

3/23/2021

Legislative Changes to Incentives Reviewed in 2017



OKLAHOMA
Commerce



INCENTIVES REVIEWED IN 2017

- Capital Gains Deduction
- Clean-Burning Fuel Vehicle Tax Credit
- Coal Tax Credit
- Economically At-Risk Lease Tax Rebate
- Production Enhancement Tax Rebate
- Re-Established Production Tax Rebate
- Ethanol Fuel Retailer Tax Credit
- Home Office Tax Credit
- High Impact Quality Jobs Program
- 21st Century Quality Jobs Program
- Quality Jobs Program
- Small Employer Quality Jobs Program

CAPITAL GAINS DEDUCTION

Incentive Details:

- **GOALS:** Encourage capital investment in the State by allowing gains from the sale of Oklahoma capital to be deductible from state taxable income.
- **STATUTORY REFERENCE:** Title 68 O.S. § 2358 (D)

IEC Recommendation: Repeal

- **REASONS FOR RECOMMENDATION:** High cost to state and with lack of data available to analyze the incentive, it is difficult to justify the cost.

Alternate IEC Recommendations: Reconfigure if Retained

- **RECOMMENDATION 1:** Target the incentive to a specific industry
- **RECOMMENDATION 2:** Require gains to be re-invested in Oklahoma
- **RECOMMENDATION 3:** Improve data aggregation

CAPITAL GAINS DEDUCTION

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2017:** HB2348 - Changed the Standard Deduction & Required Filing of OK Income Tax Return
- **2017 (2nd EXTRA SESSION):** HB1011 – Changed Itemized Deduction limit
- **2019:** HB2665 – Clean Up references to IRS Code; Introduced Pass-Through Entity Tax Equity Act
- All of the changes to Title 68 O.S. § 2358 since 2017 have been to other sections of the statute. **There have not been any changes affecting the Capital Gains Deduction at Title 68 O.S. § 2358 (D).**

ACTIVE LEGISLATION

- **2021:** Of the four remaining bills affecting Title 68 O.S. § 2358 that are active in the 2021 Legislative Session (HB2004, HB2041, HB2178, and HB2880), none of them address the Capital Gains Deduction.

CLEAN-BURNING FUEL VEHICLE TAX CREDIT

Incentive Details:

- **GOALS:** An income tax credit to encourage an increase in the number of clean-burning fuel vehicles in Oklahoma and the development of infrastructure for clean-burning vehicles.
- **STATUTORY REFERENCE:** Title 68 O.S. § 2357.22

IEC Recommendation: Retaining and Reconfiguring

- **RECOMMENDATION 1:** Retain the infrastructure credit; sunset the vehicle credit
- **RECOMMENDATION 2:** Structure the program to phase out
- **RECOMMENDATION 3:** Improve reporting on the credit

CLEAN-BURNING FUEL VEHICLE TAX CREDIT

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2019:** HB2095 – became Effective January 1, 2020. HB2095 made the following changes:
 1. Moved the sunset from January 1, 2020 to December 31, 2027
 2. Removed eligibility of Hydrogen Fuel Cells to qualify
 3. Changed the value of the credit associated with Changed the value of the credit associated with vehicles from 45% of the value of the vehicle to values based on gross weight of the vehicle
 4. from 45% of the value of the vehicle to values based on gross weight of the vehicle
 5. Changed the value of the credit associated with *fuel property* from 75% of the value of fuel property to 45% of the value of fuel property
 6. Introduced the requirement that the tax credit could not reduce the tax liability to less than zero (\$0).
 7. Instituted an annual cap of \$20 million and placed a requirement on Tax Commission to notify Secretary of Energy and Environment when the claims for tax credits reach 80% of the annual cap.
- **2021:** HB1137 is active. It would reinstate the 75% tax credit on fuel property (#5 above) for the period between the time the bill is signed into law until January 1, 2023

COAL PRODUCTION INCENTIVES

Incentive Details:

- **GOALS:** Encourage production of Oklahoma coal and its utilization for energy production.
- **STATUTORY REFERENCE:** Title 68 O.S. § 2357.11

IEC Recommendation: Repeal

- **REASONS FOR RECOMMENDATION:** Coal production and jobs have decreased over time; there is not evidence of increased capex associated with utilization of Oklahoma coal; Compared to other states, Coal credits are generous.

