

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 604 By: Rader of the Senate
3 and
4 Fetgatter of the House
5
6

7 An Act relating to tax compliance; amending 68 O.S.
8 2021, Sections 225 and 2385.3, which relate to
9 appeals and withholdings; requiring certain hearings
10 to be confidential; requiring certain information
11 submitted to court to be sealed and strictly
12 controlled; authorizing penalty for failure of an
13 employer to provide certain reconciliation; limiting
14 penalty; providing for collection of penalty;
15 amending 68 O.S. 2021, Section 3131, which relates to
16 resale return; requiring the county treasurer to
17 notify the Oklahoma Tax Commission within certain
18 period of certain information to determine existence
19 of lien; requiring the Commission to notify the
20 county treasurer within certain period of any
21 outstanding tax liabilities; requiring the county
22 treasurer to remit certain proceeds; requiring
23 remaining proceeds be held in certain fund; updating
24 statutory language; and providing an effective date.

19 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
and insert:

20
21 "An Act relating to revenue and taxation; amending 68
22 O.S. 2021, Section 2357.104, which relates to certain
23 railroad rehabilitation tax credits; modifying
24 taxable year references; and providing an effective
date.

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

2 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.104, is
3 amended to read as follows:

4 Section 2357.104 A. Except as otherwise provided by this
5 section, for taxable years beginning after December 31, 2005, and
6 ending before January 1, ~~2025~~ 2030, there shall be allowed a credit
7 against the tax imposed by Section 2355 of this title equal to fifty
8 percent (50%) of an eligible taxpayer's qualified railroad
9 reconstruction or replacement expenditures.

10 B. For tax years 2020 through ~~2024~~ 2029, the amount of the
11 credit shall be limited to the product of Five Thousand Dollars
12 (\$5,000.00) and the number of miles of railroad track owned or
13 leased within this state by the eligible taxpayer as of the close of
14 the taxable year.

15 C. The credit allowed pursuant to subsection A of this section
16 but not used shall be freely transferable, by written agreement, to
17 subsequent transferees at any time during the five (5) years
18 following the year of qualification. An eligible transferee shall
19 be any taxpayer subject to the tax imposed by Section 2355 of this
20 title. The person originally allowed the credit and the subsequent
21 transferee shall jointly file a copy of the written credit transfer
22 agreement with the Oklahoma Tax Commission within thirty (30) days
23 of the transfer. The written agreement shall contain the name,
24 address and taxpayer identification number of the parties to the

1 transfer, the amount of credit being transferred, the year the
2 credit was originally allowed to the transferring person and the tax
3 year or years for which the credit may be claimed. The Tax
4 Commission shall promulgate rules to permit verification of the
5 timeliness of a tax credit claimed upon a tax return pursuant to
6 this subsection but shall not promulgate any rules which unduly
7 restrict or hinder the transfers of such tax credit. The Department
8 of Transportation shall promulgate rules to permit verification of
9 the eligibility of an eligible taxpayer's expenditures for the
10 purpose of claiming the credit. The rules shall provide for the
11 approval of qualified railroad reconstruction or replacement
12 expenditures prior to commencement of a project and provide a
13 certificate of verification upon completion of a project that uses
14 qualified railroad reconstruction or replacement expenditures. The
15 certificate of verification shall satisfy all requirements of the
16 Tax Commission pertaining to the eligibility of the person claiming
17 the credit.

18 D. Any credits allowed pursuant to the provisions of subsection
19 A of this section but not used in any tax year may be carried over
20 in order to each of the five (5) years following the year of
21 qualification.

22 E. As used in this section:
23
24

1 1. "Class II and Class III railroad" means a railroad that is
2 classified by the United States Surface Transportation Board as a
3 Class II or Class III railroad;

4 2. "Eligible taxpayer" means any Class II or Class III
5 railroad; and

6 3. "Qualified railroad reconstruction or replacement
7 expenditures" means expenditures for:

- 8 a. track maintenance, natural disasters, and
9 reconstruction or replacement of railroad
10 infrastructure including track, roadbed, crossings,
11 bridges, industrial leads and track-related structures
12 owned or leased by a Class II or Class III railroad as
13 of January 1, 2006, or
- 14 b. new construction of industrial leads, switches, spurs
15 and sidings and extensions of existing sidings by a
16 Class II or Class III railroad.

17 F. The total amount of credits authorized by this section used
18 to offset tax shall be adjusted annually to limit the annual amount
19 of credits to Two Million Dollars (\$2,000,000.00) for tax years 2018
20 and 2019 and Five Million Dollars (\$5,000,000.00) for tax year 2020
21 and all subsequent tax years. The Tax Commission shall annually
22 calculate and publish a percentage by which the credits authorized
23 by this section shall be reduced so the total amount of credits used
24 to offset tax does not exceed the applicable annual limit. The

formula to be used for the percentage adjustment shall be the applicable annual limit divided by the credits claimed in the second preceding year.

