

Oklahoma State Department of Health Restaurant Smoking Room Rebate Program

OFFICIAL OKLAHOMA RESTAURANT SMOKING ROOM REBATE APPLICATION BOOKLET

Under the Restaurant Smoking Room Rebate Program, authorized by the Clean Air in Restaurants Act, the Oklahoma State Department of Health is offering rebates calculated at fifty percent (50%) of the undepreciated portion of capitalized compliance expenditures for construction of the smoking room, to restaurant owners that constructed smoking rooms after June 6, 2003 and before November 1, 2010.



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Part 1: Overview of the Restaurant Smoking Room Rebate Program

Why is the Oklahoma State Department of Health giving a rebate?

The State Department of Health (Department) has been authorized to implement a rebate program for the purpose of reimbursing persons or entities that own restaurants, located in this state, for expenses incurred prior to November 1, 2010, for smoking rooms constructed in order to comply with the requirements imposed by state law.

The Department has established the Restaurant Smoking Room Rebate Program (Rebate Program) to implement the Clean Air in Restaurants Act (CARA), which became effective November 1, 2010. CARA applies to restaurant smoking rooms constructed after June 6, 2003 and before November 1, 2010. The Rebate Program is a voluntary program that provides a rebate of a portion of the amount paid to construct the smoking room to restaurant owners meeting certain eligibility requirements, who constructed smoking rooms pursuant to Oklahoma Administrative Code (OAC) 310:355 and 63 O.S. §§ 1-1523; 1-1525, *et seq.* The rebate would be paid from the Tobacco Prevention and Cessation Revolving Fund (Fund) and is calculated at fifty percent (50%) of the undepreciated portion of capitalized compliance expenditures for construction of the smoking room.

Restaurant owners that meet the eligibility requirements will receive a rebate from the Fund for a portion of their construction costs, provided the restaurant becomes smokefree on or before January 1, 2013. If the Fund does not have sufficient monies to pay the rebate in the fiscal year the application was received, the payment of the rebate may be made in the subsequent fiscal year.

Part 2: Eligibility requirements

In order to qualify for a rebate, applicants must fully comply with all the eligibility requirements in these guidelines. Final decisions regarding rebate eligibility will be made by the Commissioner of Health or designee.

The owner of a restaurant may be eligible to apply for a rebate of a portion of certain construction expenses of a smoking room if the Owner can demonstrate to the satisfaction of the Department that:

- The smoking room was constructed after June 6, 2003 and before November 1, 2010;
- The smoking room was not found by the Department to be in violation of the requirements located at OAC 310:355 and 63 O.S. §§ 1-1523; 1-1525, *et seq.*;
- A signed and completed application form (found on pages 9-12 of this application booklet) along with plans detailing the construction of the smoking room and required documentation, as shown under "Part 3: Required Documentation", is received by the Department on or before January 1, 2014;
- The restaurant owner agrees to the terms and conditions listed on the application, and;
- The restaurant is completely smokefree by January 1, 2013.

Part 3: Documentation Required

A Rebate Program application must include: a completed and signed application form (found on pages 9-12 of this application booklet), plans detailing the construction of the smoking room and documentation of the capitalized compliance expenditures and depreciation taken for federal tax purpose. The documentation you submit should clearly show the amount(s) spent to comply with statutory smoking room requirements, not including any costs of repairs and operations, per OAC 310:355 and 63 O.S. §§ 1-1523; 1-1525, *et seq.* Please see "*Part 10: Eligible Capitalized Compliance Expenditures*" on page 10 of this application booklet for a listing of the statutory smoking room requirements.

Documentation submitted with your application may include copies of various documents or document types such as: relevant parts or schedules from federal tax return forms, invoices, cancelled checks, vendor receipts, photos, diagrams, notes etc. You are not required to submit a Federal Tax return with this application. However, by submitting your application you agree that, upon request, the Department can have access to review the signed copies of the entity's Federal Income Tax Return(s) for relevant years and that the restaurant will remain completely smokefree under the current or any future owners.

A complete application packet must include the following information and documentation:

1. The name and address of the owner of the restaurant;
2. The Federal Tax Identification (FEI) number for the restaurant or alternate Tax ID number;
3. The name and address of the restaurant;
4. When the smoking room was constructed;
5. The plans detailing the construction of the smoking room;
6. Documentation of the capitalization of compliance expenditures of the construction and depreciation taken for federal tax purpose;
7. Documentation that the construction of the smoking room met the requirements of OAC 310:355 and 63 O.S. §§ 1-1523; 1-1525, *et seq.*;
8. An agreement that the restaurant will remain completely smokefree under the current or any future owners, and;
9. Agreement that the Department can have access to review the signed copies of the entity's *Federal Income Tax Return* for the relevant years depreciation of the smoking room was taken.

