# State of Oklahoma
# Incentive Evaluation Commission

## Evaluation: Aircraft Maintenance or Manufacturing Facilities Sales Tax Exemptions

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**PFM Group Consulting LLC**
BNY Mellon Center
1735 Market Street
42nd Floor
Philadelphia, PA 19103

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# Key Findings & Recommendations

**Incentive Overview**

Since 1991, the State of Oklahoma has offered multiple sales tax exemptions that are specific to qualified aircraft maintenance or manufacturing facilities (aircraft facilities). These exemptions, which apply only to qualified aircraft maintenance and manufacturing facilities, apply to sales of: (1) computers, data processing equipment, related peripherals and telephone, telegraph, or telecommunication services and equipment; and (2) tangible personal property consumed or incorporated in construction or expansion.

**Recommendation: Reconfigure**

The PFM project team recommends reconfiguring the State's sale tax exemption incentives for qualified aircraft facilities. The exemptions specific to qualified aircraft facilities are not currently being used; however, given that the Legislature assumed they may have a positive effect on the State's economy, there is no reason to repeal them at this time. Instead, the State should reconfigure its approach to these exemptions to make them more likely to incent the desired industry activity.

**Key Findings**

- **The State's qualified aircraft maintenance and manufacturing facility-related sales tax exemptions are not currently in use.** According to Oklahoma Tax Commission (OTC) representatives, these incentives have not been used in at least the last five fiscal years. One company qualified for the tangible personal property sales tax exemption during the time period, but to date it has failed to substantiate its refund claim. Because these exemptions are not being used, the State is not currently at risk of untenable future fiscal impacts.

- **No economic or fiscal impact can be attributed to the sales tax exemptions.** Because no taxpayers have used these incentives, the State has not foregone any sales tax revenue. There has also been no economic impact as a result of the incentives.

- **The aerospace and defense industry is central to the Oklahoma economy.** The sector is the state's second largest, and it generates an estimated $44 billion annually in economic impact. The more than 1,100 aerospace entities operating in the state encompass all aspects of the supply chain. Oklahoma is a major hub for the maintenance, repair, and overhaul (MRO) of aircraft, and an estimated 90 percent of companies that comprise the state's aerospace and defense industry are in this particular sector.

- **The civil aviation maintenance industry totals more than 13,000 jobs in Oklahoma.** This share is 4.1 percent of the total jobs across all states. Oklahoma ranks seventh among all states based on number of industry jobs, and among neighboring states, only Texas has more. While national industry employment decreased by an estimated 5.0 percent annually between 2015 and 2023, Oklahoma employment has maintained relatively consistent, increasing by a compound annual growth rate (CAGR) of 1.1 percent.

- **Industry economic activity in Oklahoma ranks seventh among states and is growing faster than the national average.** Between 2015 and 2023, growth in economic activity nationally was equal to a CAGR of 5.1 percent; at 11.3 percent, Oklahoma's growth is more than double the national average. Among the top states for industry economic activity, Oklahoma's growth lags only that of Florida (17.6 percent) and Georgia (slightly higher at 11.5 percent).

- **The State has many incentives targeting the aerospace industry.** In marketing Oklahoma to the sector as a business-friendly location, the Department of Commerce (Department) touts the state's low tax rates and its offering of "some of the best tax incentives in the nation." Among the incentives that are often used by aerospace companies are the Quality Jobs Program; Small Employer Quality Jobs Program; 21st Century Quality Jobs Program; Investments/New Jobs Tax Credit Package; Business Expansion Incentive Program; Engineer Workforce Tax Credit for Aerospace; Training for Industry Program; Five-Year Ad Valorem Exemption; and New Market Tax Credits. In contrast, the Department does not advertise the aircraft facilities sales tax exemptions in its marketing materials for the industry.[1]

- **Including Oklahoma, six states were found to offer targeted sales tax exemptions.** While many states exempt from taxation the sales of certain aircraft, fewer provide specific tax exemptions targeting new or expanding aircraft maintenance or manufacturing facilities. In addition to Oklahoma, the states of Arizona, Hawaii, Mississippi, Nevada, and Washington offer similar tax exemptions. Additionally, Virginia provides grant funds to encourage similar economic activity.

**Recommendations**

- **Simplify or eliminate certain eligibility requirements.** As currently structured, the exemptions have differing eligibility parameters and requirements. Loosening and/or streamlining certain provisions and/or eligibility requirements may increase program appeal. For example, if the goal of the incentives is to recruit new businesses to the state, eliminating or reducing the minimum spend, investment, and/or job creation requirements that accompany the exemptions may generate the desired activity.

- **Integrate these sales tax exemptions as part of the State's robust portfolio of industry incentives.** The aerospace industry is critical to Oklahoma's economy, and the State provides a number of incentive programs intended to strengthen industry performance in the state. While they may not be the biggest incentives offered, in terms of dollar value, they are still potentially beneficial to some companies, depending on their ability to utilize some of the other, more popular incentives.

- **Update outdated code references.** It appears that multiple references within the administrative sections of statute are out of date, referencing sections that no longer pertain to the aircraft facility exemptions. Left uncorrected, this could potentially complicate the state's ability to administer the exemptions effectively, should the need arise.

[1] Oklahoma Department of Commerce, "Oklahoma: A World Hub for Aerospace." Accessed electronically at https://www.okcommerce.gov/wp-content/uploads/Oklahoma-Aerospace-Brief.pdf

# Introduction & Project Background

**Incentive Evaluation Commission Overview**

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 in 2015 to conduct objective evaluations of the State of Oklahoma's wide array of business incentives. The Commission is made up of five appointed voting members along with ex officio representatives of the Department of Commerce, Office of Management and Enterprise Services, and Tax Commission.

Under the enabling legislation, each of the State's economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on investment, and effectiveness of administration, as well as criteria specific to each incentive as determined by the Commission.

Since the Commission's inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in that year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive's goals, including recommendations on whether the incentive should be retained, reconfigured, or repealed; as well as recommendations for any changes to State policy, rules, or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission considers the independent evaluator's findings and recommendations – as well as all public comments – before voting to retain, repeal, or modify the recommendations for each incentive under review. It then submits a final report to the Governor and the Legislature.

**Summary of 2019 Evaluation Findings and Recommendations**

In accordance with the four-year evaluation cycle described in the preceding, the Aircraft Facilities Sales Tax Exemptions were first reviewed by the Commission in 2019.[2] Significant findings and recommendations from PFM's evaluation are summarized in the following table:

**Table 1: Summary of 2019 Evaluation Findings and Recommendations**

| | Finding(s) & Recommendation(s) |
|---|---|
| **Findings** | |
| Overall Findings | – While Oklahoma offers a robust package of incentives to aerospace companies, this particular incentive is not being used (and has not been utilized in at least the last five years).<br>– The aviation/aerospace industry has become a strong, integral component of the Oklahoma economy, yet the State's aerospace manufacturing industry attractiveness ranked 30th among states in 2019 (declining from 20th in 2018).<br>– Only four other states (Arizona, Mississippi, Ohio, and Washington) were found to offer similar tax exemptions, and in several instances, Oklahoma's incentives are more complex. |
| Fiscal & Economic Impact | – Because the incentive is not being utilized, it generates no associated fiscal or economic impact. |
| Future Fiscal Impact Protections | – Because the incentive is not being utilized, the state is not at risk of future fiscal impacts. |
| Administrative Effectiveness | – Because the incentive is not being utilized, its administrative effectiveness cannot be evaluated. |

[2] The 2019 Tax Incentive Evaluation Report is available on the Commission's website at https://iec.ok.gov/sites/g/files/gmc216/f/IEC2019FinalReport.pdf

| | Finding(s) & Recommendation(s) |
|---|---|
| **Recommendations** | |
| Retain, Reconfigure, or Repeal | – Reconfigure. Given that the Legislature assumed that the incentives might have a positive effect on the State economy, there is no reason to repeal them at this time.<br>– As the State has some useful attributes that make it attractive to the industry, it is logical to attempt to reconfigure its approach. Should that lead to growth in the industry in the State, the Commission would have a better opportunity to conduct a cost benefit analysis of the incentives. |
| Other Recommendations | – Consider the policy goals of the exemption and modify them accordingly.<br>– Explore the adoption of targeted tax preferences employed in other states, including Georgia, Indiana, Michigan, Missouri, and North Carolina. |

*Source: State of Oklahoma Incentive Evaluation Commission, 2019 Tax Incentive Evaluation Report*

Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to reconfigure the incentive. No notable legislative, programmatic, or administrative changes have been made to the program since the 2019 evaluation was conducted.

**2023 Criteria and Evaluation Approach**

A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation (where applicable) and as noted previously, the provisions of HB 2182 require that criteria specific to each incentive be identified and used for the evaluation.

The purpose of the Aircraft Facilities Sales Tax Exemption is not articulated in the enabling legislation, though it is reasonable to assume that the intent is to encourage investment in aircraft maintenance and manufacturing facilities in Oklahoma. The Commission has adopted the following criteria to assist in a determination of program effectiveness:

- Changes to industry measures (e.g., size sector GDP, employment compared to other sectors)
- Comparisons of changes in sector versus states with/without similar exemptions
- Changes in Oklahoma industry employment
- Changes in Oklahoma industry capital investment
- State return on investment

To conduct its 2023 review of the Aircraft Facilities Sales Tax Exemptions, the PFM team undertook several project tasks, including (but not limited to) the following:

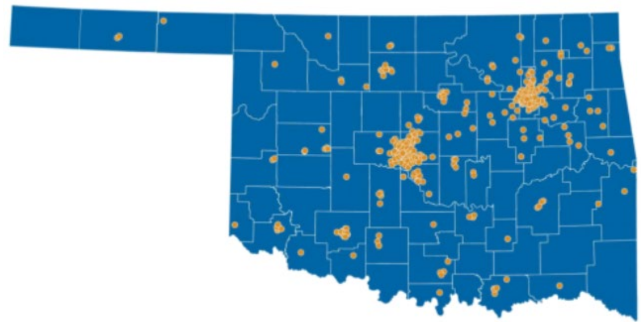
- Reviewed and analyzed Tax Commission and other relevant data and information.
- Conducted subject matter expert and internal stakeholder interviews.
- Met with leadership from the State, Oklahoma City, and Tulsa Chambers of Commerce and interested industry representatives.
- Benchmarked Oklahoma to other states.

# Industry Background

**The Aerospace & Defense Industry in Oklahoma**

Oklahoma has a robust economic history in aerospace and defense (A&D), and today the industry plays a critical role in Oklahoma's economy. The sector is the state's second largest, and it generates an estimated $44 billion annually in economic impact. Oklahoma is a major hub for the maintenance, repair, and overhaul (MRO) of aircraft, and according to estimates, nearly 90 percent of the more than 1,100 companies that comprise the state's A&D industry are in the MRO business.[3] The American Airlines Maintenance and Engineering Center in Tulsa is the largest single-site commercial aircraft MRO facility in the world and employs more than 5,500 people; the Oklahoma City Air Logistics Complex at Tinker Air Force Base is the largest air depot maintenance facility for the U.S. Department of Defense and employs approximately 26,000 people.[4]

**Figure 1: Oklahoma's Aerospace Clusters**



*Source: Oklahoma Department of Commerce*

**National and State Industry Employment Trends**

As shown in the following table, the Aeronautical Repair Station Association (ARSA) estimates that the civil aviation maintenance industry currently employs more than 317,000 mechanics and other technicians across the U.S.[5] With nearly 255,000 workers, the MRO sector – inclusive of FAA repair stations and air carriers – accounts for approximately 80 percent of employees nationally; parts manufacturing and distribution comprises the other 20 percent. Ten states comprise a total of more than 192,000 workers, including an estimated 152,000 at MROs. Oklahoma ranks seventh among states nationally, with an estimated 13,000 jobs (75 percent attributable to MROs). Among neighboring states, only Texas has more industry employees.

**Table 2: State Civil Aviation Maintenance Industry Employment by Category, 2023**

| State | MRO – FAA Repair Station | MRO – Air Carrier | Parts Manuf. & Distrib. | Total | % of Total, All States | Rank |
|---|---|---|---|---|---|---|
| Florida | 20,064 | 8,498 | 7,015 | **35,577** | 11.2% | 1 |
| California | 21,436 | 4,922 | 7,495 | **33,853** | 10.7% | 2 |
| Texas | 15,003 | 8,615 | 5,245 | **28,863** | 9.1% | 3 |
| Georgia | 15,467 | 2,463 | 5,408 | **23,338** | 7.4% | 4 |
| Ohio | 7,345 | 4,022 | 2,568 | **13,935** | 4.4% | 5 |
| Washington | 9,283 | 1,191 | 3,246 | **13,720** | 4.3% | 6 |
| **Oklahoma** | **9,316** | **470** | **3,257** | **13,043** | 4.1% | **7** |
| Arizona | 6,967 | 1,768 | 2,436 | **11,171** | 3.5% | 8 |
| New York | 4,609 | 3,442 | 1,611 | **9,662** | 3.0% | 9 |
| Michigan | 5,017 | 2,385 | 1,754 | **9,156** | 2.9% | 10 |
| **Total** | **114,507** | **37,776** | **40,035** | **192,318** | **60.6%** | |
| **Total, All States** | **178,933** | **75,888** | **62,560** | **317,381** | **100.0%** | |

*Source: Aeronautical Repair Station Association, U.S. Employment and Economic Impact – 2023*

[3] Oklahoma Department of Commerce, "Oklahoma: A World Hub for Aerospace." Accessed electronically at https://www.okcommerce.gov/wp-content/uploads/Oklahoma-Aerospace-Brief.pdf
[4] Oklahoma Department of Commerce, "Oklahoma: A World Hub for Aerospace." Accessed electronically at https://www.okcommerce.gov/wp-content/uploads/Oklahoma-Aerospace-Brief.pdf
[5] ARSA, "U.S. Employment and Economic Impact," (2023). Accessed electronically at https://arsa.org/wp-content/uploads/2023/03/ARSA-OW-2023FleetandMarketReport-StatebyStateUSData.pdf

Nationally, industry employment has decreased in recent years. As shown in the following table, there were nearly 290,000 jobs across all states in 2015, and that total remained effectively unchanged in 2019. Between 2019 and 2023, however, national industry employment decreased by nearly 100,000 jobs to approximately 192,000 – a CAGR of -9.6 percent. During the 2015-2023 time period, industry employment in Oklahoma has outperformed the national trend, increasing from just under 12,000 in 2015 to just over 13,000 in 2023 (a CAGR of 1.1 percent).

Oklahoma's performance ranks in the middle among other top states for industry employment. While Florida, Ohio, Georgia, and Michigan have experienced steeper growth since 2015 (with growth rates ranging from 7.7 percent in Florida to 2.0 percent in Michigan), Texas and New York both saw increases of less than 1 percent annually, and California, Washington, and Arizona each experienced declines in their respective totals. Additionally, as discussed in the Benchmarking chapter, the states of Washington and Arizona offer comparable sales tax exemptions to those provided in Oklahoma. Oklahoma's growth outperformed both states.

