

**STATE-LAW, 2009 OK S 318 , Enacted, (June 1, 2009) PART 01 OF 02.**

**2009 OK S 318** , Enacted

Oklahoma

Changes in Bill text reflected as:

~~Text Deleted~~

**Text Added**

~~Text Vetoed~~

SUMMARY: Relates motor vehicle registration fees, a list of persons owing back taxes, tax collection by debt collection agencies, motor fuel tax and sales tax exemption of specified districts, income tax investment tax credit, small business expense deduction, tax treatment of unemployment compensation and bonus depreciation, employer withholding requirements, ad valorem taxes, the film enhancement rebate program, alcoholic beverage taxes, communications taxes, and Comp Source Oklahoma assessments.-SAME\_\_AS:

Current Legislative Status

01/02/2009 PREFILED.

02/02/2009 INTRODUCED.

02/03/2009 To SENATE Committee on FINANCE.

02/12/2009 From SENATE Committee on FINANCE: Do pass as substituted.

03/04/2009 Amended on SENATE floor.

03/04/2009 Passed SENATE. \*\*\*\*\*To HOUSE.

03/11/2009 To HOUSE Committee on APPROPRIATIONS AND BUDGET.

04/13/2009 From HOUSE Committee on APPROPRIATIONS AND BUDGET: Do pass as substituted.

04/22/2009 Passed HOUSE. \*\*\*\*\*To SENATE for concurrence.

04/28/2009 SENATE refused to concur in HOUSE amendments.

04/28/2009 \*\*\*\*\*To CONFERENCE Committee.

05/21/2009 CONFERENCE Committee Report submitted.

05/21/2009 CONFERENCE Committee Report adopted by SENATE.

05/22/2009 CONFERENCE Committee Report adopted by HOUSE.

05/22/2009 Referred for Enrollment.

05/22/2009 \*\*\*\*\*To GOVERNOR.

06/01/2009 Signed by GOVERNOR.

06/09/2009 Chapter No. 426

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session: Oklahoma First Session of the 52nd Legislative Session

cite: 2009 OK  318

Enacted

June 1, 2009

Mazzei

ENROLLED

SENATE BILL **NO.** 318

By: Mazzei, Gumm, Aldridge, Jolley and Sparks of the Senate

and

Hickman, McCullough, Derby, Tibbs, Hilliard, Reynolds, Kern, Enns, Dank,

Scott, Shelton, Ortega, Dorman, Williams and Kouplen of the House

An Act relating to revenue and taxation and motor vehicles; amending 47 O.S. 2001, Section 1113, as last amended by Section 14 of Enrolled Senate Bill No. 503 of the 1st Session of the 52nd Oklahoma Legislature, which relates to motor vehicle registration; requiring Oklahoma Tax Commission to issue monthly decal; directing design of such decal and development of certain abbreviation; requiring Tax Commission to issue certain decals first; amending 68 O.S. 2001, Sections 205, as last amended by Section 5, Chapter 378, O.S.L. 2008, 208, 255, as amended by Section 1, Chapter 223, O.S.L. 2006, Section 6, Chapter 278, O.S.L. 2008 (68 O.S. Supp. 2008, Sections 205, 255 and 265), which relate to tax administration and collection; authorizing the disclosure of certain otherwise confidential information for specified purpose; requiring Oklahoma Tax Commission to prepare and maintain list of persons owing delinquent taxes in excess of certain amount after specified time period; authorizing the posting of certain list on the Internet; specifying contents of Internet website; requiring periodic updates to website; prohibiting Tax Commission from posting certain names under specified circumstances; requiring certain notice to be provided to specified taxpayers prior to publication of taxpayer's name on website; providing for removal of taxpayer's name from website under specified circumstances; limiting liability of Tax Commission regarding disclosure of certain information; modifying notice and mailing procedures; modifying percentage of fee paid by Tax Commission to debt collection agency; providing that certain fee be added to amount of delinquent taxes, penalty and interest collected from taxpayer; prohibiting the disclosure of certain information by debt collection agency employees or agents except under specified circumstances; authorizing certain deposit by Tax Commission; apportioning specified amount of income tax collections to certain fund for specified time period; amending 68 O.S. 2001, Section 500.10, as amended by Section 2, Chapter 267, O.S.L. 2007 (68 O.S. Supp. 2008, Section 500.10), which relates to motor fuel tax; providing exemption for rural irrigation districts and conservancy districts; amending 68 O.S. 2001, Section 1356, as last amended by Section 23 of Enrolled Senate Bill No. 764 of the 1st Session of the 52nd Oklahoma Legislature, which relates to sales tax; exempting from taxation sales to certain conservancy districts; amending 68 O.S. 2001, Sections 2357.4, as last amended by Section 29, Chapter 281, O.S.L. 2006, 2358, as last amended by Section 1 of Enrolled Senate Bill No. 916 of the 1st Session of the 52nd Oklahoma Legislature, Section 3, Chapter 503, O.S.L. 2002, as amended by Section 2, Chapter 395, O.S.L. 2008, 2385.3, as last amended by Section 20, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2008, Sections 2357.4, 2358, 2358.6 and 2385.3), which relate to income tax; authorizing carry over of investment tax credit when operating status changes; modifying tax treatment of net operating loss; requiring certain amount of federal small business expense deduction to be added into Oklahoma income; requiring adjustment of individual gross income for certain motor vehicle excise tax deduction; requiring taxable income to be increased by certain unemployment compensation exemption; providing exemption for certain payments received as participation awards; providing for tax treatment of bonus depreciation resulting from certain federal legislation; modifying withholding requirements for employers; mandating that certain employers utilize electronic data interchange program; amending 68 O.S. 2001, Section 2902, as last amended by Section 28 of Enrolled Senate Bill No.

