



OKLAHOMA
Tax Commission

OKLAHOMA TAX COMMISSION
**LEGISLATIVE
UPDATE**
2023

PREPARED BY THE TAX POLICY DIVISION
OF THE OKLAHOMA TAX COMMISSION

This informational packet is not intended to be a complete listing of tax related laws or law changes.
This is an abbreviated listing that highlights those changes effecting a large number of taxpayers.

For further tax information including tax rules, visit our website at tax.ok.gov
or contact the Oklahoma Tax Commission at 405.521.3160

Summary of 2023 Tax Legislation

INCOME TAX

HB 1934 - Effective August 25, 2023

HB 1934 creates the Oklahoma Parental Choice Tax Credit Act (70 O.S. §28-100) and the Oklahoma Parental Choice Tax Credit Program.

For tax year 2024 and subsequent tax years, the Program provides a new, refundable income tax credit for an Oklahoma taxpayer who incurs a qualified expense on behalf of an eligible student, to be administered subject to the following amounts:

- If the eligible student attends a private school accredited by the State Board of Education or another accrediting association, the maximum credit is:
 - \$7,500 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total adjusted gross income (AGI) during the second preceding tax year does not exceed \$75,000.
 - \$7,000 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total AGI during the second preceding tax year is more than \$75,000 but does not exceed \$150,000.
 - \$6,500 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total AGI during the second preceding tax year is more than \$150,000 but does not exceed \$225,000.
 - \$6,000 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total AGI during the second preceding tax year is more than \$225,000 but does not exceed \$250,000.
 - \$5,000 or the amount of tuition and fees for the private school, whichever is less, if the eligible student is a member of a household in which the total AGI during the second preceding tax year is more than \$250,000.
- \$1,000 in qualified expenses per eligible student in each tax year, if the eligible student is educated pursuant to the other means of education exception provided for in subsection A of 70 O.S. § 10-105.

The total amount of credits for private school expenses are limited to:

- \$150 million for tax year 2024.
- \$200 million for tax year 2025.
- \$250 million for tax years 2026 and subsequent years.

The total amount of credits for homeschool expenses are limited to \$5 million for tax years 2025 and subsequent tax years. Credits are unlimited for tax year 2024.

Taxpayers claiming the credit must:

- Only claim the credit for qualified expenses to provide an education for an eligible student.
- Ensure no other person is claiming a credit for the eligible student.
- Not claim the credit for an eligible student who enrolls as a full-time student in a public school district, public charter school, public virtual school, or magnet school.
- Comply with rules and requirements established by the OTC for administration of the Program.
- Retain all receipts of qualified expenses as proof of the amounts paid each year the credit is claimed and submit the receipts to the OTC upon request.

A taxpayer claiming the credit for private school expenses must submit to the OTC an affidavit from the private school in which the eligible student is enrolled or is expected to enroll with the tuition and fees to be charged to the taxpayer for the applicable school year.

The OTC must prescribe applications to claim the credits and a deadline by which applications must be submitted. A taxpayer claiming the credit for private school expenses must submit an application prescribed by the OTC to receive the credit in two installments, each of which will be half of the expected amount of tuition and fees for the private school based on the private school affidavit submitted, but in no event will an installment payment exceed half the amount of the credit.

In reviewing applications submitted by eligible taxpayers to determine whether they qualify for the credit for private school expenses, the OTC will give first preference in making installments to taxpayers who qualify to claim the credit for an eligible student who is a member of a household in which the total AGI during the second preceding tax year does not exceed \$150,000. The OTC will make the installments based on the expected amount of tuition and fee amounts on the private school affidavit.

The OTC is authorized to conduct an audit or contract for auditing of receipts for qualified expenses. The OTC is further authorized to recapture the credits on a prorated basis if an audit shows that the credit was claimed for expenditures that were not qualified expenses, or it finds that the taxpayer has claimed an eligible student who no longer attends a private school or has enrolled in a public school in Oklahoma.

The OTC must coordinate with the State Department of Education to develop a process to review student enrollment information in order to verify that an eligible student who is claimed by a taxpayer receiving a tax credit is not enrolled in an Oklahoma public school.