**Table 3: State Civil Aviation Maintenance Industry Employment Totals, 2015, 2019, & 2023**

| State | 2015 | 2019 | 2023 | CAGR, 2015-2023 | CAGR, 2019-2023 |
|---|---|---|---|---|---|
| Florida | 19,676 | 21,614 | 35,577 | 7.7% | 13.3% |
| California | 34,928 | 33,196 | 33,853 | -0.4% | 0.5% |
| Texas | 27,574 | 24,019 | 28,863 | 0.6% | 4.7% |
| Georgia | 18,969 | 22,040 | 23,338 | 2.6% | 1.4% |
| Ohio | 9,797 | 10,748 | 13,935 | 4.5% | 6.7% |
| Washington* | 19,187 | 18,518 | 13,720 | -4.1% | -7.2% |
| **Oklahoma*** | **11,906** | **12,505** | **13,043** | **1.1%** | **1.1%** |
| Arizona* | 17,822 | 16,863 | 11,171 | -5.7% | -9.8% |
| New York | 9,580 | 9,294 | 9,662 | 0.1% | 1.0% |
| Michigan | 7,821 | 7,664 | 9,156 | 2.0% | 4.5% |
| **Total, All States** | **289,281** | **288,295** | **192,318** | **-5.0%** | **-9.6%** |

*Source: Aeronautical Repair Station Association, U.S. Employment and Economic Impact Reports – 2015, 2019, & 2023*
** Oklahoma, Arizona, and Washington offer comparable sales tax exemptions.*

**National and State Industry Economic Activity Trends**

According to ARSA, the civil aviation maintenance industry generates an estimated $64.6 billion in economic activity each year in the U.S. MROs comprise approximately $43.2 billion, equal to more than two-thirds of the total. The 10 states in the following table account for 61.2 percent of the industry economic activity. Oklahoma ranks 7th nationally, contributing an estimated total of $2.8 billion in activity (equal to 4.3 percent of the U.S. total). Among neighboring states, only Texas generates more economic activity.

**Table 4: Civil Aviation Maintenance Industry Economic Activity, 2023 ($ in Millions)**

| State | MRO | Parts Manuf. & Distrib. | Total | % of Total, All States | Rank |
|---|---|---|---|---|---|
| Florida | $4,845 | $2,392 | $7,237 | 11.2% | 1 |
| California | $4,471 | $2,556 | $7,027 | 10.9% | 2 |
| Texas | $4,006 | $1,789 | $5,795 | 9.0% | 3 |
| Georgia | $3,041 | $1,844 | $4,886 | 7.6% | 4 |
| Washington | $1,777 | $1,107 | $2,883 | 4.5% | 5 |
| Ohio | $1,928 | $876 | $2,804 | 4.3% | 6 |
| **Oklahoma** | **$1,660** | **$1,111** | **$2,771** | **4.3%** | **7** |
| Arizona | $1,482 | $831 | $2,312 | 3.6% | 8 |

| State | MRO | Parts Manuf. & Distrib. | Total | % of Total, All States | Rank |
|---|---|---|---|---|---|
| New York | $1,366 | $550 | $1,915 | 3.0% | 9 |
| Michigan | $1,256 | $598 | $1,854 | 2.9% | 10 |
| **Total** | **$25,831** | **$13,653** | **$39,484** | **61.2%** | |
| **Total, All States** | **$43,226** | **$21,334** | **$64,560** | **100.0%** | |

*Source: Aeronautical Repair Station Association, U.S. Employment and Economic Impact – 2023*

Despite the national decline in industry employment, associated economic activity has increased meaningfully in recent years. As shown in the following table, economic activity across all U.S. states was estimated to be more than $43 billion in 2015, increasing to more than $50 billion by 2019 before reaching $64.6 billion. Growth in economic activity nationally is equal to a CAGR of 5.1 percent between 2015 and 2023. At 11.3 percent over the same time period, Oklahoma's growth is more than double the national average. Among top states for industry economic activity, Oklahoma's rate of growth is lower than only Florida (17.6 percent) and Georgia (11.5 percent). Growth in California, Michigan, New York, Ohio, and Texas was less pronounced, ranging from 6.7 percent (Texas) to 2.5 percent (New York). Annual economic activity declined in Washington and Arizona (by a CAGR of -4.2 percent and -7.2 percent, respectively); notably, these are the two states on the list with sales tax exemptions comparable to Oklahoma's incentives.

**Table 5: State Civil Aviation Maintenance Industry Economic Activity, 2015, 2019 & 2023 ($ in Millions)**

| State | 2015 | 2019 | 2023 | CAGR, 2015-2023 | CAGR, 2019-2023 |
|---|---|---|---|---|---|
| Florida | $1,978 | $2,763 | $7,237 | 17.6% | 27.2% |
| California | $4,514 | $5,238 | $7,027 | 5.7% | 7.6% |
| Texas | $3,450 | $3,774 | $5,795 | 6.7% | 11.3% |
| Georgia | $2,038 | $2,927 | $4,886 | 11.5% | 13.7% |
| Washington* | $4,077 | $4,401 | $2,883 | -4.2% | -10.0% |
| Ohio | $1,702 | $2,043 | $2,804 | 6.4% | 8.2% |
| **Oklahoma*** | **$1,179** | **$1,588** | **$2,771** | **11.3%** | **14.9%** |
| Arizona* | $4,198 | $4,432 | $2,312 | -7.2% | -15.0% |
| New York | $1,568 | $1,766 | $1,915 | 2.5% | 2.0% |
| Michigan | $1,358 | $1,524 | $1,854 | 4.0% | 5.0% |
| **Total, All States** | **$43,244** | **$50,407** | **$64,560** | **5.1%** | **6.4%** |

*Source: Aeronautical Repair Station Association, U.S. Employment and Economic Impact Reports – 2015, 2019, & 2023*
** Oklahoma, Arizona, and Washington offer comparable sales tax exemptions.*

# Incentive Usage & Administration

**Oklahoma Sales and Use Tax**

In Oklahoma, sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services (including construction). A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 4.5 percent; the maximum local sales and use tax rate is 7.0 percent, and the average combined state and local sales tax rate is 8.98 percent.[6]

**Incentive Characteristics**

Since 1991, Oklahoma has provided the following sales tax exemptions that are specific to qualified aircraft maintenance or manufacturing facilities:

- **Computers and Data Processing:** Sales of computers, data processing equipment, related peripherals, and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. To qualify for the exemption, the cost of the items purchased by the facility must be at least $2 million.[7]

- **Tangible Personal Property:** Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility. Under this provision, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with the facility for construction or expansion are eligible for the exemption.[8]

To qualify for either exemption, the facility must be a new or expanding facility primarily engaged in aircraft repair, building, or rebuilding – whether or not on a factory basis. The total cost of construction must exceed $5 million, and the facility must employ at least 250 new full-time equivalent employees upon completion of the facility (as certified by the Oklahoma Employment Security Commission).

It is important to note that the state of Oklahoma (as in many other states) has a separate sales and use tax exemption for the sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a manufacturer for use in a manufacturing operation.[9] These are available to all manufacturers, and the following section on use of these incentives does not relate to Section 1359. The project team believes that the Section 1359 exemption is used in Oklahoma by the aircraft manufacturing industry.

As currently structured, these exemptions align with a number of applicable best practices[10] from an incentive design perspective. They are targeted to the industry, leverage private capital, and discretionary (as opposed to by-right tax incentives). At the same time, however, certain aspects of the exemptions do not conform with best practices. In particular, the investment and employment qualifications are not structured to overcome practical barriers to growth, and – as discussed later in this chapter – the administrative process is likely overly complex.

[6] Oklahoma Tax Commission, "Sales Tax vs. Use Tax." Accessed electronically at https://oklahoma.gov/content/dam/ok/en/tax/documents/resources/publications/infographics/SalesTaxUseTax.pdf
[7] 68 O.S. § 1357v4. (16)
[8] 68 O.S. § 1357v4. (17)
[9] 68 O.S. § 1359
[10] A discussion of business incentives best practices is included in Appendix C.

### Historic Use of the Incentive

According to OTC representatives, between FY2018 and FY2022, one company qualified for the tangible personal property sales tax exemption, but to date it has failed to substantiate its refund claim. There has been no activity associated with the computers and data processing sales tax exemption.

