

2022 Oklahoma Tax Legislation

By Sheppard F. Miers Jr.

THE FOLLOWING IS A summary of some of the changes in Oklahoma state tax law enacted in the 2022 sessions of the Oklahoma Legislature.

INCOME TAX

Full Expensing of Cost of Qualified Properties

The Oklahoma Income Tax Act was amended to provide that, after Dec. 31, 2021, the cost of expenditures for business assets that are qualified property or qualified improvement property covered under Section 168 of the Internal Revenue Code shall be eligible for 100% bonus depreciation and deducted in the year during which the property is placed in service.¹

Strategic Industrial Development Enhancement Tax Credit

An Oklahoma income tax credit was enacted to provide for tax years after Dec. 31, 2022; and ending not later than Dec. 31, 2027, there shall be allowed a credit against Oklahoma income tax in an amount not to exceed 10% of an eligible entity's qualified economic development expenditures, subject to limitations, determination and allocation by the Oklahoma Department of Commerce. An eligible entity is an entity incorporated and located in Oklahoma with a qualifying project in a qualified location. A qualifying project location is one located

in an industrial park, economic development zone or port located within a county in Oklahoma with a population of fewer than 100,000 persons or located adjacent to specified terminal, switching and railroad facilities.²

Qualified Clean-Burning Motor Vehicle Fuel Property Investment Credit

The Oklahoma income tax credit allowed for investment in certain qualified clean-burning motor vehicles and related assets was amended to provide a tax credit for hydrogen fuel cells and related assets and to modify the years to which the credit applies, the limit on the total amount of the credit authorized and administration of the limit by the Oklahoma Tax Commission.³

Oklahoma Affordable Housing Credit

The income tax credit that relates to the Oklahoma Affordable Housing Act was amended as to a certain credit limit that does exceed the federal low-income housing tax credits for a qualified project.⁴

Oklahoma Equal Opportunity Education Scholarship Act Credit

The income tax credit under the Oklahoma Equal Opportunity Education Scholarship Act was amended to modify the date by which certain organizations must submit information and frequency of submission, provide

for submission of information to chairs and vice chairs of education committees of the Legislature and modify the financial statement and related information reporting time for public school foundations and districts.⁵

Adoption Expense Credit

An income tax credit was enacted to provide a 10% credit for certain adoption expenses, specifying the amount of tax credit, imposing limitations on expense amounts based on income tax filing status and modifying provisions related to the deduction for adoption expenses.⁶

Withholding Tax Rates

The withholding tax provisions applicable to certain royalty payments and related to withholding by certain pass-through entities were modified to provide for withholding at the highest marginal individual income tax rate under the Oklahoma Income Tax Act.⁷

Military Retirement Benefits

The adjustment for retirement benefits received from the armed forces of the United States was amended to provide for tax year 2022 and subsequent tax years. Such retirement benefits received by an individual shall be exempt from taxable income.⁸



SALES AND USE TAX

Veterans Support Organizations Exemption

The Oklahoma sales tax exemption allowed for nonprofit entities was amended to exempt sales of tangible personal property or services to an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, which provides support to veterans and military personnel to assist with the transition to civilian life and meets specified requirements for reporting to the Oklahoma Tax Commission.⁹

Sales Tax Exemption for Women's Veterans Organization

The Oklahoma Sales Tax Code was amended to provide for a sales tax exemption of sales of tangible personal property or

services to or by a women's veterans organization, and its subchapters in Oklahoma, that is exempt from taxation pursuant to the provisions of Section 501(c)(19) of the Internal Revenue Code and is known as the Oklahoma Women Veterans Organization.¹⁰

Disaster Relief Organization Exemption

The Oklahoma Sales Tax Code was amended to provide for a sales tax exemption of sales of tangible personal property or services to a nonprofit entity organized pursuant to Oklahoma law before Jan. 1, 2019, that is exempt from taxation pursuant to the provisions of Section 501(c) of the Internal Revenue Code, the principal functions of which are to provide assistance to natural persons following a disaster.¹¹

Sales and Use Tax Claims for Refund

The Oklahoma Sales Tax Code was amended to provide that a person may only file a claim for refund of sales/use tax directly paid on purchases of items of drugs, medicine, medical devices and equipment exempted under 68 O. S. §1357.6 if the person presented the seller a direct pay permit issued by the Oklahoma Tax Commission at the time of purchase of the items for which the refund is claimed.¹²

Sales Tax Exemption for Military Member Surviving Spouse

The sales tax exemption for the surviving spouse of a member of the military was amended to provide an exemption for a spouse of a military member who died while in the line of duty if the spouse has not remarried.¹³

Marketplace Facilitator Requirements

The Oklahoma Sales Tax Code was amended to modify the provisions related to collection and reporting requirements imposed on a marketplace facilitator.¹⁴