Alternate IEC Recommendations: Reconfigure if Retained

- **RECOMMENDATION 1:** Associate coal credits with coal employment
- **RECOMMENDATION 2:** Improve data collection

COAL PRODUCTION INCENTIVES

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2017 (2nd EXTRA SESSION):** HB1034 – became Effective January 1, 2018
 1. For tax years after January 1, 2018, HB1034 established an annual cap of \$5,000,000
 2. Allowed unused tax credits to be carried forward until utilized

ACTIVE LEGISLATION

- **2021: No active bills** addressing the Coal Production Tax Credit (Title 68 O.S. § 2357.11)

ECONOMICALLY AT-RISK LEASE TAX REBATE

Incentive Details:

- **GOALS:** Allows reduced gross production taxes to stimulate oil and gas production when commodity prices are low to extend the life of wells.
- **STATUTORY REFERENCE:** Title 68 O.S. § 1001.3a

IEC Recommendation: Repeal (agreement with legislative decision to repeal)

- **REASONS FOR RECOMMENDATION:** Data to evaluate the program based on approved criteria was not available.

Alternate IEC Recommendations: Reconfigure if Resumed

- **RECOMMENDATION 1:** Explore the Oklahoma Tax Commission's new electronic filing system as a method for improving reporting and data collection
- **RECOMMENDATION 2:** Improve the data collection process

ECONOMICALLY AT-RISK LEASE TAX REBATE

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2017:** HB2377 – became Effective July 1, 2017
 1. Moved sunset from July 1, 2020 forward to July 1, 2017
 2. Established a 36 month payment period for the remaining tax rebates to start between July 1, 2018 and August 1, 2018.

ACTIVE LEGISLATION

- **2021:** No active bills addressing the Economically At-Risk Lease Tax Rebate (Title 68 O.S. § 1001.3a)

PRODUCTION ENHANCEMENT TAX REBATE

Incentive Details:

- **GOALS:** Allows reduced gross production taxes to stimulate oil and gas production.
- **STATUTORY REFERENCE:** Title 68 O.S. § 1001.3a

IEC Recommendation: Repeal (agreement with legislative decision to repeal)

- **REASONS FOR RECOMMENDATION:** Data to evaluate the program based on approved criteria was not available.

Alternate IEC Recommendations: Reconfigure if Resumed

- **RECOMMENDATION 1:** Explore the Oklahoma Tax Commission's new electronic filing system as a method for improving reporting and data collection
- **RECOMMENDATION 2:** Improve the data collection process

PRODUCTION ENHANCEMENT TAX REBATE

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 1. Moved sunset from July 1, 2020 forward to July 1, 2017
 2. Established a 36 month payment period for the remaining tax rebates to start between July 1, 2018 and August 1, 2018.

ACTIVE LEGISLATION

- **2021:** No active bills addressing the Production Enhancement Tax Rebate (Title 68 O.S. § 1001.3a)

RE-ESTABLISHED PRODUCTION TAX REBATE

Incentive Details:

- **GOALS:** Allows reduced gross production taxes to stimulate oil and gas production.
- **STATUTORY REFERENCE:** Title 68 O.S. § 1001.3a

IEC Recommendation: Repeal (agreement with legislative decision to repeal)

- **REASONS FOR RECOMMENDATION:** Data to evaluate the program based on approved criteria was not available.

Alternate IEC Recommendations: Reconfigure if Resumed

- **RECOMMENDATION 1:** Explore the Oklahoma Tax Commission's new electronic filing system as a method for improving reporting and data collection
- **RECOMMENDATION 2:** Improve the data collection process

RE-ESTABLISHED PRODUCTION TAX REBATE

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2017:** HB2377 – became Effective July 1, 2017
 1. Moved sunset from July 1, 2020 forward to July 1, 2017
 2. Established a 36 month payment period for the remaining tax rebates to start between July 1, 2018 and August 1, 2018.

ACTIVE LEGISLATION

- **2021:** No active bills addressing the Production Enhancement Tax Rebate (Title 68 O.S. § 1001.3a)

ETHANOL FUEL RETAILER TAX CREDIT

Incentive Details:

- **GOALS:** Increase the sale of ethanol blended gasoline.
- **STATUTORY REFERENCE:** Title 68 O.S. § 500.10-1

IEC Recommendation: Repeal

- **REASONS FOR RECOMMENDATION:** ROI for incentive is negative; an incentive that benefits activities not located in Oklahoma; program does not provide financial protections to the state

Alternate IEC Recommendations: Reconfigure if Retained

- **RECOMMENDATION 1:** Reconfigure the tax credit application process

ETHANOL FUEL RETAILER TAX CREDIT

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2017-2020:** No bills passed/signed.

ACTIVE LEGISLATION

- **2021: No active bills.** SB412 was introduced and would have repealed the incentive. It did not pass out of the Senate and is dormant.