Multiple internal and external factors may contribute to this lack of use. For one, when given the choice between a tax exemption or tax credit, businesses often prefer tax credits, which provide a flat dollar amount and are often either refundable or transferrable (the latter is considered an advantage for taxpayers with no liability). Further, the administrative requirements associated with eligibility for this program may dissuade some taxpayers from pursuing this tax incentive, particularly small, resource-limited businesses. In fact, as part of the subject matter expert engagement process, stakeholders provided qualitative evidence that the program's employment threshold is unpopular for some industry businesses.

It is possible that the businesses targeted by the exemptions may have access to – and opt to pursue – other industry incentives. The Department of Commerce's aerospace marketing materials identify many programs as being commonly used by the sector, including the Quality Jobs, Small Employer Quality Jobs, and 21st Century Quality Jobs Programs; Investments/New Jobs Tax Credit Package; Business Expansion Incentive Program; Engineer Workforce Tax Credit for Aerospace; Training for Industry Program; Five-Year Ad Valorem Exemption; and New Market Tax Credits. The Department of Commerce does not advertise the aircraft facilities sales tax exemptions in its marketing materials for the industry.[11] Depending on the business and/or project, these programs may afford businesses with a larger financial benefit than the sales tax exemptions provided under this program (potentially with fewer requirements or parameters around eligibility).

### Incentive Administration

The OTC is primarily responsible for administering this incentive program, which appears to be relatively complex when compared to the administrative requirements associated with other types of tax expenditures, such as tax credit programs.

While – as discussed – Oklahoma's sales tax exemptions are not actively being used by the industry, the following summarizes the key aspects of administering this incentive program in the event that a facility opts to pursue this incentive:

1. **Application for Exemption Certification:** When the new or expanded facility has been completed and the requisite new employees have been hired, the taxpayer applies for a Certificate of Exemption with the OTC.[12] The applicant must provide additional information with its submission, Including specifications of the new or expanded facility; a complete description of the maintenance repair or manufacturing that will take place within the facility; and other information requested by the OTC.

   The OTC reviews the application for completeness and compliance with the requirements of the exemption and also forwards it to the Oklahoma Employment Security Commission (OESC) to establish the facility's baseline employment levels. Upon completion of the OTC and OESC reviews of the application, the OTC makes its determination and notifies the applicant of the approval or denial of the certification requested. If the application is approved, the OTC establishes an interest-bearing account to track sales taxes paid on sales as shown by the invoices submitted.

[11] Oklahoma Department of Commerce, "Oklahoma: A World Hub for Aerospace." Accessed electronically at https://www.okcommerce.gov/wp-content/uploads/Oklahoma-Aerospace-Brief.pdf

[12] The OTC directs applicants to use the Streamlined Sales Tax Governing Board's Form F0003 (Streamlined Sales and Use Tax Agreement Certification of Exemption), a multi-state form that can be used for multiple sales and use tax exemptions. Oklahoma has been a Full Member State since 2005.

If the request for certification is denied, the applicant has 60 days after the mailing of the denial to file with the OTC a protest under oath that sets out a statement of denial as determined by the OTC; a statement of the applicant's disagreement with the denial, and supporting documentation relied on by the taxpayer in support of certification. If an applicant fails to file a written protest within 60 days, the denial – without further action from the OTC – becomes final, and no appeal is possible.

Applicants filing a protest are scheduled for a hearing *en banc* before the OTC for a date, time, and place provided by the OTC via mail at least 10 days prior to the hearing. The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence, and argument in support of the requested certification. The OTC issues an order in each case that is directly appealable to the Supreme Court of the State of Oklahoma. The appeal must be perfected within 30 days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court and by filing a designation of the record with the Secretary of the OTC at the same time the Petition in Error is filed.

2. **Refund Requests:** For each qualified purchase the eligible facility wishes to exempt, it submits to the OTC an invoice indicating the amount of state and local taxes billed to the facility; an affidavit of the vendor of the tangible personal property that state and local sales tax on the invoice has not been credited, rebated, or refunded to the facility; and all additional documentation required by the OTC. For sales of tangible personal property, in cases where the state and local sales tax was paid by a contractor or subcontractor, the facility must file an affidavit from the contractor or subcontractor.

   The required materials can be filed monthly, quarterly, semi-annually, or annually, so long as they are filed no later than 36 months after the item is purchased. The facility must also file with the OTC – within 60 months of the date of the first purchase – the certification issued by the OESC. The OTC reviews the documentation submitted and determines – within 30 days – whether the refund claimed will be allowed, and subsequently notifies the entity of the approval or denial.

   Each month, the OTC transfers the estimated amount of claims approved the previous month from the sales tax collected to an account designated by the OTC. For all approved claims, the entity receives a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the OTC. The facility also receives accrued interest on the principal amount of the refund; interest accrues at the rate of a 3-month Treasury bill from the date the invoiced items are approved.

**Misalignment of Statutory References**

The sales tax exemptions that are the subject of this evaluation are authorized in Section 1357 of Title 68 of the Oklahoma Statutes, which provides a list of more than four dozen specific sales tax exemptions. Presumably because of the breadth of exemptions included in this section, multiple versions of this particular section of code exist:

- v1 (HB 1198, Laws 2017, c. 229, § 10)
- v2 (HB 1588, Laws 2021, c. 68, § 1)
- v3 (HB 2946, Laws 2021, c. 512, § 1)
- v4 (SB 1670, Laws 2022, c. 206, § 1)

Under v4, the sales tax exemptions are identified as 1357(16) – Sales of computers, data processing equipment, related peripherals, and telephone; and 1357(17) – Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facilities. In addition, other sections of Title 68 pertain to the administration of the exemptions.

**Table 6: Statutory Citations, Aircraft Facilities Sales Tax Exemptions**

| | Computers, Data Processing Equipment, Related Peripherals and Telephone | Tangible Personal Property Consumed or Incorporated in Construction or Expansion |
|---|---|---|
| Exemption | § 68 O.S. 1357(16) | § 68 O.S. 1357(17) |
| Sales Tax Administration | § 68 O.S. 1357.4. Aircraft maintenance or manufacturing facilities – Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunication services and equipment – Sales tax refund – Computation of interest – Claim documentation – Filing | § 68 O.S. 1357.5. Aircraft maintenance or manufacturing facilities – Sales of tangible property consumed or incorporated in construction or expansion – Sales tax refund – Computation of interest – Documentation of claims – Affidavits by contractors |
| Use Tax Administration | § 68 O.S. 1404.3. Aircraft maintenance or manufacturing facilities – Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunication service or equipment – Use tax refund – Computation of interest – Documentation of claims – Filing of certification | § 68 O.S. 1404.4. Aircraft maintenance or manufacturing facilities – Sales of tangible personal property consumed or incorporated in construction or expansion – Use tax refund – Computation of interest – Taxes paid by contractors – Documentation of claims – Affidavits – Filing of certification |

*Source: Oklahoma Statutes*

This approach to defining the incentive specifications in statute may be perceived by some as complex and may impede the ability of some to easily or conclusively know how and/or whether they qualify. Further, it appears that multiple references within the administrative sections of statute are out of date, referencing sections that no longer pertain to the aircraft facility exemptions. Left uncorrected, this could potentially complicate the state's ability to administer the exemptions effectively, should the need arise. Therefore, these sections should be revised as follows:

***68 O.S. § 1357.4.***

A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph, or telecommunications service and equipment related thereto to a qualified purchaser as provided by paragraph ~~11~~ 16 of Section 1357 of this title, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for the purchase of said items.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by paragraph ~~11~~ 16 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

***68 O.S. § 1357.5.***

A. In order to administer the exemption for sales to a qualified aircraft maintenance or manufacturing facility as provided by paragraph ~~12~~ <u>17</u> of Section 1357 of this title, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility, as defined in paragraph ~~11~~ <u>16</u> of Section 1357 of this title, in the state from the account created by this section.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified aircraft maintenance or manufacturing facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by paragraph ~~12~~ <u>17</u> of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

***68 O.S. § 1404.3.***

A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by paragraph ~~11~~ <u>16</u> of Section 1357 of this title, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for the purchase of such items.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by paragraph ~~11~~ <u>16</u> of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

***68 O.S. § 1404.4.***

A. In order to administer the exemption for sales to a qualified aircraft maintenance or manufacturing facility as provided by paragraph ~~12~~ 17 of Section 1357 of this title, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility in the state from the account created by this section.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified aircraft maintenance or manufacturing facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by paragraph ~~12~~ 17 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

# Economic & Fiscal Impact

## Economic and Fiscal Impact

The State's Aircraft Facilities Sales Tax exemptions have generated no economic or fiscal impact. No exemptions have been issued, so the State has incurred no cost. There have also been no jobs created as a result of the incentives, so no additional economic activity can be attributed to them.