Please submit copies rather than original documents with your rebate application, as all documentation received will be retained by the Department. A separate application with supporting documentation must be submitted for each restaurant regardless of ownership.

Part 4: How to Apply

To apply, please read the guidelines in this Rebate Program Application Booklet and carefully assess your eligibility for a rebate.

To apply for a rebate:

- Complete, sign and submit the application form (found on pages 9-12 of this application booklet) along with plans detailing the construction of the smoking room and required documentation to the Department (as shown under "*Part 3: Required Documentation*").
- A complete application packet must be postmarked or received by the Department no later than January 1, 2014.
- Applying for the rebate requires the applicant to agree that he/she will provide evidence to support claims made on the application if requested.

An application form can be downloaded from the *Breathe Easy OK* website located under the *Smokefree Restaurants* tab at: http://www.ok.gov/breatheeasyok/Smokefree_Restaurants/index.html.

An application booklet can also be requested by email at: TUPS@Health.ok.gov or by calling (405) 271-9444 x56475 or 1(800) 522-0203. Your completed and signed application form and packet must be postmarked or received by the Department no later than January 1, 2014.

Please mail completed application form, detailed construction plans and supporting documentation to:

Restaurant Smoking Room Rebate Program
Attention: TUPS
Oklahoma State Department of Health
1000 NE 10th Street
Oklahoma City, OK 73117-1207

Part 5: Processing Your Application

Please allow 4-6 weeks for your application packet to be processed. Submitting incomplete or incorrect information will delay the processing time. The restaurant must be completely smokefree prior to the time of receiving a rebate, but no later than January 1, 2013. Applicants should not assume that they will receive a rebate solely on the basis of having submitted an application.

Upon a determination by the Department that an application has been filed in compliance with the requirements of OAC 310:355 and 63 O.S. §§ 1-1523; 1-1525, *et seq.*; and confirmation by the Department that the restaurant is completely smokefree, the owner of the restaurant may be eligible to receive a rebate from the Fund, calculated at fifty percent (50%) of the undepreciated portion of capitalized compliance expenditures for construction of the smoking room. If the Fund does not have sufficient monies to pay the rebate in the fiscal year the application was received, in accordance with the requirements of OAC 310:355-23, payment of the rebate may be made in the subsequent fiscal year.

Part 6: Request for Waiver

Any requirement established for the Rebate Program by the Clean Air in Restaurants Act (CARA) contained at OAC 310:355-23 may be waived by the Commissioner of Health or designee, if the Commissioner of Health or designee determines that the requirement, as applied to the Owner, conflicts or is inconsistent with CARA. A request for waiver of any requirement established for the Rebate Program must be submitted by the Owner, in writing, to the Department. The request must specify the need for the waiver. The approval or denial of a waiver is at the discretion of the Commissioner of Health or designee. Notification of approval or denial of requested waivers shall be made in writing, and mailed, by certified mail, to the Owner.

Part 7: Frequently Asked Questions

1. What is the Restaurant Smoking Room Rebate Program?

The Clean Air in Restaurants Act (CARA) became effective November 1, 2010. CARA authorizes the State Department of Health to implement a rebate program for the purpose of allowing Oklahoma restaurant owners to apply for a rebate, calculated at fifty percent (50%) of the undepreciated portion of capitalized compliance expenditures for construction of the smoking room.

To be eligible for a rebate, the smoking room must have been constructed after June 6, 2003 and before November 1, 2010. Additionally, the restaurant must be smokefree prior to the time of receiving the rebate, but no later than January 1, 2013. The program is intended to encourage restaurant owners, who constructed smoking rooms in compliance with state law, to convert their restaurants to a completely smokefree environment. The program provides an incentive in the form of a rebate, helping restaurant owners recoup a portion of certain construction expenditures for the smoking room.

2. When can I apply for a rebate?

The restaurant owner can apply for a rebate beginning September 1, 2010. A complete application packet must be postmarked or received by the Department no later than January 1, 2014.

3. Who can apply for the rebate?

Only restaurant owners are eligible to apply for the rebate.

4. What if I own more than one restaurant?

A separate application, detailed construction plans and copies of required documentation must be submitted for each restaurant.