HOME OFFICE TAX CREDIT

Incentive Details:

- **GOALS:** An insurance premium tax credit to encourage insurance companies to establish a regional or home office in Oklahoma that meet certain employment thresholds.
- **STATUTORY REFERENCE:** Title 36 O.S. § 625.1 et seq

IEC Recommendation: Reconfigure

- **RECOMMENDATION 1:** If the intent of the State is to attract insurance industry jobs to Oklahoma, the program should be reconfigured to better relate to job creation
- **RECOMMENDATION 2:** Collect payroll data from companies receiving credits to improve future evaluations

HOME OFFICE TAX CREDIT

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2017-2020:** No bills passed/signed
 - 3 Bills introduced in 2018 (SB1004, SB1102, and SB1205)

ACTIVE LEGISLATION

- **2021:** No active or introduced bills.

HIGH IMPACT QUALITY JOBS PROGRAM

Incentive Details:

- **GOALS:** Encourage jobs creation for companies whose size is at least 1% of the labor force in a county and the new payroll at the company was in the range of \$1 million-\$2.5 million.
- **STATUTORY REFERENCE:** Title 68 O.S. § 3701 et seq.

IEC Recommendation: Reconfigure

- **RECOMMENDATION 1:** Decrease the job creation requirement
- **RECOMMENDATION 2:** Increase the benefit

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2018: SB897 – Repealed the Program**

21ST CENTURY QUALITY JOBS PROGRAM

Incentive Details:

- **GOAL:** Encourage highly-skilled, high-wage job creation with wages exceeding \$100,000
- **STATUTORY REFERENCE:** Title 68 O.S. § 3911 et seq.

IEC Recommendation: Reconfigure

- **RECOMMENDATION 1:** Require filing for incentive payments each quarter
- **RECOMMENDATION 2:** Regularly review eligible industries
- **RECOMMENDATION 3:** Centralize data tracking

21ST CENTURY QUALITY JOBS PROGRAM

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2018: HB3324** – Allows 5% of a contracted incentive award to fund the Closing Fund

ACTIVE LEGISLATION

- **2021: SB936** – Consolidates, simplifies and modernizes QJ incentives. Repeals 21st Century QJ as a standalone incentive.

SMALL EMPLOYER QUALITY JOBS PROGRAM

Incentive Details:

- **GOAL:** Encourage job creation at smaller employers that have out-of-state sales and wages exceeding average wages at small employers
- **STATUTORY REFERENCE:** Title 68 O.S. § 3901 et seq.

IEC Recommendation: Reconfigure

- **RECOMMENDATION 1:** Require filing for incentive payments each quarter
- **RECOMMENDATION 2:** Regularly review eligible industries
- **RECOMMENDATION 3:** Centralize data tracking

SMALL EMPLOYER QUALITY JOBS PROGRAM

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2018: SB923** – Changed small employer job comparison threshold from 90 jobs to 500 jobs; Updated new job creation requirements to be either a set amount or a percentage of company size where the job creation requirements were tied to population of the community where the employer was located.
- **2019: SB1041** – Allows 5% of a contracted incentive award to fund the Closing Fund
- **2019: HB2536** – changed out-of-state sales requirement from 75% to 35% in the first two years increasing to 60% after the third year

ACTIVE LEGISLATION

- **2021: SB936** – Consolidates, simplifies and modernizes QJ incentives. Repeals Small Employer QJ as a standalone incentive.

QUALITY JOBS PROGRAM

Incentive Details:

- **GOAL:** Encourage job creation at companies with planned new payroll generally in excess of \$2.5 million
- **STATUTORY REFERENCE:** Title 68 O.S. § 3601 et seq.

IEC Recommendation: Reconfigure

- **RECOMMENDATION 1:** Require filing for incentive payments each quarter
- **RECOMMENDATION 2:** Regularly review eligible industries
- **RECOMMENDATION 3:** Centralize data tracking

QUALITY JOBS PROGRAM

PASSED AND SIGNED LEGISLATION SINCE 2017:

- **2018: HB3324** – Allows 5% of a contracted incentive award to fund the Closing Fund
- **2018: SB897** – Simplified and expanded the duties of the Incentive Approval Committee to be able to review any requirement of an applying company
- **2020: SB1075** – Provided a temporary exemption between April 1, 2020 and June 30, 2021 from having to meet the \$2.5 million payroll threshold.

ACTIVE LEGISLATION

- **2021: SB936** – Consolidates, simplifies and modernizes QJ incentives. Consolidates 4 other QJ related incentives into the QJ Program.