# Incentive Benchmarking

**Benchmarking Introduction**

For evaluation purposes, benchmarking provides information related to how peer states use and evaluate similar incentives. At the outset, it should be understood that no states are 'perfect peers' – there will be multiple differences in economic, demographic, and political factors that will have to be considered in any analysis; likewise, it is exceedingly rare that any two state incentive programs will be exactly the same.[13] These benchmarking realities must be taken into consideration when making comparisons – and, for the sake of brevity, the report will not continually re-make this point throughout the discussion.

The process of creating a comparison group for incentive benchmarking typically begins with bordering states because proximity often leads states to compete for the same regional businesses or business/industry investments. In addition, neighboring states often (but not always) have similar economic, demographic, or political structures that lend themselves to comparison.

**Tax Policy Benchmarking Comparison**

This section provides a comparison of Oklahoma's aerospace tax preferences to those of neighboring states.

Oklahoma's maximum combined state and local sales tax rate is commensurate with Missouri at 10.85 percent, higher than Texas (8.25 percent) and Colorado (9.9 percent). Arkansas, New Mexico, and Kansas have higher maximum rates at 12 percent, 11.75 percent; and 11.5 percent, respectively. Oklahoma's corporate income tax rate of 4 percent is also commensurate with Missouri but lower than other neighboring states, which span from 4.4 percent in Colorado to 7 percent in Kansas. Further, while Oklahoma and Kansas use a three-factor formula for the apportionment of corporate income, four states (Arkansas, Colorado, Missouri, and Texas) use a single factor formula, and Missouri uses a combined approach.[14]

**Table 7: Tax Rates and Treatment, Select States**

| | Sales Tax Rates | Corporate Income Tax Rate | Apportionment of Corporate Income |
|---|---|---|---|
| Oklahoma | 4.5% plus 0-6.35% local taxes | 4.0% | 3 Factor |
| Arkansas | 6.5% plus 0-5.5% local taxes | 5.3% | Single Sales Factor |
| Colorado | 2.9% plus 0-7% local taxes | 4.4% | Single Sales Factor |
| Kansas | 6.5% plus 0-5% local taxes | 7.0% | 3 Factor |
| Missouri | 4.225% plus 0-6.625% local taxes | 4.0% | Single Sales Factor |
| New Mexico | 5.125% plus 0.125-6.625% local taxes | 5.9% | * |
| Texas | 6.25%; local taxes cannot exceed 2% | ** | Single Sales Factor |

*Source: Federation of Tax Administrators; the Tax Foundation*
** 3 Factor and Single Sales Factor; taxpayer option or specified by state rules.*
*** Texas does not have a corporate income tax but does have a gross receipts tax with rates not strictly comparable to corporate income tax rates.*

While Oklahoma offers several tax preferences that benefit the industry (e.g., parts and labor exemptions), it trails benchmark states in several tax policy-related areas:

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[13] The primary instances of exactly alike state incentive programs occur when states choose to 'piggyback' onto federal programs. An example of this is Oklahoma's Historic Rehabilitation Tax Credit, which matches the federal 20 percent tax credit with a 20 percent tax state credit for those projects that are eligible for the federal tax credit.
[14] Apportionment formulas are designed to allocate to a taxing state, for tax purposes, a share of a company's income that corresponds to its business activity in the state. The three-factor formula uses three fractions representing the ratios of a company's property, payroll, and sales within a taxing state to its total property, payroll, and sales. The three ratios are multiplied together to produce the percentage of the company's total taxable income to be allocated to the taxing state. The single-factor formula apportions income for tax purposes using only the ratio of a company's in-state sales to its total sales.

- **Casual Sale ("Yard Sale" Rule):** Oklahoma, Arkansas, and Colorado do not offer a full or limited tax exemption for sales made by a person who is not regularly engaged in the business of making aircraft sales.

- **Fly Away Exemption:** Oklahoma's exemption for non-residents to purchase and deliver aircraft out of state only applies to sale prices over $2.5 million. With the exception of New Mexico, each of the other states fully exempt these sales.

- **Trade-In Value:** Oklahoma does not allow taxpayers to reduce from gross proceeds the trade-in value of a sale in the calculation of tax liabilities; the benchmark states do.

- **Aircraft Registration Fees:** Oklahoma's aircraft registration fees are tiered (based on type and weight) and were increased by 50 percent during the 2017 legislative session. Current single-engine piston aircraft registration fees range from $30 to $2,250, based on weight; rotary-wing aircraft rates are double the single-engine rates; multi-engine piston aircraft, three times the rates; turbo-prop aircraft, six times the rates; and turbo-jet aircraft, 10 times the rates. With the exception of New Mexico, where fees are tiered based on age, the benchmark states do not impose aircraft registration fees.

- **Taxation of Ownership Transfers:** Finally, Oklahoma is unique among benchmark states in that aircraft excise tax is levied upon the transfer of legal ownership.

The following table summarizes Oklahoma's industry tax preferences in comparison to neighboring states.

**Table 8: Other Tax Preferences, Select States**

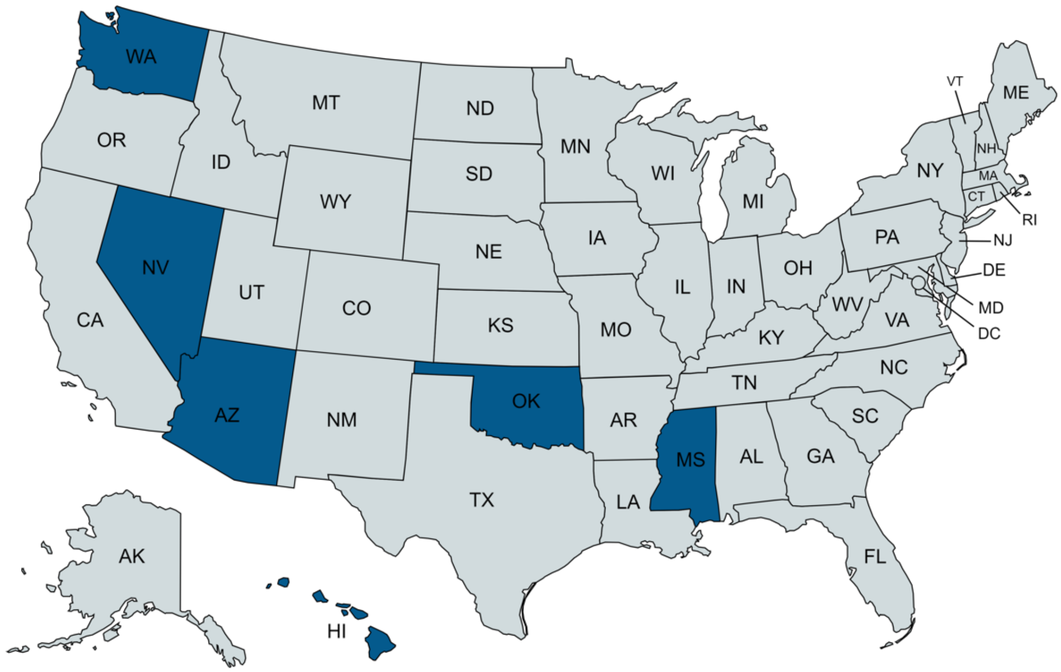
| | Casual Sale | Fly Away Rule | Trade In Value | Aircraft Reg. Fee | Unique State Taxes |
|---|---|---|---|---|---|
| Oklahoma | No | Limited to sale price over $2.5m | No | Yes, tiered on type and weight | Aircraft excise tax levied upon transfer of legal ownership |
| Arkansas | No | Yes | Yes | No | No |
| Colorado | No | Yes | Yes | No | No |
| Kansas | Limited | Yes | Yes | No | No |
| Missouri | Limited | Yes | Yes | No | No |
| New Mexico | Yes | No | Yes | Yes, tiered by age | No |
| Texas | Yes | Yes | Yes | No | No |

