

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 410

By: Bergstrom

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Research and
8 Development Incentives Act; amending 68 O.S. 2011,
9 Sections 54004 and 54005, which relate to the refund
10 of sales and use taxes for qualified purchases;
11 modifying time 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
providing an effective date.

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 54004, is
16 amended to read as follows:

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

23 B. The Oklahoma Tax Commission shall transfer each month from
24 sales tax collected the amount which the Commission estimates to be
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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

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, purchased by that contractor or
6 subcontractor pursuant to a contract with a qualified computer
7 services, data processing or research and development facility
8 shall, upon proper showing, be refunded to such qualified facility.

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

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

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

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

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

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

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

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

20 I. Notwithstanding the provisions of any state tax law, the
21 amount refunded under this section shall be assessed if the number
22 of new full-time-equivalent employees drops below the number
23 prescribed in ~~Section 6 of this act~~ Section 54002 of this title, at
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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. 2011, 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.

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. This act shall become effective November 1, 2021.

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