G. Pursuant to subsection F of this section, in the event the total tax credits authorized by this section exceed the annual applicable limit in any calendar year, the Tax Commission shall permit any excess over the annual applicable limit but shall factor such excess into the percentage adjustment formula for subsequent years.

SECTION 2. This act shall become effective November 1, 2023."

Passed the House of Representatives the 25th day of April, 2023.

Presiding Officer of the House of
Representatives

Passed the Senate the _____ day of _____, 2023.

Presiding Officer of the Senate

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2 BILL NO. 604

By: Rader of the Senate

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16 resale return; requiring the county treasurer to
17 notify the Oklahoma Tax Commission within certain
18 period of certain information to determine existence
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20 county treasurer within certain period of any
21 outstanding tax liabilities; requiring the county
22 treasurer to remit certain proceeds; requiring
23 remaining proceeds be held in certain fund; updating
24 statutory language; and providing an effective date.

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

SECTION 3. AMENDATORY 68 O.S. 2021, Section 225, is
amended to read as follows:

Section 225. A. Any taxpayer aggrieved by any order, ruling,
or finding of the Oklahoma Tax Commission directly affecting the
taxpayer or aggrieved by a final order of the Tax Commission issued

1 pursuant to subsection G of Section 221 of this title may appeal
2 therefrom directly to the Supreme Court of Oklahoma. Provided, any
3 taxpayer appealing from a final order of the Tax Commission
4 assessing a tax or an additional tax or denial of a claim for refund
5 may opt to file an appeal in district court as provided in
6 subsection D of this section.

7 B. Within thirty (30) days after the date of mailing to the
8 taxpayer of the order, ruling, or finding complained of, the
9 taxpayer desiring to appeal shall:

10 1. File a petition in error in the office of the Clerk of the
11 Supreme Court; and

12 2. Request that the Tax Commission prepare for filing with the
13 Supreme Court, within thirty (30) days, the record of the appeal,
14 certified by the Secretary of the Tax Commission, and consisting of
15 any citations, findings, judgments, motions, orders, pleadings, and
16 rulings, together with a transcript of all evidence introduced at
17 any hearing relative thereto, or such portion of such citations,
18 findings, judgments, motions, orders, pleadings, rulings, and
19 evidence as the appealing parties and the Tax Commission may agree
20 to be sufficient to present fully to the Court the questions
21 involved.

22 C. Upon request of the taxpayer, the Tax Commission shall
23 furnish the taxpayer a copy of the proceedings had in connection
24 with the matter complained of.

1 D. In lieu of an appeal to the Supreme Court, any taxpayer
2 aggrieved by a final order of the Tax Commission assessing a tax or
3 an additional tax or denial of a claim for refund may opt to file an
4 appeal for a trial de novo in the district court of Oklahoma County
5 or the county in which the taxpayer resides. If the amount in
6 dispute exceeds Ten Thousand Dollars (\$10,000.00), the appeal shall
7 be heard by a district or associate district judge sitting without a
8 jury. If the amount in dispute does not exceed Ten Thousand Dollars
9 (\$10,000.00), the appeal may be heard by a special judge sitting
10 without a jury. An order resulting from a trial provided pursuant
11 to this subsection shall be appealable directly to the Supreme Court
12 of Oklahoma by either party. Such appeal shall be taken in the
13 manner and time provided by law for appeal to the Supreme Court from
14 the district court in civil actions. Upon the filing of an appeal,
15 the order of the district court shall be superseded and neither
16 party shall be required to give bond. The provisions of this
17 subsection shall be applicable for tax periods beginning after the
18 effective date of this act. Provided, if the order applies to
19 multiple tax periods which begin before and after the effective date
20 of this act, the appeal provided by this subsection shall be
21 available to the aggrieved taxpayer.

22 E. If the appeal is from an order of the Tax Commission or a
23 district court denying a refund of taxes previously paid and if upon
24 final determination of the appeal, the order denying the refund is

1 reversed or modified, the taxes previously paid, together with
2 interest thereon from the date of the filing of the petition in
3 error at the rate provided in subsection A of Section 217 of this
4 title, shall be refunded to the taxpayer by the Tax Commission.

5 F. Such refunds and interest thereon shall be paid by the Tax
6 Commission out of monies in the Tax Commission clearing account from
7 subsequent collections from the same source as the original tax
8 assessment, provided that in the event there are insufficient funds
9 for refunds from subsequent collections from the same source, the
10 refund shall be paid by the Tax Commission from monies appropriated
11 by the Legislature to the special refund reserve account for such
12 purposes as hereinafter provided. There is hereby created within
13 the official depository of the State Treasury an agency special
14 account for the Tax Commission for the purpose of making such
15 refunds as may be required under this section, not otherwise
16 provided. This account shall consist of monies appropriated by the
17 Legislature for the purpose of making refunds under this section.

18 G. If the appeal be from an order, judgment, finding, or ruling
19 of the Tax Commission other than one assessing a tax and from which
20 a right of appeal is not otherwise specifically provided for in this
21 article the Uniform Tax Procedure Code, any aggrieved taxpayer may
22 appeal from that order, judgment, finding, or ruling as provided in
23 this section. The filing of such an appeal shall supersede the
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1 effect of such order, judgment, ruling, or finding of the Tax
2 Commission .

3 H. This section shall be construed to provide to the taxpayer a
4 legal remedy by action at law in any case where a tax, or the method
5 of collection or enforcement thereof, or any order, ruling, finding,
6 or judgment of the Tax Commission is complained of, or is sought to
7 be enjoined in any action in any court of this state or the United
8 States of America.

9 I. All hearings held in proceedings pursuant to this section
10 shall be confidential and shall be held in closed court without
11 admittance of any person other than interested parties, their
12 counsel, and employees of the Oklahoma Tax Commission and its
13 counsel. Confidential information filed with or submitted to the
14 Supreme Court or district court in conjunction with any proceeding
15 pursuant to this section shall not constitute a public record and
16 shall be sealed by the court. Access to confidential information
17 shall be strictly controlled.

18 SECTION 4. AMENDATORY 68 O.S. 2021, Section 2385.3, is
19 amended to read as follows:

20 Section 2385.3. A. Every employer required to deduct and
21 withhold taxes under Section 2385.2 of this title shall pay over the
22 amount so withheld as taxes to the Oklahoma Tax Commission pursuant
23 to the schedule outlined in paragraphs 1 through 3 of this
24 subsection, and shall file a quarterly return in such form as the

1 Tax Commission shall prescribe on or before the twentieth day of the
2 month following the close of each calendar quarter:

3 1. Every employer required to remit federal withholding under
4 the Federal Semiweekly Deposit Schedule shall pay over the amount so
5 withheld under subsection A of this section on the same dates as
6 required under the Federal Semiweekly Deposit Schedule for federal
7 withholding taxes;

8 2. Every employer owing an average of Five Hundred Dollars
9 (\$500.00) or more per quarter in taxes in the previous fiscal year
10 who is not subject to the provisions of paragraph 1 of this
11 subsection shall pay over the amount so withheld on or before the
12 twentieth day of each succeeding month; and

13 3. Every employer owing an average of less than Five Hundred
14 Dollars (\$500.00) per quarter in taxes in the previous fiscal year
15 shall pay over the amount so withheld on or before the twentieth day
16 of the month following the close of each succeeding quarterly
17 period.

18 B. Every employer subject to the provisions of paragraph 1 of
19 subsection A of this section shall file returns pursuant to the Tax
20 Commission's electronic data interchange program.

21 C. Every employer required under Section 2385.2 of this title
22 to deduct and withhold a tax from the wages paid an employee shall,
23 as to the total wages paid to each employee during the calendar
24 year, furnish to such employee, on or before January 31 of the

1 succeeding year, a written statement showing the name of the
2 employer, the name of the employee and the employee's Social
3 Security account number, if any, the total amount of wages subject
4 to taxation, and the total amount deducted and withheld as tax and
5 such other information as the Tax Commission may require. If an
6 employee's employment is terminated before the close of a calendar
7 year, the written statement must be furnished within thirty (30)
8 days of the date of which the last payment of wages is made.

9 D. Every employer required under Section 2385.2 of this title
10 to deduct and withhold a tax from the wages paid an employee shall
11 furnish to the Oklahoma Tax Commission, on or before January 31 of
12 the succeeding year, an annual reconciliation and such other
13 information as the Tax Commission may require pursuant to the Tax
14 Commission's electronic data interchange program. Failure of an
15 employer to provide an annual reconciliation within thirty (30) days
16 of the due date may result in a penalty to be imposed on the
17 employer in an amount not to exceed One Thousand Dollars
18 (\$1,000.00). The penalty may be collected in the same manner as
19 provided by law for collection of delinquent taxes.

20 E. If the Tax Commission, in any case, has justifiable reason
21 to believe that the collection of the tax provided for in Section
22 2385.2 of this title is in jeopardy, the Tax Commission may require
23 the employer to file a return and pay the tax at any time.

24

1 F. Any sum or sums withheld in accordance with the provisions
2 of Section 2385.2 of this title shall be deemed to be held in trust
3 for ~~the State of Oklahoma~~ this state, and, as trustee, the employer
4 shall have a fiduciary duty to ~~the State of Oklahoma~~ this state in
5 regard to such sums and shall be subject to the trust laws of this
6 state.