*Source: Federation of Tax Administrators*

### Incentive Program Benchmarking Comparison

Many states exempt from taxation the sales of certain aircraft. In the case of tax exemptions for aircraft maintenance and manufacturing facilities, however, state incentives are less prominent. In addition to Oklahoma, the states of Arizona, Hawaii, Mississippi, Nevada, and Washington offer such tax exemptions. Additionally, Virginia provides grant funds to encourage similar economic activity. Key elements of these incentives are summarized in the following, and additional detail regarding the comparable state programs is provided in **Appendix B.**

**Figure 2: States with Comparable Incentive Programs**




- **Arizona:** Contracts for certain types of construction in a military reuse zone (MRZ) are exempt from transaction privilege tax (Arizona's equivalent of a sales tax). This exemption is available to aviation and aerospace companies, as well as airport authorities located within an MRZ.

  The State also provides for property reclassification under the MRZ program: Both real and personal property can be reclassified from Class 1 (assessment ratio of 18 percent) to Class 6 (assessment ratio of 5 percent), which may result in property tax savings of up to 72.2 percent for a period of five years.[15]

- **Hawaii:** The State exempts revenue paid to contractors, subcontractors, and suppliers for the construction of aircraft maintenance facilities of 30,000 square feet or more from general excise tax (GET). In addition, a use tax exemption for aircraft maintenance facility construction exempts amounts paid for construction of an aircraft service and maintenance facility. The exemption is intended to encourage the construction of service and maintenance facilities by reducing taxes paid by businesses.[16]

- **Mississippi:** The Aerospace Industry Enterprises (AIE) exemption was created to induce companies to locate or expand their manufacturing facilities in the state. A sales and/or use tax exemption is available to aerospace industry enterprises on the purchase of component building materials and equipment (or the lease of machinery and equipment) used in the initial construction or expansion of the enterprise. The exemption is also available to businesses that offer research and development or training services in the aerospace industry that locate or expand in the state.

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[15] Arizona Commerce Authority, "Military Reuse Zone." Accessed electronically at https://www.azcommerce.com/incentives/military-reuse-zone/

[16] State of Hawai'i Office of the Auditor, "Review of General Excise and Use Tax Exemptions and Exclusion - Report No. 20-09 (June 2020). Accessed electronically at https://documents.ncsl.org/wwwncsl/Fiscal/evaluationDB/ReportNo20-09ReviewofExciseandUseTaxExemptionsandExclusions.pdf

To qualify, the business must make a minimum capital investment in the state of $25 million, and must also create a minimum of 25 new, full-time jobs in the state which provide an average annual salary of at least 110 percent of the state average. Qualifying businesses are exempt from state taxes for a period of 10 years from the date of certification. In addition to sales and use tax, the exemption applies to income taxes and franchise taxes.[17]

- **Nevada:** Companies meeting requirements may qualify for a personal property tax abatement of 50 percent of the tax due for 10 years. They may also receive a sales and use tax abatement on equipment and parts of an aircraft for 10 years; however, this requires the Governor's Office of Economic Development Board to approve a reduction to 2.0 percent by a two-thirds vote or the abatement is 4.6 percent.

  Qualified new companies must create five or more new full-time jobs within one year; existing companies must increase the number of full-time employees by 3.0 percent or 3, whichever is greater. New and existing companies must also meet one of the following criteria:[18]

  - Make a new capital investment of at least $250,000 within one year.
  - Maintain and possess in the state tangible personal property of not less than $5 million.
  - Pay an average wage of at least 100 percent of the statewide average.
  - Develop, refine, or own a patent or other intellectual property.
  - Has been issued an FAA certificate.

- **Washington:** The State provides multiple industry-related sales and use tax exemptions, summarized in the following table:

**Table 9: Washington States Aerospace Industry Sales and Use Tax Exemptions**

| | Eligible Entities |
|---|---|
| Computer Hardware, Software, and Peripherals | - Manufacturers of commercial airplanes and component parts of commercial airplanes<br>- Non-manufacturers engaged in the business of aerospace product development<br>- Certificated FAR repair stations making retail sales<br>- Aerospace tooling manufacturers |
| Construction of New Facilities Used to Manufacture Commercial Airplanes, Fuselages, or Wings | - Manufacturers who construct new buildings and/or new parts of buildings that will be used primarily to manufacture commercial airplanes, commercial airplane fuselages, and commercial airplane wings<br>- Port districts, political subdivisions, or municipal corporations when they construct new facilities to lease to these manufacturers |
| Construction of New Facilities Used for Airplane Repair and Maintenance | - MROs engaged in the maintenance of airplanes<br>- Port district, political subdivision, or municipal corporation building and leasing these facilities to an eligible MRO engaged in the maintenance of airplanes |

*Source: Washington Department of Revenue*

[17] Mississippi Department of Revenue, "Mississippi Tax Incentives, Exemptions, and Credits," (revised February 1, 2022). Accessed electronically at https://www.dor.ms.gov/sites/default/files/Business/2022%20Incentive%20Booklet%20-%20Website%20Version%20Updated.pdf
[18] Nevada Governor's Office of Economic Development, "Nevada Aviation Tax Abatements." Accessed electronically at https://goed.nv.gov/wp-content/uploads/2020/02/Aviation-2019.pdf

To qualify for either of the two construction-related exemptions, the facility must report at least 100 average employment positions during a specified one-year period, with average annualized wages of $80,000. In 2023, HB 1318 allowed for an MRO at any county-owned airport to be eligible and removed a limitation that the airport be owned or located in King or Spokane Counties (counties with a population of more than 1.5 million).

The exemptions are in the form of a remittance. Remittance of local sales and use tax is immediate; remittance of the state sales and use tax would not occur until after the facility has been operationally complete for four years, but not earlier than December 1, 2021.[19]

Each of the preceding examples is an instance of a state exemptions targeting industry facility expansion. While, as previously noted, this benchmarking analysis focuses primarily on sales and use tax exemptions, Virginia provides a notable example of an innovative or unique program, targeting similar industry activity via a grant program instead of a sales tax exemption. The Commonwealth's Aerospace Engine Manufacturing Performance Grant Program enables any qualified manufacturer in an eligible county to receive a grant each fiscal year (for fiscal years 2014-2023) upon the satisfaction of certain requirements. An aggregate total of $35 million in grants is available and paid from the Aerospace Engine Manufacturing Performance Grant Fund over the time period. The amount of the grant paid in each fiscal year is conditional upon the manufacturer meeting the requirements for (1) the aggregate number of new, full-time jobs created and the substantial retention of the same throughout the year; and (2) the aggregate amount of the capital investment made and substantially retained as of the last day of the year.[20]

**Benchmarking Program Evaluations**

The results of a 2020 analysis of the State of Hawaii's exemption for aircraft maintenance facility construction are not particularly conclusive. However, the report highlights some of the common complications in assessing the impacts and effectiveness of tax exemptions. For example:[21]

- There is insufficient data to determine whether the exemption should be retained, amended, or repealed.
- The evaluators were unable to determine whether there were any increased business opportunities or economic or employment benefits directly resulting from the exemption.
- Records indicate that the Hawaiian Airlines maintenance facility was the only recent project likely to qualify for the exemption; but Department of Transportation and Hawaiian Airlines officials reported that the exemption was not claimed in conjunction with the construction of the Hawaiian Airlines facility.
- A contractor claiming the exemption is not required to provide notice to the facility owner or any other entity. The State found claims for the exemption that appeared to be made by construction firms, rather than aircraft servicing companies but could not determine with available data and information whether the exemption was properly claimed.