5. Are rebates available for newly built smoking rooms?

The rebate is only available to restaurant owners who constructed smoking rooms after June 6, 2003 and before November 1, 2010.

6. Can I still apply if I own a restaurant out of state?

The rebate program is available only to applicants that own restaurants in this state.

7. What if I expensed the building costs?

The available rebate is calculated at fifty percent (50%) of the undepreciated portion of capitalized compliance expenditures for construction of the smoking room. Construction costs which were not capitalized (i.e. smoking room construction costs which were expensed); do not qualify under the Rebate Program.

8. How will the payment be made?

The rebate would be paid from the Tobacco Prevention and Cessation Revolving Fund and is calculated at fifty percent (50%) of the undepreciated portion of capitalized compliance expenditures for construction of the smoking room.

9. What if I have additional questions?

Further information can be obtained from the *Breathe Easy OK* website under the *Smokefree Restaurants* tab located at: http://www.ok.gov/breatheeasyok/Smokefree_Restaurants/index.html, or by calling (405) 271-9444 x56475 or 1(800) 522-0203. You may contact us by email at: TUPS@health.ok.gov or by sending your inquiry to:

Restaurant Smoking Room Rebate Program
Attention: TUPS
Oklahoma State Department of Health
1000 NE 10th Street
Oklahoma City, OK 73117-1207

Part 8: Definitions

The following definitions are applied for the purpose of this rebate program:

"Act" means the Oklahoma Smoking in Public Places and Indoor Workplaces Act [63:1-1521 *et seq.*].

"Building" means an entire free standing structure enclosed or predominantly enclosed by exterior walls.

"CARA" means the Clean Air in Restaurants Act, [63 O.S. § 1-1515].

"Construction" means the physical modification of an existing space, the physical modification of an expansion of an existing space, or the physical modification of a space in a new structure to meet the requirements of a smoking room, excluding decorations.

"Department" means the Oklahoma State Department of Health.

"Depreciation" means a capitalized expenditure reported as an expense on a federal tax return.

"Eating establishment" means an establishment licensed by the Department under Chapter 256 or any Chapter adopted to replace Chapter 256 that is primarily engaged in preparing and selling food, exclusive of low-point beer and alcoholic beverages, for immediate consumption on or off the premises, based upon gross receipts of the establishment.

"Expenditure" means the actual payment of cash or cash-equivalent for the construction of a smoking room, as evidenced by a receipt, invoice, voucher or other similar document and reported on a federal tax return, whether capitalized or not.

"Legal entity" means a partnership, Limited Liability Corporation or other corporation, lawfully doing business in the State of Oklahoma that has filed all the necessary documentation and is in good standing with the Oklahoma Secretary of State.

"Nonsmoking area" or "nonsmoking space" means a smokefree area or space.

"OAC" means Oklahoma Administrative Code.

"O.S." means Oklahoma Statute.

"Owner" means a person or other legal entity that owns a restaurant.

"Public transportation" means *transportation services, facilities and equipment with multiple passenger capabilities, available to the public on a scheduled or demand basis including intercity, regional and city bus, minibus, van pool, car pool and taxicab services, and commuter rail services.* [69:4005]

"Recirculate" means movement of air or smoke from one area to another either mechanically by way of the heating, air conditioning and ventilation system or by other means of circulation, drifting, transfer or migration.

"Restaurant" means *any eating establishment regardless of seating capacity.* [63:1-1522.7]

"Secondhand smoke" means the aerosol produced from combustion of tobacco products--- consisting of a combination of many different gases, types of particulate matter, and semivolatile organic compounds, visible and invisible, odorless and with odors---including smoke exhaled by smokers, smoke from the burning tip of a cigarette or other tobacco product, and materials escaping through cigarette paper.

"Smoke" means smoke from combustion of tobacco products, including secondhand smoke.

"Smokefree" means free from smoke.

"Smokefree area" or "smokefree space" means an area or space within or outside a building where smoking is prohibited. Within a building that is not entirely exempt from the Act [63:1-1521 *et seq.*], if smoking is permitted anywhere in the building, the air in the smokefree areas inside the building is protected from secondhand tobacco smoke from the smoking spaces by a combination of direct exhaust from the smoking spaces to the outside, full enclosure surrounding the smoking spaces, and sufficient negative air pressure in the smoking spaces relative to the smokefree areas to prevent the escape of smoke from the smoking spaces to any smokefree areas.

