

1 ENGROSSED SENATE  
2 BILL NO. 410

By: Bergstrom of the Senate

3 and

4 Lepak of the House

5  
6 An Act relating to the Oklahoma Research and  
7 Development Incentives Act; amending 68 O.S. 2021,  
8 Sections 54004 and 54005, which relate to the refund  
9 of sales and use taxes for qualified purchases;  
10 modifying period during which qualified purchase may  
11 be eligible for refund; providing date by which  
12 certain claims shall be submitted to the Oklahoma Tax  
13 Commission; updating statutory references; and  
14 declaring an emergency.

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

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

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

24 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.

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17        C. Any refund shall be paid from the account prescribed by this  
18 section at the time the claim for refund is approved by the Oklahoma  
19 Tax Commission. The amount of the refund shall not exceed the total  
20 state and local use taxes paid together with accrued interest upon  
21 such total. The amount of interest paid to a qualified computer  
22 services, data processing or research and development facility upon  
23 the principal amount of any refund made to such facility for  
24 purposes of administering the exemption provided by ~~Section 7 of~~

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

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

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

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

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

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

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

21 G. Only sales of tangible personal property made after July 1,  
22 1992, shall be eligible for the refund established by this section.

23 H. The qualified computer services, data processing or research  
24 and development facility shall file, within thirty-six (36) months

1 of the date of the first purchase which is exempt from taxation  
2 pursuant to the provisions of ~~Section 7 of this act~~ Section 54003 of  
3 this title, with the Oklahoma Tax Commission, a certification issued  
4 by the Employment Security Commission in order to qualify for the  
5 refund authorized by this section.

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

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

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

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

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2022.

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8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives