

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 170

By: Thompson

AS INTRODUCED

An Act relating to income tax; declaring certain actions null and void; amending 68 O.S. 2011, Section 2355, as last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355); updating and conforming references; defining terms; adding specified duties for the State Board of Equalization related to imposition of certain top marginal income tax rate for specified time period; specifying certain threshold amount and mandating certain action related thereto; repealing Section 5, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355.1G), which relates to top marginal income tax rate change; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Actions taken by the State Board of Equalization with respect to the provisions of Section 2355.1G of Title 68 of the Oklahoma Statutes are hereby declared null and void.

SECTION 2. AMENDATORY 68 O.S. 2011, Section 2355, as last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355), is amended to read as follows:

1 Section 2355. A. Individuals. For all taxable years beginning
2 after December 31, 1998, and before January 1, 2006, a tax is hereby
3 imposed upon the Oklahoma taxable income of every resident or
4 nonresident individual, which tax shall be computed at the option of
5 the taxpayer under one of the two following methods:

6 1. METHOD 1.

7 a. Single individuals and married individuals filing
8 separately not deducting federal income tax:

9 (1) 1/2% tax on first \$1,000.00 or part thereof,

10 (2) 1% tax on next \$1,500.00 or part thereof,

11 (3) 2% tax on next \$1,250.00 or part thereof,

12 (4) 3% tax on next \$1,150.00 or part thereof,

13 (5) 4% tax on next \$1,300.00 or part thereof,

14 (6) 5% tax on next \$1,500.00 or part thereof,

15 (7) 6% tax on next \$2,300.00 or part thereof, and

16 (8) (a) for taxable years beginning after December
17 31, 1998, and before January 1, 2002, 6.75%
18 tax on the remainder,

19 (b) for taxable years beginning on or after
20 January 1, 2002, and before January 1, 2004,
21 7% tax on the remainder, and

22 (c) for taxable years beginning on or after
23 January 1, 2004, 6.65% tax on the remainder.
24

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:

(1) 1/2% tax on first \$2,000.00 or part thereof,

(2) 1% tax on next \$3,000.00 or part thereof,

(3) 2% tax on next \$2,500.00 or part thereof,

(4) 3% tax on next \$2,300.00 or part thereof,

(5) 4% tax on next \$2,400.00 or part thereof,

(6) 5% tax on next \$2,800.00 or part thereof,

(7) 6% tax on next \$6,000.00 or part thereof, and

(8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,

(b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and

(c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.

2. METHOD 2.

a. Single individuals and married individuals filing separately deducting federal income tax:

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,200.00 or part thereof,
- (6) 5% tax on next \$1,400.00 or part thereof,
- (7) 6% tax on next \$1,500.00 or part thereof,
- (8) 7% tax on next \$1,500.00 or part thereof,
- (9) 8% tax on next \$2,000.00 or part thereof,
- (10) 9% tax on next \$3,500.00 or part thereof, and
- (11) 10% tax on the remainder.

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:

- (1) 1/2% tax on the first \$2,000.00 or part thereof,
- (2) 1% tax on the next \$3,000.00 or part thereof,
- (3) 2% tax on the next \$2,500.00 or part thereof,
- (4) 3% tax on the next \$1,400.00 or part thereof,
- (5) 4% tax on the next \$1,500.00 or part thereof,
- (6) 5% tax on the next \$1,600.00 or part thereof,
- (7) 6% tax on the next \$1,250.00 or part thereof,

- (8) 7% tax on the next \$1,750.00 or part thereof,
- (9) 8% tax on the next \$3,000.00 or part thereof,
- (10) 9% tax on the next \$6,000.00 or part thereof, and
- (11) 10% tax on the remainder.

B. Individuals. For all taxable years beginning on or after January 1, 2008, and ending any tax year which begins after December 31, 2015, ~~for which the determination required pursuant to Sections 4 and 5 of this act is made by the State Board of Equalization,~~ a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:

- (a) 1/2% tax on first \$1,000.00 or part thereof,
- (b) 1% tax on next \$1,500.00 or part thereof,
- (c) 2% tax on next \$1,250.00 or part thereof,
- (d) 3% tax on next \$1,150.00 or part thereof,
- (e) 4% tax on next \$2,300.00 or part thereof,
- (f) 5% tax on next \$1,500.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal

individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.

2. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:

- (a) 1/2% tax on first \$2,000.00 or part thereof,
- (b) 1% tax on next \$3,000.00 or part thereof,
- (c) 2% tax on next \$2,500.00 or part thereof,
- (d) 3% tax on next \$2,300.00 or part thereof,
- (e) 4% tax on next \$2,400.00 or part thereof,
- (f) 5% tax on next \$2,800.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board

1 of Equalization pursuant to Section 2355.1A of this
2 title.

3 C. Individuals. For all taxable years beginning on or after
4 January 1, 2016, and for which the determination required pursuant
5 to ~~Sections 4 and 5~~ Section 3 of this act is made by the State Board
6 of Equalization, a tax is hereby imposed upon the Oklahoma taxable
7 income of every resident or nonresident individual, which tax shall
8 be computed as follows:

9 1. Single individuals and married individuals filing
10 separately:

11 (a) 1/2% tax on first \$1,000.00 or part thereof,

12 (b) 1% tax on next \$1,500.00 or part thereof,

13 (c) 2% tax on next \$1,250.00 or part thereof,

14 (d) 3% tax on next \$1,150.00 or part thereof,

15 (e) 4% tax on next \$2,300.00 or part thereof,

16 (f) 5% tax on the remainder ~~if the State Board of~~

17 ~~Equalization makes a determination pursuant to Section~~

18 ~~4 of this act~~ or four and eighty-five hundredths

19 (4.85%) tax on the remainder if the State Board of

20 Equalization makes a determination pursuant to Section

21 ~~5~~ 3 of this act.

22 2. Married individuals filing jointly and surviving spouse to
23 the extent and in the manner that a surviving spouse is permitted to
24 file a joint return under the provisions of the Internal Revenue

1 Code and heads of households as defined in the Internal Revenue

2 Code:

3 (a) 1/2% tax on first \$2,000.00 or part thereof,

4 (b) 1% tax on next \$3,000.00 or part thereof,

5 (c) 2% tax on next \$2,500.00 or part thereof,

6 (d) 3% tax on next \$2,300.00 or part thereof,

7 (e) 4% tax on next \$2,400.00 or part thereof,

8 (f) 5% tax on the remainder ~~if the State Board of~~

9 ~~Equalization makes a determination pursuant to Section~~

10 ~~4 of this act~~ or four and eighty-five hundredths

11 percent (4.85%) tax on the remainder if the State

12 Board of Equalization makes a determination pursuant

13 to Section ~~5~~ 3 of this act.

14 No deduction for federal income taxes paid shall be allowed to
15 any taxpayer to arrive at taxable income.

16 D. Nonresident aliens. In lieu of the rates set forth in
17 subsection A above, there shall be imposed on nonresident aliens, as
18 defined in the Internal Revenue Code, a tax of eight percent (8%)
19 instead of thirty percent (30%) as used in the Internal Revenue
20 Code, with respect to the Oklahoma taxable income of such
21 nonresident aliens as determined under the provision of the Oklahoma
22 Income Tax Act.

23 Every payer of amounts covered by this subsection shall deduct
24 and withhold from such amounts paid each payee an amount equal to

1 eight percent (8%) thereof. Every payer required to deduct and
2 withhold taxes under this subsection shall for each quarterly period
3 on or before the last day of the month following the close of each
4 such quarterly period, pay over the amount so withheld as taxes to
5 the Tax Commission, and shall file a return with each such payment.
6 Such return shall be in such form as the Tax Commission shall
7 prescribe. Every payer required under this subsection to deduct and
8 withhold a tax from a payee shall, as to the total amounts paid to
9 each payee during the calendar year, furnish to such payee, on or
10 before January 31⁷, of the succeeding year, a written statement
11 showing the name of the payer, the name of the payee and the payee's
12 social security account number, if any, the total amount paid
13 subject to taxation, and the total amount deducted and withheld as
14 tax and such other information as the Tax Commission may require.
15 Any payer who fails to withhold or pay to the Tax Commission any
16 sums herein required to be withheld or paid shall be personally and
17 individually liable therefor to the State of Oklahoma.