"Smoking room" means a room in a restaurant constructed pursuant to the requirements of 21 O.S. § 1247 (J) and the requirements of OAC 310:355.

Please mail completed application form, detailed construction plans and supporting documentation to:

Restaurant Smoking Room Rebate Program
Attention: TUPS
Oklahoma State Department of Health
1000 NE 10th Street
Oklahoma City, OK 73117-1207

*****IMPORTANT*****

A complete application must be postmarked or received by the Department no later than January 1, 2014.

Incomplete or incorrect applications will delay processing.

Oklahoma State Department of Health Restaurant Smoking Room Rebate Program

OFFICIAL OKLAHOMA RESTAURANT SMOKING ROOM REBATE APPLICATION FORM

Part 9: Restaurant Information & Owner Signature

You Must Submit a Separate Application for Each Restaurant

Name of Restaurant: _____

Address of Restaurant: _____

No.

Street

City

State

Zip Code

OSDH Restaurant License No.: _____

FEI No. or Alternate Tax ID No.: _____

Name of Owner: _____

Address of Owner: _____

No.

Street

City

State

Zip Code

Owner Contact Ph. No.: _(____)_____ Email: _____

Is the restaurant still in operation? Yes ☐ No ☐

Was the smoking room constructed between, June 6, 2003 and November 1, 2010? Yes ☐ No ☐

Has the restaurant already been converted to a completely smokefree environment? Yes ☐ No ☐

If the restaurant has not yet been converted, by what date do you intend to convert the restaurant to a completely smokefree environment?

____/____/____
Month Day Year

The restaurant must be smokefree prior to the time of receiving the rebate, but no later than January 1, 2013.

By submitting this application, I confirm that I have read and agree to the terms and conditions required to receive a Restaurant Smoking Room rebate as stated in the application booklet.

Signature of Owner: _____ Date: ____/____/____
Month Day Year

(Allow 4-6 weeks for processing. Missing or incorrect information will increase the processing time.)



Part 10: Eligible Capitalized Compliance Expenditures

Eligible capitalized compliance expenditures are amounts spent to comply with statutory smoking room requirements, exclusive of repairs and operations. The five smoking room requirements per OAC 310:355 and 63 O.S. §§ 1-1523; 1-1525, *et seq.*, are listed below as items A through E. To be considered eligible, each of the restaurant smoking room compliance expenditures documented in your application must meet one or more of the following five requirements in state law:

- A. Full enclosure
- B. Direct exhaust to the outside
- C. Create negative air pressure so smoke cannot escape
- D. Prevent recirculation of air to smokefree areas
- E. Locate the direct exhaust at least 25 feet from any entrance, exit or air intake

For further information, see definitions on page 7 of this application booklet or see the Breathe Easy OK website under the "Smokefree Restaurants" tab located at: http://www.ok.gov/breathetheeasyok/Smokefree_Restaurants/index.html.

Part 11: Capitalized Compliance Expenditure Tables

Your application packet must include: a signed and completed application form (found on pages 9-12 of this application booklet) and plans detailing the construction of the smoking room. It must also include documentation that the construction of the smoking room met the requirements of OAC 310:355 and 63 O.S. §§ 1-1523; 1-1525, *et seq.* Please complete Tables 1 and 2, as follows, to show your capitalized compliance expenditures and depreciation amounts.

Instructions for Table 1

Please complete Table 1 by listing your capitalized compliance expenditures, as taken for federal tax purpose. Please also list the supporting documentation that will be submitted with this application.

Column 1: "Year Capitalized" – To complete Column 1, enter the first year of capitalization for each capital equipment and building improvement listed, as taken for federal tax purpose.

Column 2: "Description of Compliance Expenditure" – To complete Column 2, provide a description for each capital equipment and building improvement listed, as taken for federal tax purpose.

Column 3: "Estimated Useful Life" – To complete Column 3, provide the IRS depreciation life for each capital equipment and building improvement listed, as indicated on the entity's signed federal tax return.

Column 4: "Total Amount Capitalized" – To complete Column 4, show the total amount capitalized for each capital equipment and building improvement listed, as taken for federal tax purpose, then total the column.

Column 5: "Amount Capitalized for Compliance" – To complete Column 5, show the amount for each capital equipment and building improvement listed that was capitalized for compliance with the smoking room requirements (this should be a portion of the total amount capitalized, as shown in Column 4) then total the column.