764 of the 1st Session of the 52nd Oklahoma Legislature, which relates to ad valorem taxes; providing waiver of certain payroll requirements relating to ad valorem exemption; establishing criteria for facility; providing for recapture of certain sums under specified circumstances; amending 68 O.S. 2001, Section 3624, as last amended by Section 15, Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008, Section 3624), which relates to the Oklahoma Film Enhancement Rebate Program; modifying rebate amount for certain expenditures; deleting graduated rebate provisions; conforming language; deleting rebate for certain minimum budget; deleting certain crew requirements; modifying certain filing requirement; modifying minimum budget requirements; deleting certain eligibility requirement; requiring certain notification; specifying when certain claims may be paid; providing legislative intent; creating Oklahoma Viticulture and Enology Center Development Revolving Fund; providing for distribution of revenue to fund and purposes for expenditure from fund; amending 37 O.S. 2001, Section 563, which relates to alcoholic beverage tax; modifying apportionment of tax on wine; limiting amount apportioned to certain revolving fund; requiring Oklahoma Tax Commission to conduct certain study of state and local communications taxes; requiring report to be presented to the Governor, President Pro Tempore and Speaker by certain date; amending 82 O.S. 2001, Section 277.17, which relates to irrigation districts; providing exemption from motor fuel taxes; amending 82 O.S. 2001, Section 688.1, which relates to conservancy districts; providing exemption from motor fuel taxes; requiring Comp Source Oklahoma to make certain report and specifying contents thereof; requiring Comp Source Oklahoma to pay annual market equalization assessment based on specified amounts; prohibiting deduction from payment for dividends paid; specifying rate of assessment; providing for interest penalty for failure to remit assessment timely; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

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

**SECTIONS NOT PERTAINING TO THE FILM INCENTIVE HAVE BEEN OMITTED**

SECTION 14. AMENDATORY 68 O.S. 2001, Section 3624, as last amended by Section 15, Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008, Section 3624), is amended to read as follows:

Section 3624. A. There is hereby created the Oklahoma Film Enhancement Rebate Program. A rebate in the amount of up to seventeen percent (17%) of documented expenditures made in Oklahoma directly attributable to the production of a film, television production, or television commercial, as defined in Section 3623 of this title, in this state, may be paid to the production company responsible for the production ~~if the Office of the Oklahoma Film and Music Commission determines that the proposed project has a reasonable chance of economic success~~ . Provided, for documented expenditures made after July 1, 2009, the rebate amount shall be thirty-five percent (35%), except as provided in subsection B of this section.