Sales and Use Tax Collection

The statute intended to increase collections of sales and use tax was amended to provide the Tax Commission shall conduct hearings pursuant to 68 O. S. §212 related to permits issued under 68 O. S. §1364 in at least one location in the state, and the Tax Commission may also conduct hearings using either teleconferencing or videoconferencing capabilities.¹⁵

Repeal of Sales Tax Exemption

The sales tax exemption for qualified purchases under the Oklahoma Research and Development Incentives Act was repealed. Related provisions for refunds of sales tax were amended.¹⁶

AD VALOREM TAX

Appeal of Orders of County Board of Equalization

The Ad Valorem Tax Code was amended with respect to the right of the taxpayer to appeal from any order of the county board of equalization sustaining a valuation of real or personal property at fair cash value as determined by the county assessor. An appeal of an order sustaining valuation in excess of \$3,000,000 shall be filed to the Court of Tax Review. An appeal from any other order of the county board of equalization shall be filed in the district court of the same county.¹⁷

Protest Filing Requirement

The Ad Valorem Tax Code was amended to provide that a taxpayer filing a protest of valuation must, at the time of filing a protest, also file the listing or rendition of property that is filed by the taxpayer pursuant to 68 O. S. §2835 with respect to the property. If the taxpayer fails to file the required form, a presumption shall exist in favor of the correctness of the county assessor's valuation in any appeal of the county assessor's valuation.¹⁸

Report of Tax Protests to School Districts and Recipient Tax Jurisdictions

The Ad Valorem Tax Code was amended to provide that on or before June 1 of each year, the county assessor shall prepare and mail to each school district and the recipient tax jurisdiction a report listing protests filed by taxpayers that concern a fair cash value of personal property that exceeds \$3,000,000. The report shall include the value under protest for each protest and the estimated amount under protest that would otherwise be apportioned to the taxing jurisdiction.¹⁹

Protest Timeline Must be Provided to Taxpayers

The Ad Valorem Tax Code was amended to provide that at the time of filing a protest, the taxpayer shall be provided a schedule of the protest timeline, which shall include all deadlines and the consequences of failing to meet each deadline.²⁰

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County Assessor Appointed Appraiser Requirements

The Ad Valorem Tax Code was amended to provide that for residential property, the county assessor may appoint, or may request the Oklahoma Tax Commission to assign, an appraiser to assist the county assessor in valuation of the property. For nonresidential property, after consultation with the Oklahoma Tax Commission, the county assessor may appoint an appraiser to assist the county assessor in valuation of the property. Appraisers whose services were obtained to assist the county assessor with valuation shall not participate in any valuation negotiations, protests to the county assessor or protests to the county board of equalization. Contracts for such appraiser services shall be subject to the Oklahoma Open Records Act. Except for communications of information protected by 68 O. S. §2835, all communications between a county assessor and an appraiser, including communications through a third party, shall be subject to the Oklahoma Open Records Act.²¹

Five-Year Manufacturing Facility Exemption Amendment

The Ad Valorem Tax Code was amended with respect to the five-year exemption from *ad valorem* tax for qualifying manufacturing facilities by modifying provisions related to payroll requirements and years of application thereof.²²

Notice of Increase of Property Valuation Exemption

The statute providing for the county assessor to notify the taxpayer in writing of an increase in valuation was amended to provide that if the county assessor determines mailing to property owners exempt from payment of *ad valorem* tax under Sections 8E and

8F of Article X of the Oklahoma Constitution would create an undue burden, the county assessor may suspend notifications to those property owners.²³

Listing and Assessment of Unmanufactured Farm Products

The Ad Valorem Tax Code provisions requiring listing of property were amended to remove the requirement that all unmanufactured farm products shall be assessed and valued as of the preceding May 31 at the value on that date instead of Jan. 1.²⁴

Livestock Exemption Modification

The Ad Valorem Tax Code provision allowing exemption for livestock employed in support of the family was modified as to the provisions with respect to animals owned by a resident of a state other than Oklahoma and a corporation incorporated in a state other than Oklahoma for determining the extent to which livestock is considered employed in support of the family.²⁵

County Excise Board Members Compensation

The Oklahoma statute providing for county excise boards was amended to increase the maximum compensation of members of county excise boards.²⁶

GROSS PRODUCTION TAX

Gross Production Tax Secondary Recovery Exemptions

The Oklahoma gross production tax was amended by provisions creating exemption for certain secondary recovery projects approved or having an initial project start date on or after July 1, 2022, which shall be exempt for a period not to exceed five years, and an exemption for the production of oil, gas or oil and gas from

wells drilled but not completed as of July 1, 2021, which are completed with the use of recycled water on or after July 1, 2022, and thereby earn an exemption from the date of first sales for a period of 24 months. The exemptions shall be allowed and administered through a refund procedure administered by the Oklahoma Tax Commission subject to limitations and proration of total authorized refunds.²⁷

