oklahoma  
22 Tax Commission. The amount of the refund shall not exceed the total  
23 state and local use taxes paid together with accrued interest upon  
24 such total. The amount of interest paid to a qualified computer

1 services, data processing or research and development facility upon  
2 the principal amount of any refund made to such facility for  
3 purposes of administering the exemption provided by ~~Section 7 of~~  
4 ~~this act~~ Section 54003 of this title, shall be determined according  
5 to the provisions of this subsection. For any month during which  
6 the Oklahoma Tax Commission transfers a sum to the account  
7 prescribed by subsection B of this section, the Commission shall  
8 determine an interest rate by determining the rate of interest paid  
9 for a three-month Treasury Bill of the United States government as  
10 of the first working day of the month in which the transfer is made.  
11 The interest rate so determined shall accrue upon the amount  
12 transferred to the account. In each subsequent month, the  
13 Commission shall determine the interest rate paid for a three-month  
14 Treasury Bill of the United States government as of the first  
15 working day of the month and such interest rate shall accrue upon  
16 any amount transferred during the month and upon the amounts  
17 previously transferred to the account together with interest  
18 previously accrued upon such amounts.

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

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

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

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

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

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

1 G. Only sales of tangible personal property made after July 1,  
2 1992, shall be eligible for the refund established by this section.

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

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

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

18 SECTION 3. It being immediately necessary for the preservation  
19 of the public peace, health or safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

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23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
24 04/14/2022 - DO PASS.