18 E. Corporations. For all taxable years beginning after
19 December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable
20 income of every corporation doing business within this state or
21 deriving income from sources within this state in an amount equal to
22 six percent (6%) thereof.

23 There shall be no additional Oklahoma income tax imposed on
24 accumulated taxable income or on undistributed personal holding

1 company income as those terms are defined in the Internal Revenue
2 Code.

3 F. Certain foreign corporations. In lieu of the tax imposed in
4 the first paragraph of subsection D of this section, for all taxable
5 years beginning after December 31, 1989, there shall be imposed on
6 foreign corporations, as defined in the Internal Revenue Code, a tax
7 of six percent (6%) instead of thirty percent (30%) as used in the
8 Internal Revenue Code, where such income is received from sources
9 within Oklahoma, in accordance with the provisions of the Internal
10 Revenue Code and the Oklahoma Income Tax Act.

11 Every payer of amounts covered by this subsection shall deduct
12 and withhold from such amounts paid each payee an amount equal to
13 six percent (6%) thereof. Every payer required to deduct and
14 withhold taxes under this subsection shall for each quarterly period
15 on or before the last day of the month following the close of each
16 such quarterly period, pay over the amount so withheld as taxes to
17 the Tax Commission, and shall file a return with each such payment.
18 Such return shall be in such form as the Tax Commission shall
19 prescribe. Every payer required under this subsection to deduct and
20 withhold a tax from a payee shall, as to the total amounts paid to
21 each payee during the calendar year, furnish to such payee, on or
22 before January 31⁷ of the succeeding year, a written statement
23 showing the name of the payer, the name of the payee and the payee's
24 social security account number, if any, the total amounts paid

1 subject to taxation, the total amount deducted and withheld as tax
2 and such other information as the Tax Commission may require. Any
3 payer who fails to withhold or pay to the Tax Commission any sums
4 herein required to be withheld or paid shall be personally and
5 individually liable therefor to the State of Oklahoma.

6 G. Fiduciaries. A tax is hereby imposed upon the Oklahoma
7 taxable income of every trust and estate at the same rates as are
8 provided in subsection B or C of this section for single
9 individuals. Fiduciaries are not allowed a deduction for any
10 federal income tax paid.

11 H. Tax rate tables. For all taxable years beginning after
12 December 31, 1991, in lieu of the tax imposed by subsection A, B or
13 C of this section, as applicable there is hereby imposed for each
14 taxable year on the taxable income of every individual, whose
15 taxable income for such taxable year does not exceed the ceiling
16 amount, a tax determined under tables, applicable to such taxable
17 year which shall be prescribed by the Tax Commission and which shall
18 be in such form as it determines appropriate. In the table so
19 prescribed, the amounts of the tax shall be computed on the basis of
20 the rates prescribed by subsection A, B or C of this section. For
21 purposes of this subsection, the term "ceiling amount" means, with
22 respect to any taxpayer, the amount determined by the Tax Commission
23 for the tax rate category in which such taxpayer falls.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2355.1H of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Rate reduction" shall mean the implementation of the four and eighty-five hundredths percent (4.85%) top marginal rate of individual income tax otherwise authorized pursuant to the provisions of subparagraph (f) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes; and

2. "Proposed expenditure authority" shall represent the total amount determined by the State Board of Equalization as available for the Legislature to spend in a given fiscal year, including:

a. estimated amounts from certified funds subject to the ninety-five percent (95%) limit provided for in Section 23 of Article X of the Oklahoma Constitution and cash available in those funds from any prior years, and

b. estimated amounts from the Special Cash Fund, Commissioners of the Land Office Fund, Oklahoma Education Lottery Trust Fund, Common Education Technology Revolving Fund, Oklahoma Student Aid Revolving Fund, Higher Education Capital Revolving Fund, Education Reform Revolving Fund, Tobacco Settlement Fund, State Judicial Revolving Fund and

1 State Transportation Fund and cash available in those
2 funds from any prior years.

3 B. The provisions of this section shall be applicable with
4 respect to the implementation of the rate reduction, which shall be
5 contingent upon a determination by the State Board of Equalization
6 described by this section to be conducted until the income tax rate
7 of four and eighty-five hundredths percent (4.85%) is effective.