Column 6: "Required Improvement" – To complete Column 6, use letters A through E (as shown above, under "Part 10: Eligible Capitalized Compliance Expenditures") to indicate which statutory requirement(s) were met by each of the eligible compliance expenditures you listed in Column 2. Please list as many letters as apply for each improvement. Supporting documentation must be submitted with your application to demonstrate the purpose of each improvement and how it helped meet one or more of the restaurant smoking room requirements.

Column 7: "Documentation Type" – To complete Column 7, list the supporting document type(s) being submitted for each improvement, i.e., tax forms, invoices, cancelled checks, vendor receipts, photos, diagrams, notes etc.

TABLE 1: Capitalized Compliance Expenditures

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Year Capitalized	Description of Capitalized Compliance Expenditure	Estimated Useful Life	Total Amount Capitalized	Amount Capitalized for Compliance	Required Improvement	Documentation Type	(OSDH use only)
			\$	\$			
			\$	\$			
			\$	\$			
			\$	\$			
			\$	\$			
			\$	\$			
			\$	\$			
			\$	\$			
			TOTAL this column:	TOTAL this column:			
			\$ _____	\$ _____			

TABLE 2: Non-Depreciated Expenditures

Instructions for Table 2

Column 1: "Tax Year" – This column is pre-populated to list tax years 2003 through 2012

Column 2: "Capitalized Compliance Expenditures" – To complete Column 2, list the total amount of capital equipment and building improvements capitalized for the tax year on the entity's Federal Income Tax Return and placed in service in the respective tax year (these amounts should correspond with amounts listed in Col. 5 of Table 1). Then total the amount for the tax years listed.

Column 3: "Depreciation Taken for the Year" – To complete Column 3, enter the entity's total capital equipment and building improvement costs (i.e. total capitalized costs applicable to statutory smoking room requirements) for the applicable tax year (as shown in Table 2, Col. 1). Then total the amount for the tax years listed.

Box No. 1: "Total Non-Depreciated Expenditures" – Subtract Col. 3 total from Col. 2 total to determine the total Non-Depreciated Expenditures for the period.

Box No. 2: "50% of Non-Depreciated Expenditures" – Enter 50% of the of the total Non-Depreciated Expenditures amount (as shown in the Box No. 2 above).

Mail this completed application form, detailed construction plans and supporting documentation by January 1, 2014 to:

*Restaurant Smoking Room Rebate Program
Attention: TUPS
Oklahoma State Department of Health
1000 NE 10th Street
Oklahoma City OK, 73117-1207*

(1)	(2)	(3)
Tax year	Capitalized Compliance Expenditures	Depreciation Taken for the Year
2003	\$	\$
2004	\$	\$
2005	\$	\$
2006	\$	\$
2007	\$	\$
2008	\$	\$
2009	\$	\$
2010	\$	\$
2011	\$	\$
2012	\$	\$
	Total Capitalized Compliance Expenditures	Total Depreciation Taken to Date
	TOTAL for Column 2:	TOTAL for Column 3:
	\$ _____	\$ _____

Box No. 1

Enter the Total Non-depreciated Expenditures here (sum of Column 2 minus the sum of Column 3):

\$ _____

Box No. 2

Enter 50% of Non-Depreciated Expenditures here (50% of the amount shown above):

\$ _____



Application Checklist

Before mailing your completed application packet, check to see that it contains all the required items to ensure proper handling of your rebate application.

Your application packet must include:

- ☐ A completed application form that has been signed, dated and shows the original signature of the applicant.
- ☐ Plans detailing the construction of the smoking room.
- ☐ Documentation of the capitalized compliance construction expenditures and depreciation taken for federal tax purpose.
- ☐ Documentation that the construction of the smoking room met the requirements of OAC 310:355 and 63 O.S. §§ 1-1523; 1-1525, *et seq.*

Please Remember:

- ☐ Keep your own copies - All documents submitted will be retained by the Department.
- ☐ Allow 4-6 weeks for processing your application packet, however, incomplete or incorrect applications will delay processing.
- ☐ The restaurant must be is completely smokefree prior to receiving a rebate, but no later than January 1, 2013.

Contact Us

Email

TUPS@health.ok.gov

Website

Breathe Easy OK website under the *Smokefree Restaurants* tab located at:

http://www.ok.gov/breatheeasyok/Smokefree_Restaurants/index.html

Phone

(405) 271-9444 x56475 or 1(800) 522-0203

Address

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Oklahoma State Department of Health
1000 NE 10th Street
Oklahoma City, OK 73117-1207