Eligible students may accept a scholarship from the Lindsey Nicole Henry Scholarships for Students with Disabilities Program created by 70 O.S. § 13-101.2 while participating in the Program.

In the event of a failure of revenue pursuant to the Oklahoma State Finance Act, the tax credits will be reduced proportionately to the reduction in the amount of money appropriated to the State Board of Education for the financial support of public schools for the fiscal year in which the revenue failure occurs. The OTC must make the amount of credits claimed each tax year available on its website.

HB 2542 - Effective July 1, 2023

HB 2542 amends 68 O.S. § 2357.22, which provides an income tax credit for investments in qualified clean-burning motor vehicle fuel property placed in service on or after January 1, 1991. Under the measure, qualified clean-burning motor vehicle fuel property is expanded to include equipment installed to modify a motor vehicle that is propelled by a hydrogen fuel cell, effective for property placed in service on or after July 1, 2023.

SB 602 - Effective November 1, 2023

SB 602 amends 68 O.S. § 2358.6a, relating to qualified property. If a taxpayer elects immediate and full expensing of qualified property or qualified improvement property, any depreciation calculated and claimed pursuant to 68 O.S. § 2358.6a will in no event be a duplication of any depreciation or bonus depreciation allowed or permitted on the federal income tax return of the taxpayer.

For income tax returns filed on or after January 1, 2023, federal taxable income will be increased by the amount of depreciation received under the Internal Revenue Code for the qualified property or qualified improvement property for

which the election has been made to immediately and fully expense the asset on the Oklahoma income tax return for the year in which the property was placed in service. A taxpayer filing a return for which federal taxable income is not increased prior to October 1, 2023, will file an amended return reflecting such increase not later than June 30, 2024. The OTC will not assess penalties or interest with respect to the failure to reflect such increase if a correct amended return is filed as required.

SB 747 - Effective November 1, 2023

SB 747 amends 68 O.S. § 2358.7 to increase the existing income tax credits for volunteer firefighters. Currently, income tax credits for volunteer firefighters are \$200 and \$400, depending on certification and completion of continuing education. Under the measure, the credit amounts are increased to \$300 and \$600, effective for tax year 2024 and subsequent tax years.

AD VALOREM

HB 2339 - Effective November 1, 2023

HB 2339 amends 68 O.S. § 2887 by increasing the maximum fair cash value of a single family residential property to be eligible for an exemption from ad valorem taxation on the basis that the property be used exclusively for fraternal or religious purposes (i.e. parsonages). The maximum eligible value is increased from \$250,000 to \$500,000.

9-1-1 TELEPHONE FEES

HB 1590 - Effective November 1, 2023

HB 1590 increases the current 9-1-1 telephone fees on each wireless telephone device or connection, VOIP (voice over internet protocol) and prepaid wireless retail transactions from \$0.75 to \$1.25. It also expands the base of the fee imposed on VOIP to include each service with the ability to dial 9-1-1 for emergency calls, including landlines, and increases the apportionment to the Oklahoma 9-1-1 Management Authority Revolving Fund from \$0.05 collected from each of these fees to \$0.22.

The measure further eliminates the 3% vendor retention related to prepaid 9-1-1 fees and the 1% vendor retention for the remaining fees, and reduces the OTC reimbursement percentage for the referenced fees from 1% to .8%. In addition, landline telecommunication connections are subject to the \$1.25 monthly fee for each service with the ability to dial 9-1-1 for emergency calls (26 O.S. § 4-120.3).

APPORTIONMENT

HB 2901 - *Effective July 1, 2023*

HB 2901 provides the following appropriations:

- \$500 million from any monies not otherwise appropriated from the General Revenue Fund for FY 24 to the State Board of Education for the financial support of public schools.
- \$125 million from any monies not otherwise appropriated from the General Revenue Fund for FY 24 for the State Board of Education for deposit in the State Public Common School Building Equalization Fund to be distributed as redbud school grants, as provided in 70 O.S. § 3-104.

