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March 2, 2022

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 410

By: Bergstrom of the Senate

and

Lepak of the House

[ Oklahoma Research and Development Incentives Act -  
refund of sales and use taxes - qualified purchase  
may be eligible for refund -

emergency ]

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

1 necessary to make the sales tax refund provided by this section to  
2 an account designated as the Commission determines.

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

1 previously transferred to the account together with interest  
2 previously accrued upon such amounts.

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

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

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

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

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

21 F. In the event that state and local sales tax was paid by a  
22 contractor or subcontractor, the qualified computer services, data  
23 processing or research and development facility shall file with the  
24 Oklahoma Tax Commission all documentation required in subsection E

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

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

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

21 I. Notwithstanding the provisions of any state tax law, the  
22 amount refunded under this section shall be assessed if the number  
23 of new full-time-equivalent employees drops below the number  
24 prescribed in ~~Section 6 of this act~~ Section 54002 of this title, at

1 any time within thirty-six (36) months of the date certification is  
2 issued by the Oklahoma Employment Security Commission.

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

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

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

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

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

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

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

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.

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
23 March 2, 2022 - DO PASS AS AMENDED  
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