Economically-At-Risk Oil or Gas Lease Exemption

The gross production tax was amended to modify the definition of an "economically-at-risk oil or gas lease," modify the amount of exemption for an eligible economically-at-risk oil and gas lease, provide for a limit on refunds of gross production tax based on the exemption and as to the method of refund payment.²⁸

AIRCRAFT EXCISE TAX

Report on Transfer of Legal Ownership of Aircraft

The Oklahoma statute requiring a licensed dealer to file a report with the Oklahoma Tax Commission of transfer of legal ownership of aircraft was amended to include a requirement that the report state whether the aircraft is exempt from aircraft excise tax pursuant to 68 O. S. 6003.²⁹

Apportionment of Tax Revenue

The apportionment of tax revenue derived from the aircraft excise tax was modified to have it placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund.³⁰

TAX PROCEDURE AND ADMINISTRATION

Tax Commission Executive Sessions

The Oklahoma Open Meeting Act was amended to provide the Oklahoma Tax Commission will be authorized to hold executive sessions for the purposes of discussing confidential taxpayer matters as provided in 68 O. S. 2021, §205, with the taxpayer at issue using videoconference technology to discuss confidential taxpayer matters as provided for in 68 O. S. 2021, §205. The amendments provide that during executive sessions, the Tax Commission must be physically present while taxpayers may appear using videoconference technology, and the technology selected and utilized by the Tax Commission shall ensure taxpayer confidentiality, including compliance with safeguards as provided in the IRS Publication 1075.³¹

Personal Liability of Individuals for Medical Marijuana Gross Receipts Tax

The Uniform Tax Procedure Act was amended to provide that when the Oklahoma Tax Commission files a proposed assessment against corporations, limited liability companies or other legal entities for unpaid medical marijuana gross receipts tax, an individual may be assessed and personally liable for the tax if, during the period of time for which the assessment was made, the individual was responsible for withholding or collection and remittance of the tax or had direct control, supervision or responsibility for filing returns and making payments of the tax. Personal liability for the tax shall be determined under standards for determining personal liability for federal withholding tax.³²

State Employees Income Tax Collection

The Uniform Tax Procedure Act was amended with respect to collecting income tax due by state employees, requiring notification for state employees who are not in compliance and terminating a requirement of a mandatory garnishment of noncompliant state employees' wages after notice.³³

TAX INCENTIVES, ECONOMIC DEVELOPMENT AND EMISSION REDUCTION

Oklahoma Rural Jobs Act

An Oklahoma Rural Jobs Act was enacted authorizing investments into an eligible rural fund certified by the Department of Commerce, under which an investor earns a vested right to a credit against the investor's state tax liability for Oklahoma income tax or insurance tax. The tax credits allowed investors in a rural fund are subject to periodic annual and total limits. A rural fund seeking investment must apply to the Department of Commerce and provide an estimate of the number of jobs created and jobs retained from the applicant's qualified

investments in a rural area. The act provides requirements governing application, reporting and investment for rural funds. A rural area is defined by the act as any county in the state with a population of fewer than 75,000 or a city or town with a population not to exceed 7,000.³⁴

Large-Scale Economic Activity and Development Act of 2022

A Large-Scale Economic Activity and Development Act of 2022, or "Lead Act" was enacted. The act provides for creation until July 1, 2032, of an investment rebate program for the cost of qualified capital expenditures by establishments that create not less than a threshold number of new direct jobs. The investment rebate program shall be administered by the Oklahoma Department of Commerce and the Oklahoma Tax Commission.³⁵

Oklahoma Emission Reduction Technology Incentive Act

An Oklahoma Emission Reduction Technology Incentive Act was enacted creating the Oklahoma Emission Reduction Technology Rebate Program, under which rebates can be paid



for qualified emission reduction projects that reduce emissions from upstream and midstream oil and gas exploration production, completions, gathering, storage, processing and transmission activities. The act provides for rebates in the amount of up to 25% of documented expenditures made in the state attributable to the implementation of a qualified emission reduction project. The program is to be administered by the Department of Environmental Quality and the Oklahoma Tax Commission. The program shall cease on July 1, 2027.³⁶

ACT AMENDING AND REPEALING MULTIPLE VERSIONS OF STATUTES

Amendment and Repeal of Multiple Versions of Tax Statutes

Multiple versions of certain Oklahoma statutes on taxation, namely 68 O. S. 2021, §§1356, 2355 and 3624, were amended and repealed.³⁷

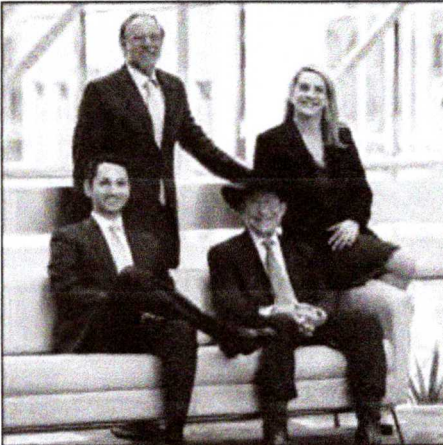
ABOUT THE AUTHOR

Sheppard F. Miers Jr. is a shareholder in the Tulsa office of GableGotwals and practices in the areas of federal, state and local taxation.