[19] State of Washington, House Bill Report: HB 1318." Accessed electronically at https://lawfilesext.leg.wa.gov/biennium/2023-24/Htm/Bill%20Reports/House/1318%20HBR%20FIN%2023.htm
[20] Virginia General Assembly, "Aerospace Engine Manufacturing Performance Grant Program," Accessed electronically at https://law.lis.virginia.gov/vacode/title59.1/chapter22.5/section59.1-284.20/
[21] State of Hawai'i Office of the Auditor, "Review of General Excise and Use Tax Exemptions and Exclusion - Report No. 20-09 (June 2020). Accessed electronically at https://documents.ncsl.org/wwwncsl/Fiscal/evaluationDB/ReportNo20-09ReviewofExciseandUseTaxExemptionsandExclusions.pdf

- The Department of Taxation does not require taxpayers claiming the exemption to separately report amounts they are deducting from gross revenues subject to GET and amounts deducted from the lease costs paid to businesses outside of the State that would otherwise be subject to Use Tax. As a result, the State was able to only report the consolidated number of files claiming either the GET or use tax exemption and the total amounts of those claims.

As has been discussed, the MRO industry is an important part of Oklahoma's economy – yet the State's aircraft maintenance facility exemptions are not being used and are therefore not effectively incenting industry activity. It is possible that modifications to Oklahoma's industry-related tax preferences may aid in generating additional business activity within the state.

Evidence from analyses in other states exists to support this hypothesis. A 2022 Texas study found that a disproportionate share of regional MRO activity currently occurs outside the state, especially in Kansas and Oklahoma. Its authors suggested that a more competitive sales tax policy could reverse this situation. According to the study, by removing the "anti-competitive, antiquated" MRO tax for general aviation, the Texas economy stands to gain 9,700 jobs, over $1.4 billion in direct spending, and $57.2 million in added tax revenue.[22]

[22] Texas Senate Research Center, "Bill Analysis: SB 1022." Accessed electronically at https://capitol.texas.gov/tlodocs/88R/analysis/html/SB01022I.htm

# Appendices

**Appendix A.1: 68 O.S. § 1357 – Exemptions – General (Effective November 1, 2023)**

There are hereby specifically exempted from the tax levied by the Oklahoma Sales Tax Code:

**16.** Sales of computers, data processing equipment, related peripherals, and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars ($2,000,000.00);

**17.** Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 16 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

*Okla. Stat. tit. 68, § 1357*
*Current through Laws 2023EX1, c. 52.*

*This section is set out more than once due to postponed, multiple, or conflicting amendments.*

**Appendix A.2: 68 O.S. 1357.4 – Aircraft Maintenance or Manufacturing Facilities – Sales of Computers, Data Processing Equipment, Related Peripherals and Telephone, Telegraph, or Telecommunication Services and Equipment – Sales Tax Refund – Computation of Interest – Claim Documentation – Filing**

**A.** In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by paragraph 11 of Section 1357 of this title, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for the purchase of said items.

**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.

**C.** Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by paragraph 11 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

**D.** The qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission, the following documentation for any refund claimed:

**1.** Invoices indicating the amount of state and local sales tax paid;
**2.** Affidavit of each vendor that state and local sales tax billed to the purchaser has not been audited, rebated, or refunded to the purchaser but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and
**3.** All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

**E.** Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment may qualify for the refund established by this section, provided the total cost of said equipment equals or exceeds the sum of Two Million Dollars ($2,000,000.00) and occurs after the effective date of this act.

**F.** The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

*Okla. Stat. tit. 68, § 1357.4*
*Current through Laws 2023EX1, c. 52.*
*Added by Laws 1991, 1st Extr. Sess., SB 1, c. 2, § 6, emerg. eff. 1/18/1991; Amended by Laws 1993, SB 459, c. 275, § 12, emerg. eff. 7/1/1993.*

**Appendix A.3: 68 O.S. § 1357.5 – Aircraft Maintenance or Manufacturing Facilities – Sales of Tangible Property Consumed or Incorporated in Construction or Expansion – Sales Tax Refund – Computation of Interest – Documentation of Claims – Affidavits by Contractors**

**A.** In order to administer the exemption for sales to a qualified aircraft maintenance or manufacturing facility as provided by paragraph 12 of Section 1357 of this title, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility, as defined in paragraph 11 of Section 1357 of this title, in the state from the account created by this section.

**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.

**C.** Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified aircraft maintenance or manufacturing facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by paragraph 12 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

**D.** For purposes of this section, state and local sales taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to the qualified facility.

**E.** The qualified purchaser shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

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

**2.** Affidavit of each vendor that state and local sales tax billed has not been audited, rebated, or refunded to the qualified purchaser but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and**3.** All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

**F.** In the event that state and local sales tax was paid by a contractor or subcontractor, the qualified purchaser shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the sales tax refund of the qualified purchaser is based on state and local sales tax paid by the contractor or subcontractor on tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance facility and that the amount of state and local sales tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

**G.** Only sales of tangible personal property made after the effective date of this act, shall be eligible for the refund established by this section.

**H.** The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

*Okla. Stat. tit. 68, § 1357.5*
*Current through Laws 2023EX1, c. 52.*

*Added by Laws 1991, 1st Extr. Sess., SB 1, c. 2, § 7 emerg. eff. 1/18/1991; Amended by Laws 1993, SB 459, c. 275, § 13, emerg. eff. 7/1/1993.*

**Appendix A.4.: 68 O.S. § 1404.3. – Aircraft maintenance or manufacturing facilities - Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service or equipment - Use tax refund - Computation of interest - Documentation of claims - Filing of certification.**

A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by paragraph 11 of Section 1357 of this title, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for the purchase of such items.

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

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by paragraph 11 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Affidavit of the purchaser that the amount of use tax claimed has been remitted to the State of Oklahoma and that no refund of the use tax paid has previously been requested;

2. In cases where the purchaser remitted the use tax to its vendor, invoices indicating the amount of state and local use tax paid and affidavit of each vendor that state and local use tax billed to the purchaser has not been audited, rebated, or refunded to the purchaser but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

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

E. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment may qualify for the refund established by this section, provided the total cost of said equipment equals or exceeds the sum of Two Million Dollars ($2,000,000.00) and occurs after the effective date of this act.

F. The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

*Added by Laws 1991, 1st Ex. Sess., c. 2, § 9, emerg. eff. Jan. 18, 1991. Amended by Laws 1993, c. 275, § 16, eff. July 1, 1993.*

**Appendix A.5.: 68 O.S. § 1404.4. – Aircraft maintenance or manufacturing facilities - Sales of tangible personal property consumed or incorporated in construction or expansion - Use tax refund - Computation of interest - Taxes paid by contractors - Documentation of claims - Affidavits - Filing of certification.**

A. In order to administer the exemption for sales to a qualified aircraft maintenance or manufacturing facility as provided by paragraph 12 of Section 1357 of this title, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility in the state from the account created by this section.

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

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified aircraft maintenance or manufacturing facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by paragraph 12 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local use taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor to be consumed or incorporated in the construction of a qualified aircraft maintenance or manufacturing facility pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to the qualified facility.

