



2015 Oklahoma Tax Legislation

Wind Farm Tax Incentives, Tax Amnesty Program, Aggregate Income and Franchise Tax Return, Tax Incentives Oversight, Other Changes

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The Oklahoma Legislature enacted changes in Oklahoma tax laws in its 2015 session.

The changes include a tax amnesty program for payment of delinquent taxes without interest or penalty during a two (2) month "voluntary compliance initiative" period beginning in September 2015; a new business taxpayer election for 2016 and later years to file an "aggregate" (combined) tax return for Oklahoma income tax and franchise tax; disallowance of the income tax investment/new jobs credit and the 5-year property tax manufacturing facilities exemption for new wind farms in 2017; expansion of income tax credits for qualified school scholarship program contributions; property tax changes involving centrally assessed pipeline reports, and the application of the interstate commerce "freeport" exemption; and establishment of a tax incentive evaluation commission to periodically evaluate fiscal impact and effectiveness of tax credits, deductions and exemptions intended to encourage business development or increase employment.

The following list summarizes those and certain other Oklahoma tax law changes passed by the Legislature in 2015.

I. Income Tax.

A. Aggregate Business Filing; New 2016 Income and Franchise Tax Return. An "aggregate business filing and remittance" may be elected by a person or entity doing business in Oklahoma, for the Oklahoma income tax, franchise tax and Secretary of State registered agent service fees for taxable years which begin on or after January 1, 2016. A single filing and payment may be elected in lieu of filing separate returns and making separate payments. The computation of tax liability for each tax will not change. Senate Bill 463, adding 68 O. S. §283, effective Nov. 1, 2015.

B. Investment/New Jobs Credit Disallowed for New Wind Farms in 2017. The Oklahoma income tax investment and new jobs credit was amended and will not be allowed for

electric power generation by means of wind facilities beginning January 1, 2017. Credits allowed from investment and new job creation occurring prior to January 1, 2017, will be allowed. Senate Bill 502, amending 68 O. S. 2011, §2357.4, effective January 1, 2017.

C. Investment/New Jobs Credit, Aircraft Maintenance/Manufacturing, Web Portals. The Oklahoma income tax investment and new jobs credit was modified with respect to a qualified aircraft maintenance or manufacturing facility or a qualified web search portal. Senate Bill 502, amending 68 O. S. 2011, §2357.4, effective January 1, 2017.

D. Equal Opportunity Education Scholarship Act. The Oklahoma Equal Opportunity Education Scholarship Act was amended as to the increased income tax credit for commitments to make contributions for two (2) years, to amend the definition of “educational scholarships” to cover educational costs of a qualified school which does not charge tuition and enrolls special populations of students, and to amend the definitions of "eligible special needs student," “qualified school” and “qualified school for eligible special needs students” and "early childhood education program." The changes include an early childhood school, including schools which provide educational programs for three-year-olds or prekindergarten educational programs for four-year-olds. House Bill 1693, amending 68 O. S. 2357.206; effective January 1, 2016.

E. Income Tax Refund Intercept; Debts to State for Health Care. The intercept of individual income tax refunds by a state agency was amended to no longer exempt any debt owed to a state agency for health care or medical services. House Bill 1825, amending 68 O. S. Supp. 2014, §205.2; effective May 8, 2015.

F. Income Tax Refund Contributions to College Savings Plan. State income tax returns for tax years that begin after 2015 will contain a provision to allow donation of a tax refund to be made as a contribution to an Oklahoma College Savings Plan account. Senate Bill 474, adding 68 O. S. §2368.27, effective Nov. 1, 2015.

II. Sales and Use Tax.

A. Charity Fund Raising Event Exemption. An Oklahoma sales tax exemption will now be allowed for sales by a 501(c) (3) exempt organization related to a fundraising event not exceeding five consecutive days, and not in the organization's regular course of business, for tickets sold for admittance and items donated for sale at the event. Senate Bill 336, amending 68 O. S. Supp. 2014, §1356; effective Nov. 1, 2015.

B. Charity Game Equipment Exemption. The Oklahoma sales tax relating to charity game equipment was amended to exempt sales to a charitable healthcare organization that is exempt from taxation under Internal Revenue Code section 501(c) (3). Senate Bill 574, amending 68 O. S. 2011, §1355; effective Nov. 1, 2015

C. County Sales Tax Approval. A county sales tax submitted to voters for approval will be required to embrace one subject. The ballot must have only one sales tax levy for a specified purpose but may include multiple projects for that purpose. House Bill 1400, adding 68 O. S. §1354.36; effective Nov. 1, 2015.

III. Ad Valorem Tax.

A. Five Year New Manufacturing Facilities Exemption Disallowed for New Wind Farms in 2017. The five-year ad valorem tax exemption for new manufacturing facilities will not be allowed for new wind farms, effective January 1, 2017. A wind farm that qualifies under current law prior to January 1, 2017, will be “grandfathered” under Article 10, Section 6B(D) of the Oklahoma Constitution to be qualified for and allowed the exemption for the five year exemption period even though it extends beyond January 1, 2017. Senate Bill 498 and Senate Bill 85, amending 68 O. S. §2902; effective January 1, 2017.

B. Personal Property Definition Amended/Freeport Exemption. The definition of “personal property” for ad valorem tax purposes, including exemption allowed under the “freeport” exemption in Article 10, Section 6A of the Oklahoma Constitution for items in interstate commerce and in the state not more than 90 days, or held for manufacturing or processing for not more than 9 months, was amended to include wares and merchandise, including oil, gas and petroleum products severed from realty, and gas in storage. House Bill 1962, amending 68 O S. 2011, §2807; effective May 6, 2015.

C. Five Year New Manufacturing Facilities Exemption; Increased Payroll Requirement. The five-year ad valorem tax exemption for new manufacturing facilities also was amended as to the increased payroll requirements to qualify for exemption, by adding definitions for “base payroll” and “initial payroll.” A manufacturing facility will have the option of excluding from payroll any nonrecurring bonuses, exercise of stock option or stock rights or other nonrecurring, extraordinary items. An amendment was made providing special rules for payroll of a petroleum refinery facility previously exempted. Senate Bill 387, amending 68 O. S. Supp. 2014, §2902; effective January 1, 2016.

D. County Assessor; Required Notice of Decrease of Assessment Ratio. A county assessor will be required to send and publish notice and hold three public meetings before decreasing the assessment ratio. House Bill 1407, adding 68 O S., §2819.1; effective Nov. 1, 2015.

E. Confidentiality of Information Produced in Discovery. Lists of property and other documents produced by a taxpayer during discovery in any ad valorem tax appeal in the Court of Tax Review or district court will be treated as confidential. House Bill 1963, amending 68 O. S. 2011, §2835; effective May 6, 2015.

F. Tax Rolls Value and Tax Limit in Appeals. The requirement for preparation of tax rolls by the county assessor was amended to provide that once the total amount of taxes due is placed on the tax rolls the amount of taxes due or value of property cannot be increased by a final judgment in any tax appeal. Also, if an appeal to district court is filed by a taxpayer, the amount of taxes payable by a taxpayer shall not exceed the amount based upon value originally submitted by the assessor to the county board of equalization, and if an appeal is filed by the county assessor the amount of taxes payable shall not exceed the amount based on value assessed by the county assessor and submitted to the board of equalization. House Bill 1963, amending 68 O. S. 2011, §§2868, 2884; effective May 6, 2015.

G. Taxpayer, County Assessor (Not County Board of Equalization), Parties in District Court Appeals. In appeals from the county board of equalization to district court the county assessor will be considered the proper party defendant in any appeal brought by the taxpayer, and the taxpayer will be considered the proper party defendant in any appeal brought by the county assessor. The county board of equalization will not be considered a party in any litigation from an appeal. House Bill 1743, amending 68 O. S. 2011, §2880.1; effective Nov. 1, 2015.

H. Centrally Assessed Pipeline Company Information to be provided to County Assessors. The statutory provisions applicable to pipeline company property tax reporting and filing of schedules with the Oklahoma Tax Commission of right-of-way and lines, pumping stations, depots, shops and buildings locations, capital stock and personal property were amended. The Tax Commission will be required to provide to county assessors schedules which detail descriptions and values by taxing jurisdiction as to all pipeline company property to ensure property is reported for, and resulting tax revenues are attributed to, the correct city, school district and county where taxable property is located. Senate Bill 335, amending 68 O. S. 2011, §2851, effective November 1, 2015.

I. Oklahoma Tax Commission Ad Valorem Tax Division. Citizenship, age and experience requirements for appointment and specified provisions of authority of the Director of the Ad Valorem Tax Division of the Tax Commission were removed from the law. The Tax Commission will adopt and issue interpretative rules rather than the Ad Valorem Tax Division. Senate Bill 214 amending 68 O. S. 2011, §2875; effective November 1, 2015.

IV. Franchise Tax.

Aggregate Business Filing. The aggregate business filing and remittance, described above with respect to income tax, will apply to the Oklahoma franchise tax and fees for the Secretary of State acting as a registered agent for 2016 and later years. Senate Bill 463, adding 68 O. S. §283, effective Nov. 1, 2015.

V. Business Activity Tax.

Repeal of Business Activity Tax. The Business Activity Tax (BAT) Code was repealed. House Bill 2131; Repealing 68 O. S. §§1215 -1228; effective Nov. 1, 2015.

VI. Cigarette Stamp Tax.

Cigarette Stamp Tax Credit. The cigarette stamp tax provisions were modified with respect to exchange of new stamps for damaged, returned or transferred cigarettes. A credit will be given to a wholesaler for cigarettes returned to a manufacturer or not sold or destroyed. Senate Bill 248, amending 68 O. S. 2011, §§305; 308; effective November 1, 2015.

VII. Bingo Tax.

Charitable Organization Exemption. The state charity games tax relating to bingo tax was amended to exempt a charitable healthcare organization that is exempt from taxation under

Internal Revenue Code section 501(c) (3). Senate Bill 574, amending 3A O. S. 2011, §421; effective Nov. 1, 2015.

VIII. Tax Administration, Policy and Procedure.

A. Voluntary Compliance Initiative (Tax Amnesty). A Voluntary Compliance Initiative (tax amnesty) program was authorized, subject to the availability of funds, to be offered for taxpayers that make payment of delinquent unpaid taxes, beginning September 14, 2015 and ending November 13, 2015. A taxpayer qualifying by voluntarily paying tax and filing delinquent tax returns in that period will be entitled to a waiver of penalty, interest, collection fees and costs due. The program will not apply to delinquent franchise tax. House Bill 2236, Amending 68 O. S. 2011, §216.3; effective May 20, 2015.

B. Tax Incentives Oversight and Evaluation. An Incentive Evaluation Act was enacted to establish the Incentive Evaluation Commission to evaluate incentives, including a tax credits, exemptions and deductions, and other incentives that are intended to encourage businesses to locate, expand, invest or remain in Oklahoma, or to hire employees in Oklahoma. The Commission shall ensure that each incentive is evaluated at least once every four (4) years, unless the Commission determines the incentive is exempt from evaluation for having minimal fiscal impact. House Bill 2182, Adding 62 O. S. §§7001 - 7005; effective November 1, 2015.

C. Taxpayer Information Disclosure to Technology System Contractors. The Tax Commission will be authorized to release otherwise confidential taxpayer information to technology system contractors used to authenticate income tax returns and identify fraudulent refund claims. House Bill 2235; Amending 68 O. S. 2011, §264; effective on or about August 9, 2015.

D. Tax Commission Disclosure of Taxpayer Information; Medicaid, State Treasurer. The Tax Commission will be allowed to disclose otherwise confidential taxpayer information to the Oklahoma Health Care Authority to determine eligibility for assistance from the Oklahoma Medicaid Program. Disclosure will also be allowed to the State Treasurer to implement the donations of income tax refunds to Oklahoma College Savings Plan accounts. Senate Bill 338 and Senate Bill 474, amending 68 O. S. Supp. 2014, §205, effective Nov. 1, 2015.

This memorandum is for educational and informational purposes only and does not contain legal advice. Accordingly, you should not act on any information provided without consulting legal counsel. Unless expressly stated otherwise, any tax information stated in this communication is not intended to be used and cannot be used by any taxpayer to avoid penalties under tax laws, and such advice cannot be quoted or referenced to promote or market to another party any transaction or matter described in this communication.



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