Beginning July 1, 2024, and at the beginning of each succeeding state fiscal year, if the amount of money appropriated to the State Board of Education for the financial support of public schools and public school activities in such fiscal year and for distribution through redbud school grants is less than such amounts appropriated for FY 24, the tax credits otherwise authorized in the Oklahoma Parental Choice Tax Credit Act¹ will be reduced proportionately to reflect the proportion such appropriations fail to reach the baseline amounts appropriated for FY 24.

SB 1120 - *Effective July 1, 2023*

SB 1120 amends 70 O.S. § 3-104 and 68 O.S. § 1353 by striking language requiring apportionment of sales tax revenues attributable to retail sales of medical marijuana under circumstances where the designated amounts attributable to 7% medical marijuana tax revenues are insufficient to fund redbud school grants.

ALCOHOL AND MIXED BEVERAGES

SB 796 - *Effective November 1, 2023*

SB 796 amends 37A O.S. § 3-106, requiring direct wine shippers to pay all applicable taxes (i.e. alcoholic beverage excise tax and use tax) to the OTC on a quarterly basis instead of on an annual basis.

¹ HB 1934, 1st Session, 59th Legislature (2023)

SB 1035 - Effective November 1, 2023

SB 1035 reinstates² the compliance percentage parameters for the amount of gross receipts tax paid on spirits, wine, and beer in regard to an audit conducted by the OTC. It also provides for a maximum deduction allowance of 10% for product losses attributable to breakage, spillage, theft and other occurrences, and authorizes the OTC to promulgate rules for additional deductions for the described occurrences that exceed the 10% allowance and for the documentation required to properly verify loss claim amounts (37A O.S. § 5-135).

MOTOR FUEL

HB 2062 - Effective November 1, 2023

HB 2062 amends 68 O.S. § 500.22 by extending the current sunset date of July 1, 2024, for the motor fuel discount allowed “eligible purchasers” until July 1, 2029. The discount is 1.6% for gasoline purchasers and 1.9% for diesel purchasers.

HB 2315 - Effective November 1, 2023

HB 2315 amends 68 O.S. §§ 6504 and 6506, relating to electric vehicle charging tax. The Corporation Commission is required upon its final determination to provide the calculation for the tax rate equivalent to the OTC for collection from businesses. In addition, the electric vehicle charging tax is required to be remitted on the 27th of the first month following the annual period by each charging station owner or operator beginning January 1, 2024, and ending December 31, 2028, and quarterly beginning January 1, 2029.

MUNICIPALITIES

SB 317 - Effective November 1, 2023

SB 317 amends the Oklahoma Local Development Act pursuant to 62 O.S. § 860 by establishing reporting requirements for the governing body of a city, town, or county.

² Provisions eliminated by SB 757, 2nd Regular Session, 58th Oklahoma Legislature.

QUALITY JOBS

SB 604 - Effective November 1, 2023

SB 604 amends 68 O.S. § 3604, relating to the Oklahoma Quality Jobs Program Act by increasing the period of time for the quarterly incentive rebates from 15 years to 30 years for entities defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version). In order to qualify for the 30-year period, entities must have entered into a contract pursuant to the Oklahoma Quality Jobs Program Act with the Oklahoma Department of Commerce (Commerce) before November 1, 2023.

The extension will not include additional money awarded but will allow for incentive payments to continue for the 30-year period or until the net benefit for the new direct jobs for the original contract has been fully paid out as calculated based upon the original application.

SB 1177 - Effective May 17, 2023

SB 1177 enacts the Perform Act (68 O.S. § 3646.1 et seq.),³ creating an investment rebate program based on the cost of qualified capital expenditures by an establishment that creates not less than a threshold number of new direct jobs. Commerce and the OTC are to administer the rebate program.

Entities applying for the rebate must submit to Commerce an application and documentation of the following:

- A capital expenditure plan in Oklahoma associated with qualified capital expenditures totaling at least \$1 billion.
- Qualified capital expenditures of no less than 20% of the capital expenditure plan outlined in the approved application.
- Entity is qualified to receive payments under the Oklahoma Quality Jobs Program Act pursuant to 68 O.S. § 3601.
- Entity filed all Oklahoma tax returns and tax documents required by law.