E. The qualified facility shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

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

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

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

F. In the event that state and local use tax was paid by a contractor or subcontractor, the qualified purchaser shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the use tax refund of the qualified purchaser is based on state and local use tax, paid by the contractor or subcontractor on tangible personal property purchased to be consumed or incorporated in the construction of a qualified aircraft maintenance or manufacturing facility and that the amount of the state and local use tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after the effective date of this act shall be eligible for the refund established by this section.

H. The qualified facility shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission, a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section.

*Added by Laws 1991, 1st Ex. Sess., c. 2, § 10, emerg. eff. Jan. 18, 1991. Amended by Laws 1993, c. 275, § 17, eff. July 1, 1993.*

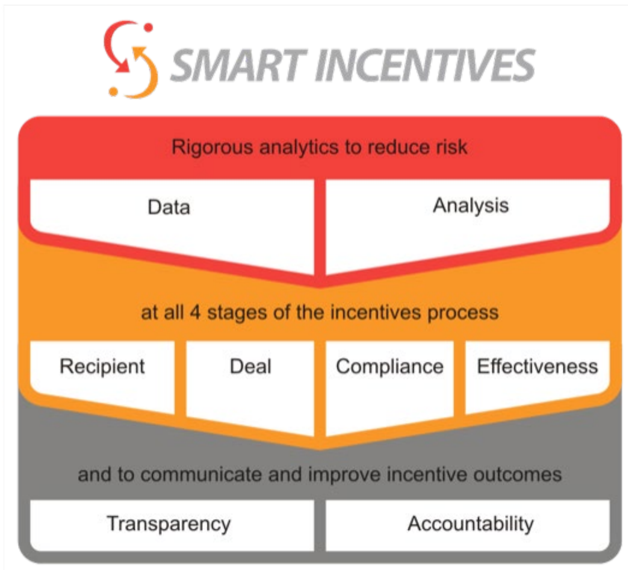
## Appendix B: Benchmarking Comparison Detail

| | Exemption | Eligible Entities | Requirements |
|---|---|---|---|
| **Oklahoma** | | | |
| Arizona | Transaction Privilege Tax exemption for certain types of construction in an MRZ | Aviation and aerospace companies, and airport authorities located within an MRZ | Construction work must be performed in MRZ; must report annually the amount of tax benefits |
| Hawaii | GET Exemption on revenue paid to contractors, subcontractors, and suppliers for construction of aircraft maintenance facilities | Eligible aircraft servicing businesses | Facility must be 30,000 square feet or more |
| Mississippi | 10-Year Exemption on Purchase of Component Building Materials and Equipment | Aerospace industry enterprises locating or expanding manufacturing facilities in state or businesses that offer research and development or training services in the aerospace industry | Minimum capital investment of $25 million and a minimum of 25 new, full-time jobs with an average annual salary of at least 100 percent of the state average. |
| Nevada | Personal Property Tax Abatement of 50% for 10 years | Companies meeting requirements that include owning, operating, maintaining, servicing, testing, repairing, overhauling, or assembling an aircraft or any component of an aircraft | 5+ new, FT jobs within 1 year; existing companies must increase the # of FT jobs by the greater of 3 or 3 percent. Companies must also meet one of the following:<br>- Make a new capital investment of at least $250,000<br>- Have at least $5 million in tangible personal property in the state<br>- Pay an average wage of at least 100 percent of the statewide average<br>- Develop, refine, or own a patent or other intellectual property |
| Washington | Computer Hardware, Software, and Peripherals Sales Tax Exemption | Manufacturers of commercial airplanes and component parts; non-manufacturers engaged in the business of aerospace product development; certificated FAR repair stations making retail sales; and aerospace tooling manufacturers | Purchaser must provide vendor with completed Buyer's Retail Sales Tax Exemption Certificate |
| | Construction of New Facilities Used to Manufacture Commercial Airplanes, Fuselages or Wings Sales Tax Exemption | Manufacturers who construct new buildings and/or new parts of buildings that will be used primarily to manufacture commercial airplanes; and port districts, political subdivisions, or municipal corporations when new facilities constructed are leased to these manufacturers | Average of 100 positions reported during specified 1-year period with average annualized wages of $80,000. |
| | Construction of New Facilities Used for Airplane Repair and Maintenance Sales Tax Exemption | MROs engaged in the maintenance of airplanes; and port districts, political subdivisions, or municipal corporations building and leasing facilities to an eligible MRO | Average of 100 positions reported during specified 1-year period with average annualized wages of $80,000. |

## Appendix C: Business Incentives Best Practices

There has been extensive writing around what constitute business incentives best practices. From the project team's review of many sources,[23] it has identified 10 important best practices and sought to incorporate them into the analysis and discussion of this incentive.

As a starting point, business incentives should be viewed as a process, not an event. The award of an incentive and the incentive features are part of that process, and many of the identified best practices reflect that. The process itself should take into consideration each of these factors, which PFM's subcontractor, Smart Incentives, demonstrates in the following illustration:




While the project team believes this is a strong set of best practices, there may well be others that are as (or more applicable) in specific situations. It is also likely that some of the best practices will come into conflict in some situations. For example, application and reporting requirements may reduce the simplicity of business compliance. As a result, these will always be subject to analysis on a case-by-case basis.

The 10 best practices are:

1. **For maximum impact, incentives should be targeted.** Examples of useful targeting include companies or industries that export their goods or services out-of-state; high economic impact companies or industries – such as those with higher wages and benefits, significant job creation, or significant capital investment.

2. **Incentives should be discretionary.** In most instances, an application process enables the state government to require company disclosure of information related to eligibility criteria and enables

[23] Three resources in particular were relied upon on putting together the list of best practices. They are "What Factors Influence the Effectiveness of Business Incentives?" The Pew Charitable Trusts, April 4, 2019, accessed electronically at https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2019/04/what-factors-influence-the-effectiveness-of-business-incentives; "Improving Economic Development Incentives," Timothy J. Bartik, W.E. Upjohn Institute for Employment Research, 2018, accessed electronically at https://research.upjohn.org/cgi/viewcontent.cgi?article=1000&context=up_policybriefs; "Best Practices for the Design and Evaluation of State Tax Incentives Programs for Economic Development," Matthew N. Murray and Donald J. Bruce, January 2017, included within another evaluation at https://media.al.com/news_mobile_impact/other/AL%20ENTERTAIN%20NEWMKTS%203%209%2017.pdf

the state to reject applications that do not meet its standards.

3. **Incentives should leverage significant private capital.** Ideally, the incentive should leverage private investment that is at least several multiples of the state investment.

4. **Incentives should provide most of the benefit within 1-3 years and have a limited duration.** Company discount rates are much higher than for the state, and businesses will significantly devalue incentive payments in later years.

5. **Incentives should take into consideration state and/or local as well as industry economic conditions.** Incentives that are provided in high performing areas or for stable and profitable businesses or industries will likely fail the 'but for test' – meaning the activity would likely occur without the state incentive.

6. **'Smart' incentives help businesses overcome practical barriers to growth.** In particular, customized assistance for locally owned, small and medium-sized businesses can have significant impact.

7. **Incentives should be transparent.** The incentive purpose should be clearly articulated, as are eligibility requirements, and regular, detailed reporting should be required from all program recipients.

8. **Incentives should require accountability.** When upfront financial incentives are offered in return for job creation, retention, or capital investment, there should be contract language in place that allows the state to 'claw back' state resources should the company not meet performance requirements.

9. **Incentives should have caps.** To ensure the state's financial health, program dollar caps or limits should be in place. Incentive programs should also have a limited duration, with sunsets in place to require regular review of incentive performance.

10. **Incentives should be simple and understandable.** The state should be able to easily and effectively administer the incentive, and users should be able to readily comply with its requirements.