8 C. In addition to any other duties prescribed by law, at the
9 meeting required by paragraph 1 of Section 23 of Article X of the
10 Oklahoma Constitution to be held in December of 2017, and for any
11 subsequent December meeting of the State Board of Equalization if
12 the rate reduction has not become effective, the Board shall
13 determine if the amount of the proposed expenditure authority for
14 the fiscal year beginning on the next ensuing July 1 is in excess of
15 the threshold amount of Seven Billion Five Hundred Million Dollars
16 (\$7,500,000,000.00), adjusted for the rate of inflation for the
17 preceding twelve-month period using the Consumer Price Index-All
18 Urban Consumers (CPI-U) as published by the Bureau of Labor
19 Statistics of the U.S. Department of Labor or its successor agency.

20 If the amount of the proposed expenditure authority for the
21 fiscal year beginning on the next ensuing July 1 is in excess of the
22 threshold amount, the Board shall make a preliminary finding that a
23 determination will be made at the next ensuing February meeting that
24 the proposed expenditure authority will exceed the threshold amount

1 required by this section and will result in the implementation of
2 the rate reduction for the tax year beginning on the third January 1
3 following the December meeting.

4 If the amount of the proposed expenditure authority for the
5 fiscal year beginning on the next ensuing July 1 is equal to or less
6 than the threshold amount, the Board shall make a preliminary
7 finding that a determination will be made at the next ensuing
8 February meeting that the proposed expenditure authority will not
9 exceed the threshold amount required by this section and will not
10 result in the implementation of the rate reduction for the tax year
11 beginning on the third January 1 following the December meeting.

12 D. In addition to any other duties prescribed by law, at the
13 meeting required by paragraph 3 of Section 23 of Article X of the
14 Oklahoma Constitution to be held in February of 2018, and for any
15 subsequent February meeting of the State Board of Equalization, if
16 the rate reduction has not become effective, the Board shall
17 determine if the amount of the proposed expenditure authority for
18 the fiscal year beginning on the next ensuing July 1 is in excess of
19 the threshold amount of Seven Billion Five Hundred Million Dollars
20 (\$7,500,000,000.00), adjusted for the rate of inflation for the
21 preceding twelve-month period using the Consumer Price Index-All
22 Urban Consumers (CPI-U) as published by the Bureau of Labor
23 Statistics of the U.S. Department of Labor or its successor agency.

1 If the amount of the proposed expenditure authority for the
2 fiscal year beginning on the next ensuing July 1 is in excess of the
3 threshold amount, the Board shall make a determination that the
4 threshold amount required by this section will be exceeded and will
5 authorize the implementation of the rate reduction for the tax year
6 beginning on the second January 1 following the February meeting.
7 The Board shall also recertify the proposed expenditure authority
8 accordingly to reflect the estimated loss of revenue.

9 If the amount of the proposed expenditure authority for the
10 fiscal year beginning on the next ensuing July 1 is equal to or less
11 than the threshold amount, the Board shall make a determination that
12 the threshold amount required by this section will not be exceeded
13 and will not authorize the rate reduction for the tax year beginning
14 on the second January 1 following the February meeting.

15 E. If the Board makes a determination that the threshold amount
16 required by this section will not be exceeded and no rate reduction
17 will occur in calendar year 2019 pursuant to the provisions of
18 subsection D of this section, the procedures prescribed by
19 subsection B, subsection C, and subsection D of this section shall
20 be repeated by the State Board of Equalization each year until the
21 rate reduction has been implemented. Once implemented, such income
22 tax rate shall be in effect for all subsequent tax years.

23 SECTION 4. REPEALER Section 5, Chapter 195, O.S.L. 2014
24 (68 O.S. Supp. 2016, Section 2355.1G), is hereby repealed.

SECTION 5. This act shall become effective November 1, 2017.

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