Any establishment (including subsidiaries) that receives an investment rebate payment pursuant to the Perform Act is ineligible to receive the Investment/New Jobs Credit (68 O.S. § 2357.4) or the investment rebate payments provided under the Large-scale Economic Activity and Development Act of 2022 (68 O.S. § 3645.1 et seq.) in connection with the project or development for which the Perform Act investment rebate payment was based. Additionally, no investment expenditure may be utilized for calculation purposes that result in the qualification of more than one

³ This measure is effective for investments made on or after April 1, 2023, and expires July 1, 2032.

establishment for the Perform Act investment rebate payments based on the same expenditure.

Subject to the approval and ongoing review of the eligibility application by Commerce, the Perform Act investment rebate payment will be 10% of the cost of the qualified capital expenditures, payable by the OTC upon claims made by the establishment. The OTC must make investment rebate payments under the Perform Act from the Perform Fund in five installments of no more than \$36 million per installment. If the capital expenditures for a previous installment claim creates a claim that exceeds \$36 million, that amount may be used to calculate a subsequent claim, subject to being capped at \$36 million per installment.

Any unencumbered funds remaining in the Perform Fund upon the expiration of the Perform Act investment rebate program must be transferred to the State Treasurer for deposit in the General Revenue Fund.

Additionally, SB 1179 appropriates \$180 million to the Perform Fund enacted under the Perform Act from any monies not otherwise appropriated from the General Revenue for the fiscal year ending June 30, 2022. The Perform Fund is established in the State Treasurer's office for the OTC to pay investment rebate payments authorized under the Perform Act.

TOBACCO

SB 601 - *Effective July 1, 2023*

SB 601 includes various amendments related to tobacco:

Sections 1 and 2 amend 68 O.S. §§ 304 and 415, providing that a cigarette manufacturer, wholesaler or retailer or a tobacco wholesaler or retailer will not be issued a license if their place of business is a location with a physical residential address.

Section 3 amends 68 O.S. § 400.1, adding language relating to the composition and qualification of the industry advisory committee and the appointment thereof.

Section 4 amends 68 O.S. § 400.5, authorizing the OTC to confiscate tobacco products purchased by a retailer from a person who is not holding a current Oklahoma wholesale tobacco license in violation of 68 O.S. § 400.5.

Section 5 amends 68 O.S. § 417, allowing the OTC to assess a penalty and any delinquent excise taxes for tobacco products with unpaid tax that have been seized by the OTC.

ADMINISTRATIVE

HB 1956 - Effective November 1, 2023

HB 1956 creates the Dixon Act and amends 68 O.S. § 238.1, which requires a person holding a state license to be in compliance with Oklahoma income tax laws.

The measure deletes the requirement for the OTC to notify a licensing agency of a licensee's noncompliance and allows a licensee who is not in compliance with Oklahoma income tax laws to renew a license. The measure further authorizes the OTC to proceed by garnishment to collect any delinquent tax, penalty or interest due from a licensee. A licensee who was not previously required to pay income tax or who has moved to Oklahoma within the past year is exempt from income tax compliance requirements pursuant to 68 O.S. § 238.1.

HB 2289 - Effective July 1, 2023

HB 2289 includes various amendments to enhance the OTC's administration of the various tax codes.

Section 1 amends 68 O.S. § 221 to clarify the time allowed for a taxpayer to file a protest in response to a proposed assessment by the OTC.

Currently, a taxpayer may file a protest within 60 days of the mailing of an assessment. HB 2289 clarifies that a written protest must be filed with the OTC within 60 days of the date indicated on a proposed assessment

Section 2 amends 68 O.S. § 225 to require all hearings held in proceedings pursuant to 68 O.S. § 225 to be held in closed court without admittance of any person other than interested parties, their counsel, and employees of the OTC and its counsel. Confidential information filed with or submitted to the Supreme Court or district court in conjunction with any proceeding pursuant to 68 O.S. § 225 will not constitute a public record and will be sealed by the court. Access to confidential information will be strictly controlled.