ENDNOTES

1. HB 3418, adding 68 O. S. Supp. 2022, §2358.6A; effective May 26, 2022.
2. HB 3081, adding 68 O. S. Supp. 2022, §2357.105; effective Jan. 1, 2023.
3. SB 1857, amending 68 O. S. 2021, §2357.22; effective Jan. 1, 2023.
4. SB 1685, amending 68 O. S. 2021, §2357.403, effective Nov. 1, 2022.
5. SB 1659, amending 68 O. S. 2021, §2357.206, effective Nov. 1, 2022.
6. HB 3088, adding 68 O. S. Supp. 2022, §2357.601, effective Nov. 1, 2022.
7. HB 3905, amending 68 O. S. 2021, §§2385.26 and 2385.30, effective July 1, 2022.
8. SB 401, amending 68 O. S. 2021, §2358, effective Aug. 26, 2022.
9. HB 3649, amending 68 O. S. 2021, §1356, effective July 1, 2022.
10. SB 1496, amending 68 O. S. 2021, §1356, effective Nov. 1, 2022.

11. SB 1305, amending 68 O. S. 2021, §1356, effective July 1, 2022.
12. HB 3905, amending 68 O. S. 2021, §1364.1, effective July 1, 2022.
13. SB 1670, amending 68 O. S. 2021, §1357, effective May 4, 2022.
14. SB 1339, amending 68 O. S. 2021, §§1391, 1392, 1393, effective Jan. 1, 2023.
15. HB 3905, amending 68 O. S. 2021, §1364.3, effective July 1, 2022.
16. SB 72, repealing 68 O. S. 2021, §§54001-54005, effective Nov. 1, 2022; SB 410, amending 68 O. S. 2021, §§54004 and 54005, effective May 2, 2022.
17. HB 3901, amending 68 O. S. 2021, §§3024, 2880.1, 2877 and 2945, effective Jan. 1, 2023.
18. HB 2627, amending 68 O. S. 2021, §2876, effective Nov. 1, 2022.
19. HB 2627, adding 68 O. S. Supp. 2022, §2899.2, effective Nov. 1, 2022.
20. HB 2627, adding 68 O. S. Supp. 2022, §2876.1, effective Nov. 1, 2022.
21. HB 2627, amending 68 O. S. 2021, §2826, effective Nov. 1, 2022.
22. HB 4451, amending 68 O. S. 2021, §2902, effective March 14, 2022; SB 1079, amending 68 O. S. 2021, §2902, effective Aug. 26, 2022.
23. SB 1667, amending 68 O. S. 2021, §2676, effective Nov. 1, 2022.
24. SB 192, amending 68 O. S. 2021, §2817, effective Nov. 1, 2022.
25. HB 1682, amending 68 O. S. 2021, §2807.1, effective Jan. 1, 2023.
26. SB 1348, amending 68 O. S. 2021, §3005.1, effective Nov. 1, 2022.
27. HB 3568, amending 68 O. S. 2021, §1001, effective July 1, 2022.
28. HB 3568, amending 68 O.S. 2021, Section 1001.3a, effective July 1, 2022.
29. SB 1781, amending 68 O. S. 2021, §6004, effective Nov. 1, 2022.
30. SB 258, amending 68 O. S. 2021, §6005, effective July 1, 2022.
31. SB 1298, amending 25 O. S. 2021, §§307, 307.1, effective Nov. 1, 2022.
32. HB 3905, amending 68 O. S. 2021, §253, effective Aug. 26, 2022.
33. SB 1302, amending 68 O. S. 2021, §238.2, effective Nov. 1, 2022.
34. HB 4085, adding 68 O. S. Supp. 2022, §§3930 -3937; amending 68 O. S. 2021, §205, effective Nov. 1, 2022.
35. HB 4455, adding 68 O. S. Supp. 2022, §§3645.1-3645.6, effective July 22, 2022.
36. HB 3568, adding 68 O. S. Supp. 2022, §§55006-55012, effective July 1, 2022.
37. SB 1802, amending and repealing multiple versions of 68 O. S. 2021, §§1356, 2355 and 3634, effective May 5, 2022.



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