7 G. If any employer fails to withhold the tax required to be
8 withheld by Section 2385.2 of this title and thereafter the income
9 tax is paid by the employee, the tax so required to be withheld
10 shall not be collected from the employer but such employer shall not
11 be relieved from the liability for penalties or interest otherwise
12 applicable because of such failure to withhold the tax.

13 H. Every person making payments of winnings subject to
14 withholding shall, for each monthly period, on or before the
15 twentieth day of the month following the payment of such winnings
16 pay over to the Tax Commission the amounts so withheld, and shall
17 file a return, in a form as prescribed by the Tax Commission.

18 I. Every person making payments of winnings subject to
19 withholding shall furnish to each recipient on or before January 31
20 of the succeeding year a written statement in a form as prescribed
21 by the Tax Commission. Every person making such reports shall also
22 furnish a copy of such report to the Tax Commission in a manner and
23 at a time as shall be prescribed by the Tax Commission.

SECTION 5. AMENDATORY 68 O.S. 2021, Section 3131, is amended to read as follows:

Section 3131. A. Within thirty (30) days after resale of property, the county treasurer shall file in the office of the county clerk a return, and retain a copy thereof in the county treasurer's office, which shall show or include, as appropriate:

1. Each tract or parcel of real estate so sold;

2. The date upon which it was resold;

3. The name of the purchaser;

4. The price paid therefor;

5. A copy of the notice of such resale with an affidavit of its publication or posting; and

6. The complete minutes of sale, and that the same was adjourned from day to day until the sale was completed.

Such notice and return shall be presumptive evidence of the regularity, legality, and validity of all the official acts leading up to and constituting such resale. Within such thirty (30) days, the county treasurer shall execute, acknowledge, and deliver to the purchaser or the purchaser's assigns, or to the board of county commissioners where such property has been bid off in the name of the county, a deed conveying the real estate thus resold. The issuance of such deed shall effect the cancellation and setting aside of all delinquent taxes, assessments, penalties, and costs previously assessed or existing against the real estate, and of all

1 outstanding individual and county tax sale certificates, and shall
2 vest in the grantee an absolute and perfect title in fee simple to
3 the real estate, subject to all claims which the state may have had
4 on the real estate for taxes or other liens or encumbrances;
5 provided, that all such claims which the state, municipality, or
6 both the state and the municipality may have had on the real estate
7 for taxes or other liens or encumbrances shall be canceled and
8 extinguished with respect to any deed conveying title to the board
9 of county commissioners where such property was bid off in the name
10 of the county. Twelve (12) months after the deed shall have been
11 filed for record in the county clerk's office, no action shall be
12 commenced to avoid or set aside the deed. Provided, that persons
13 under legal disability shall have one (1) year after removal of such
14 disability within which to redeem the real estate.

15 B. Any number of lots or tracts of land may be included in one
16 deed, for which deed the county treasurer shall collect from the
17 purchaser the fees provided for in Section 43 of Title 28 of the
18 Oklahoma Statutes. The county treasurer shall also charge and
19 collect from the purchaser at such sale an amount in addition to the
20 bid placed on such real estate, sufficient to pay all expenses
21 incurred by the county in preparing, listing, and advertising the
22 lot or tract purchased by such bidder, which sums shall be credited
23 and paid into the resale property fund hereinafter provided, to be
24 used to defray to that extent the costs of resale.

1 C. When any tract or lot of land sells for more than the taxes,
2 penalties, interest, and cost due thereon, ~~the excess shall be held~~
3 ~~in a separate fund~~ the county treasurer shall notify the Oklahoma
4 Tax Commission within thirty (30) days after the resale and shall
5 include in the notification all information necessary for the
6 Commission to determine whether a tax lien exists on the subject
7 property.

8 D. Within sixty (60) days of receipt of the notification
9 described in Subsection C of this section, the Commission shall
10 provide notice to the county treasurer of any outstanding tax
11 liabilities, including tax, penalty, and interest, attached to each
12 tract or lot of land, regardless of whether a tax warrant has been
13 filed. Upon timely notice of a liability from the Commission, the
14 county treasurer shall remit to the Commission the amount of the
15 outstanding tax liabilities or the excess proceeds, whichever is
16 less. Any remaining proceeds shall be held in the separate fund for
17 the record owner of such land, as shown by the county records as of
18 the date the county resale begins, to be withdrawn any time within
19 one (1) year. No assignment of this right to excess proceeds shall
20 be valid which occurs on or after the date on which the county
21 resale began. At the end of one (1) year, if such money has not
22 been withdrawn or collected from the county, it shall be credited to
23 the county resale property fund.

24 SECTION 6. This act shall become effective November 1, 2023.

1 Passed the Senate the 2nd day of March, 2023.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2023.

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8 _____
9 Presiding Officer of the House
10 of Representatives