Section 3 amends 68 O.S. § 226 to clarify the time allowed for a taxpayer to file a notice of the intent to file suit for the recovery of tax in response to a proposed assessment by the OTC.

Currently a taxpayer may file a notice of the intent to file suit within 30 days of the mailing of an assessment. HB 2289 clarifies that a notice of the intent to file suit must be filed with the OTC within 30 days of the date indicated on a proposed assessment.

Section 4 amends 68 O.S. § 227 to clarify the time allowed for a taxpayer to file a demand for hearing with the OTC if a refund claim is denied.

Currently, a taxpayer may file a demand for hearing on or before the 60th day after the date the notice of denial was mailed. HB 2289 clarifies the demand for hearing must be filed with the OTC on or before the 60th day after the date indicated on the notice of denial.

Section 5 amends 68 O.S. § 231 to require OTC to electronically file tax warrants.

Section 6 amends 68 O.S. § 255.2, replacing the State Department of Health with the OMMA.

Section 7 amends 68 O.S. § 1364, requiring an individual or sole proprietor to be at least 18 years of age to obtain a sales tax permit. A parent or legal guardian may apply for a permit on behalf of an individual or sole proprietor who is not at least 18 years of age, provided, the parent or legal guardian will be considered the authorized user responsible for remitting state tax.

Section 8 amends 68 O.S. § 1364.2, requiring promoters or organizers to provide vendor letters or forms to special event vendors for reporting sales tax collections and any other information that may be required by the OTC. At least ten days prior to the start of a special event, the organizer or promoter will submit a list of all vendors registered to attend the event. Within 15 days following the conclusion of the special event, the organizer or promoter will also submit a list of vendors who actually attended the event. Each list will include the vendor's name, address, telephone number, email address, and taxpayer identification number. If a vendor holds an Oklahoma sales tax permit issued under 68 O.S. § 1364, the permit number must also be included.

The measure further removes the deduction allowed to compensate the promoter or organizer of a special event for keeping sales tax records, filing reports and remitting the tax when due.

Sections 9 and 10 amend 68 O.S. §§ 2373 and 2375 to clarify the time allowed for a taxpayer to file a refund claim with the OTC.

Under the measure, any claim for refund of an overpayment of tax must be made within three years from the due date of the return, including the period of any extension of time for filing a return, or two years from the payment of the tax liability, whichever period is later, or, if no return was filed by the taxpayer, within two years from the time the tax was paid.

Unless the amount of taxable income for any year of a taxpayer under the Internal Revenue Code is changed or corrected from the amounts included in the federal return of a taxpayer for such year and such change or correction affects the Oklahoma taxable income of the taxpayer for such year, no refund will be allowed or made after the proposed expiration of the period of limitation for filing a refund claim. If a refund claim is filed during the proposed period, the amount of refund, if any, will not exceed the amount of tax paid within the period, immediately preceding the filing of the claim, equal to three years plus the period of any extension of time for filing a return. If the claim was not filed within the three-year period, the refund will not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim.

On the original due date of the return, not including any extension, a taxpayer will remit to the OTC the amount of tax due. Failure to pay such tax on or before the date the return is due, not including any extensions, will cause the tax to become delinquent.

Section 11 amends 68 O.S. § 2385.3 to impose a penalty of up to \$1,000 for failure of an employer to provide an annual reconciliation within 30 days of the due date. Such penalty may be collected in the same manner as provided by law for collection of delinquent taxes.

Currently, every employer that is required under 68 O.S. § 2385.3 to deduct and withhold a tax from employee wages must provide the OTC an annual reconciliation on or before January 31st of the succeeding year.

Section 12 amends 68 O.S. § 3131, relating to the resale of property by a county. When any tract or lot of land sells for more than the taxes, penalties, interest, and cost thereon, a county treasurer must notify the OTC within 30 days after the resale and include in the notification all information necessary for the OTC to determine whether a tax lien exists on the subject property.

Within 60 days of receipt of the notification, the OTC will provide notice to the county treasurer of any outstanding tax liabilities, including tax, penalty and interest attached to each tract or lot of land, regardless of whether a tax

warrant has been filed. Upon timely notice of liability by the OTC, the county treasurer will remit to the OTC the lesser of the amount of the outstanding tax liabilities or the excess proceeds. Any remaining proceeds will be held in a separate fund for the record owner of such land.

SB 600 - Effective November 1, 2023

SB 600 enacts various amendments to enhance the OTC's administration of the various tax codes.

Section 1 amends 68 O.S. § 212 to clarify that within 60 days of the date indicated on any notice of refusal to issue, extend, or reinstate any license, permit, or duplicate copy thereof, the applicant may file with the OTC a written protest signed by the applicant or the authorized agent of the applicant, stating the reasons the license, permit, or duplicate copy thereof should be issued and requesting an administrative hearing. If a hearing is requested, the applicant will be given at least ten days' notice of the hearing.

Section 2 amends 68 O.S. § 225, providing that information designated by a party as confidential that is filed with or submitted to the Supreme Court or district court in conjunction with any proceeding pursuant to 68 O.S. § 225 will not constitute a public record and will be sealed by the court. Any party seeking to file confidential materials will place the materials in a sealed manila envelope clearly marked with the caption and case number, the word "CONFIDENTIAL", and a reference to 68 O.S. § 225

Section 3 amends 68 O.S. § 1364 to clarify that an applicant for a sales tax permit may request a hearing to show cause why a permit should be renewed within 20 days of the date of the written notification of the notice of refusal. Whenever a permit holder fails to comply with any provisions of 68 O.S. § 1364, the OTC, after giving 20 days' notice in writing of the time and place of hearing to show cause why the permit should not be revoked, may revoke or suspend the permit, the permit to be renewed upon removal of cause or causes of revocation or suspension.

SB 605 - Effective July 1, 2023

SB 605 amends 68 O.S. § 2357.22, which provides an income tax credit for investments in qualified clean-burning motor vehicle fuel property placed in service on or after January 1, 1991. For FY 24, the OTC will calculate and transfer an amount that equals 12% of the credit for tax year 2021 to the Compressed Natural Gas Conversion Safety and Regulation Fund pursuant to 74 O.S. § 130.25. For each subsequent fiscal year, the OTC will perform the same calculation and transfer for credits claimed in the second preceding tax year.

SB 607 - Effective November 1, 2023

SB 607 amends 68 O.S. § 114 to allow the OTC to pay membership fees in applicable regional or national associations, dues for membership in professional organizations, and registration costs related to virtual or in-person continuing education to comply with mandatory annual hour requirements for Commission members or employees of the Commission who are certified public accountants or licensed attorneys.

SB 623 - Effective July 1, 2023

SB 623 amends 42 O.S. §§ 91 and 91A, relating to motor vehicles (Title 42 Process), by replacing all references to the OTC with Service Oklahoma.

SB 773 - Effective November 1, 2023 (Sections 14 – 16) and July 1, 2024 (Sections 1 – 13)

SB 773 amends 3 O.S. §§ 251 et seq. and 68 O.S. §§ 6002 – 6004, 6006 and 6007, to transfer all duties related to the registration and regulation of aircraft and related licenses, fees and taxes from the OTC to Service Oklahoma (see **Sections 1 – 13**).

In addition, any administrative rules promulgated by the OTC related to the administration of the aircraft registration provisions set forth in 3 O.S. § 251 et seq. after January 1, 2024, will be transferred to and become a part of the administrative rules of Service Oklahoma. The Office of Administrative Rules within the Office of the Secretary of State will provide adequate notice in the Oklahoma Register of the transfer of rules and will place the transferred rules under the Administrative Code section of Service Oklahoma. From and after January 1, 2024, any amendment, repeal, or addition to the transferred rules will be under the jurisdiction of Service Oklahoma. All documents issued by the sections transferred to Service Oklahoma, including but not limited to registration and permits, will be deemed to have been issued by Service Oklahoma.

Sections 14 and **15** of the proposal further amend 3 O.S. §§ 374 and 421, relating to the Oklahoma Advanced Mobility Pilot Program, and **Section 16** creates the Oklahoma Advanced Air Mobility Revolving Fund in the State Treasury for the Oklahoma Department of Aerospace and Aeronautics. The fund will consist of monies received by the OTC that are specifically required by law to be deposited in the fund, any public or private donations, contributions and gifts received for the benefit of the fund, and any amounts appropriated by the Legislature.

SALES AND USE TAX

HB 2312 - *Effective July 1, 2023*

HB 2312 amends 68 O.S. § 1357(34) to allow the sales tax exemption afforded an unremarried surviving spouse of a qualifying 100% disabled veteran to be claimed under circumstances where the disability determination that would have been made while the disabled veteran was still living is not made final until after the death of the disabled veteran. Sales qualifying for exemption are limited to \$1,000 per year for an unremarried surviving spouse.

HB 2335 - *Effective November 1, 2023*

HB 2335 amends 68 O.S. § 1391 by excluding any hotel or motel the as-built construction of which contains more than 12 rooms for occupancy in the regular course of business conducted by the hotel or motel from the definition of “product”.

SB 463 - *Effective November 1, 2023*

SB 463 amends 68 O.S. § 1357 by extending the sunset date of the sales tax exemption for sales of rolling stock by the manufacturer thereof from July 1, 2024, to July 1, 2029. In addition, the measure removes the existing criteria that in order for the sale to be exempt, it must be made by the manufacturer of the “rolling rock.”

Summary of 2023 First Special Session Tax Legislation

INCOME TAX

HB 1029X - Effective January 1, 2024

HB 1029X enacts the Caring for Caregivers Act (68 O.S. §2357.801) and creates a new income tax credit for 50% of eligible expenditures incurred by a family caregiver for the care and support of an eligible family member, effective for tax year 2024 and subsequent tax years. The annual credit amount is limited to \$2,000, unless the eligible family member is a veteran or has a diagnosis of dementia, in which case, the maximum allowable credit is \$3,000. If two or more family caregivers claim the credit for the same eligible family member, the maximum allowable credit must be allocated in equal amounts between each family caregiver.

Total annual credits are limited to \$1.5 million. If total credits exceed \$1.5 million in any calendar year, the Oklahoma Tax Commission (OTC) will permit any excess over \$1.5 million but will factor such excess into the percentage adjustment formula for subsequent years. The OTC will annually calculate and publish by the first day of the affected year the percentage by which the credits will be reduced so the total annual amount of credits used to offset tax does not exceed \$1.5 million. The formula used for the percentage adjustment is \$1.5 million divided by the credits claimed in the second preceding year.⁴

HB 1040X - Effective January 1, 2024

HB 1040X amends 68 O.S. § 2355 by adjusting the income levels in the top two income tax rate brackets for income tax returns with a filing status of married filing joint, head of household, or surviving spouse for tax year 2024 and subsequent tax years.

SB 17X - Effective November 1, 2023

SB 17X amends 68 O.S. § 2357.104, extending through tax year 2029 the existing credit for qualified railroad reconstruction or replacement expenditures.

⁴ The credit cap calculation is effective beginning for tax year 2026.

FRANCHISE TAX

HB 1039X - *Effective July 1, 2023*

HB 1039X eliminates the Oklahoma franchise tax levied under 68 O.S. §§ 1203 and 1204, effective for tax year 2024 and subsequent tax years. This measure also eliminates the requirement to file a franchise tax return under 68 O.S. § 1210, which includes a statement under oath reporting the entity's president, secretary or managing officer, or managing agent in this state.

AD VALOREM

HB 1008X - *Effective January 1, 2024*

HB 1008X amends 68 O.S. § 2890 by increasing the income eligibility ceiling for additional homestead exemption qualification from \$25,000 to \$30,000.

MISCELLANEOUS

Apportionment

HB 1028X - *Effective July 1, 2023*

HB 1028X amends 85A O.S. § 122 by specifying that if the Multiple Injury Trust Fund in any one month is insufficient to make the required payments, the unpaid portion shall be paid as soon as funds become available. The measure also increases the current apportionment to the Workers' Compensation Commission Revolving Fund to \$5.5 million each fiscal year, and decreases the apportionment to the Workers' Compensation Administrative Fund to \$250,000 each fiscal year. All unencumbered funds remaining in the Workers' Compensation Administration Fund on July 1, 2027, shall be transferred to the State Treasurer to be returned to the Multiple Injury Trust Fund.

SB 18X - *Effective July 1, 2023*

SB 18X creates the Medical Marijuana Tax Fund within the State Treasury for the Oklahoma Medical Marijuana Authority (OMMA) and amends 63 O.S. § 426, relating to the apportionment of the 7% medical marijuana gross receipts tax. For FY 24 and thereafter, all such revenues must be deposited into the Fund.

The measure further amends 62 O.S. § 427.5, providing that all monies accruing to the credit of the Fund shall be appropriated at the discretion of the Legislature for the purpose of funding the OMMA.

QUALITY JOBS

SB 13X - Effective November 1, 2023

SB 13X amends 68 O.S. §§ 3604 and 3606, relating to the Oklahoma Quality Jobs Program Act by increasing the period of time for the quarterly incentive rebates from 15 years to 30 years for entities defined or classified in the North American Industry Classification System (NAICS) Manual under U.S. Industry No. 711211 (2007 version).

ADMINISTRATIVE

SB 37X - Effective July 1, 2023

SB 37X amends 47 O.S. § 1104 by requiring Service Oklahoma to provide reports regarding motor vehicle collections, apportionment, refunds, cancelled vouchers, waste tire collections, organ donor program amounts, drivers' license records, prorate amounts and sales tax amounts to the OTC on a monthly basis.

SALES AND USE TAX

SB 14X - Effective November 1, 2023

SB 14X amends 68 O.S. § 2396 of the Oklahoma Tourism Development Act relating to the period in which an agreement with Commerce and an approved company for a tourism attraction project is mandated to be in effect. Current statutory provisions require such agreements to be in effect for a period of ten years, which is measured by different occurrences. The measure authorizes that the described agreements may be in effect for periods up to ten years, and modifies Section 2397 of the Act by increasing the cap on the cumulative inducements provided under the Act from \$15 million to \$30 million per year.

SB 34X - Effective June 2, 2023

SB 34X relates to the sales tax exemption for qualifying broadband equipment.

Section 1 amends 68 O.S. § 1357(43) to ensure that the exemption will be operative on and after May 24, 2023, notwithstanding the fact that the exemption was made contingent upon the enactment of an incentive award

formula which failed to occur as prescribed in the enrolled version of HB 2946 of the 1st Session of the 58th Legislature.

Section 2 amends 68 O.S. § 1357.21. No changes are proposed to the rebate program for qualifying property placed in service in calendar years 2022 and 2023. For fiscal years beginning on or after July 1, 2023, the rebate is capped at \$42 million.

The measure strikes the provisions that require allocation of the capped amount to be made using an incentive award formula as enacted into law by the Legislature after recommendation by the Rural Broadband Expansion Council.

The measure further strikes the contingency that should an incentive award formula not be enacted into law as of January 1, 2023, the sales tax exemption otherwise authorized pursuant to 68 O.S. § 1357 would cease to be effective as law, and the exemption would not be applicable to any equipment purchase made on or after January 1, 2024.

STATE-TRIBAL COMPACT MEASURES

HB 1005X – Veto Overridden – *Effective October 30, 2023*

HB 1005X allows a concurring Tribal Nation with an existing State-Tribal motor vehicle licensing and registration compact as of January 1, 2023, to extend the expiration date thereof to December 31, 2024.

SB 26X – Veto Overridden – *Effective October 30, 2023*

SB 26X allows a concurring Tribal Nation with an existing State-Tribal tobacco products excise tax compact as of January 1, 2023, to extend the expiration date thereof to December 31, 2024. The measure also provides for restoration of certain compacts in effect on January 1, 2019, which expired prior to the effective date of this Act.