B. ~~1.~~The amount of rebate paid to the production company as provided for in subsection A of this section shall be ~~determined as follows:~~

~~a. fifteen percent (15%) if fifty percent (50%) or more of the crew are residents of Oklahoma and are employed in this state,~~

~~b. ten percent (10%) if twenty-five percent (25%) to forty-nine percent (49%) of the crew are residents of Oklahoma and are employed in this state, and~~

~~c. five percent (5%) if less than twenty-five percent (25%) of the crew are residents of Oklahoma and are employed in this state~~

~~2.~~For increased by an additional two percent (2%) of documented expenditures if a production company ~~that~~ spends at least Twenty Thousand Dollars (\$20,000.00) for the use of

music created by an Oklahoma resident that is recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for use in the production, ~~a two-percent rebate shall be paid which shall be in addition to the rebate paid as provided for in paragraph 1 of this subsection.~~

~~3. For a production company with a minimum budget for a film of Five Million Dollars (\$5,000,000.00) or more, the amount of rebate paid as provided for in subsection A of this section shall be fifteen percent (15%). The Oklahoma crew requirements set forth in paragraph 1 of this subsection shall not apply to production companies that meet the minimum budget requirements of this paragraph.~~

~~4. The Oklahoma crew requirements set forth in paragraph 1 of this subsection shall not apply if it is determined there is a lack of available Oklahoma personnel to serve as crew. The lack of available Oklahoma personnel to serve as crew shall be verified in writing by the Office of the Oklahoma Film and Music Commission. The amount of rebate paid as provided for in subsection A of this section to a production company where the Oklahoma crew requirements have been waived pursuant to this paragraph shall be fifteen percent (15%).~~

C. The rebate program shall be administered by the Office of the Oklahoma Film and Music Commission and the Oklahoma Tax Commission, as provided in the Compete with Canada Film Act.

D. To be eligible for a rebate payment:

1. The production company responsible for a film, television production, or television commercial, as defined in Section 3623 of this title, made in this state shall submit documentation to the Office of the Oklahoma Film and Music Commission of the amount of wages paid for employment in this state to residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production;

2. The production company ~~shall also file an Oklahoma income tax return~~ has filed or will file any Oklahoma tax return or tax document which may be required by law ;

3. Except major studio productions, the production company shall provide the name of the completion guarantor and a copy of the bond guaranteeing the completion of the project or if a film has not secured a completion bond, the production company shall provide evidence that all Oklahoma crew and local vendors have been paid and there are no liens against the production company pending in the state;

4. The minimum budget for the film shall be ~~Five Hundred Thousand Dollars (\$500,000.00)~~ Fifty Thousand Dollars (\$50,000.00) of which not less than ~~Three Hundred Thousand Dollars (\$300,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00) shall be expended in this state ~~The minimum budget requirements of this paragraph shall be met by any film, television, or commercial production company that produces multiple film, television, or commercial projects within one (1) year, if each project meets a minimum budget of Two Hundred Fifty Thousand Dollars (\$250,000.00) and the total budget of all projects in one (1) year is not less than Five Hundred Thousand Dollars (\$500,000.00) of which not less than Three Hundred Thousand Dollars (\$300,000.00) shall be expended in this state;~~

~~5. The production company shall provide evidence of a recognizable domestic or foreign distribution agreement, provide evidence of being selected as a pilot for a nationally recognized network or cable television outlet, or provide evidence of being accepted to at least one of the top fifteen film festivals or two or more of the top thirty film festivals in the United States as determined by the Office of the Oklahoma Film and Music Commission within one (1) year from the end of principal photography;~~

~~6.~~The production company shall provide evidence of ~~complete~~ financing for production prior to the commencement of principal photography; and

~~7.~~6. The production company shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000.00) and a workers' compensation policy pursuant to state law, which shall include coverage of employer's liability.

E. A production company shall not be eligible to receive both a rebate payment pursuant to the provisions of this act and an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title. If a production company has received such an exemption from sales taxes and submits a claim for rebate pursuant to the provisions of the Compete with Canada Film Act, the company shall be required to fully repay the amount of the exemption to the Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required herein or shall include an affidavit from the production company that the company has not received an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title.

F. The Office shall approve or disapprove all claims for rebate and shall notify the Tax Commission. The Tax Commission shall , upon notification of approval from the Office of the Film and Music Commission, issue payment for all approved claims from funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 3625 of this title ~~on or after July 1, 2006, and on or after each July 1 thereafter following the fiscal year in which the documented expenditures were made.~~ Provided, no claims for rebate for expenditures made on or after July 1, 2009, shall be paid prior to July 1, 2010. The amount of payments in any single fiscal year shall not exceed Five Million Dollars (\$5,000,000.00). If the amount of approved claims exceeds the amount specified in this subsection in a fiscal year, payments shall be made in the order in which the claims are approved by the Office. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection.