

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 50. Income [AMENDED]

SUMMARY:

As part of the Tax Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to implement recent legislation. All legislative references are to the First Regular Session of the 59th Legislature (2023) unless otherwise indicated.

The proposed amendments to Section 710:50-3-4 and Section 710:50-9-2 implement the provisions of HB 2289 which provides that failure to pay the amount of tax due on or before the date the return is due, not including any extensions, will cause the tax to become delinquent, and 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. [68:2373.2375]

The proposed amendments to Sections 710:50-15-69.1, 710:50-17-51 and 710:50-19-5 and 710:50-21-1 and the promulgation of new Section 710:50-21-5 implement the provisions of SB 602 which amended 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. [68:2358.6A]

The proposed amendment to Section 710:50-15-94 implements the provisions of SB 747 which increased the existing income tax credits for volunteer firefighters, effective for tax year 2024 and subsequent tax years. [68:2358.7]

The proposed amendment to Section 710:50-15-103 implements the provisions of SB 17X which extended through tax year 2029 the existing credit for qualified railroad reconstruction or replacement expenditures. [68:2357.104]

The proposed new Section 710:50-15-119 implements the provisions of HB 1934 which created the Oklahoma Parental Choice Tax Credit Act. [70:28-100]

The proposed new Section 710:50-15-120 implements the provisions of HB 1029X which enacted the Caring for Caregivers Act and created 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. [68:2357.801]

Other sections may be amended to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update or correct citations, update contact information, and ensure accurate internal cross-references, which do not change the interpretation or intent of the rules.

AUTHORITY:

68 O.S. §§ 203, 2357.104, 2357.801, 2358.6A; 70 O.S. § 28-102; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to present their views in writing may do so by 4:30 p.m., January 17,

2024, at the following address: Oklahoma Tax Commission, Tax Policy and Research Division, Oklahoma City, Oklahoma 73194, Attention: Lisa Haws, or by email to lhaws@tax.ok.gov.

PUBLIC HEARING:

A public hearing is scheduled for 1:00 p.m., on Tuesday, January 16, 2024, at the Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma, in the auditorium located on the east side of the building. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date by calling Lakesha Mackie at (405) 521-3133. Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

In order to facilitate entry into the building, those wishing to appear should contact Lakesha Mackie at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. In order to gain access to the hearing, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person. The proposed rules may also be viewed on the agency's website at tax.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available from the below listed contact person. The Rule Impact Statement may also be viewed on the agency's website at tax.ok.gov.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 7319; Telephone number: 405-521-3133; Email: lhaws@tax.ok.gov

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME
SUBCHAPTER 3. RETURNS AND REPORTS
PART 1. GENERAL INFORMATION**

710:50-3-4. Extension of time for filing returns

A valid extension of time in which to file a ~~Federal Income Tax Return~~ federal income tax return automatically extends the due date of the Oklahoma ~~Income Tax Return~~, income tax return unless an Oklahoma liability is owed. A copy of the ~~Federal~~ federal extension must be attached to the Oklahoma ~~Return~~ return. If the due date for filing the ~~Federal Return~~ federal return is not extended or if an Oklahoma liability is owed, an extension of time to file the Oklahoma ~~Return~~ return may be granted only by filing OTC Form 504. Ninety percent (90%) of the tax liability must be paid by the original due date ~~for~~ of the return to obtain a valid extension of time to file and avoid penalty charges for late payment. Interest will be charged from the original due date of the return.

SUBCHAPTER 9. REFUNDS

710:50-9-2. ~~When a refund is barred by statute~~ Statute of limitations on refunds

When an original income tax return has been filed, the statute of limitations for filing a claim for a refund of an overpayment of income tax in Oklahoma is generally three (3) years from the due date of the tax return, including any extensions of time for filing, or two (2) years from the date the tax was paid, whichever is later. If an original return has not been filed, the Commission will not issue a refund on an original income tax return filed 3 years after the original due date of the return statute of limitations for filing a claim for a refund of an overpayment of income tax in Oklahoma is two (2) years from the date the tax was paid. A refund that is "barred by statute" cannot be used as payment on any delinquent account or applied to estimated tax. Exceptions to the statute of limitations set out in 710:50-5-13 also apply to certain refund situations. [See: 68 O.S. §2373]

**SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME
PART 5. OTHER ADJUSTMENTS TO INCOME**

710:50-15-69.1. Add-back of federal depreciation for Oklahoma income tax purposes

~~For tax years beginning on or after January 1, 2023, taxpayers have the option for immediate and full expensing of qualified property and qualified improvement property by deducting the full cost of these expenditures in the tax year in which the cost is incurred or the property is placed in service. [68 O.S. § 2358.6A] If this option is taken, amounts that are depreciated for federal income tax purposes shall be added back to Oklahoma taxable income in the year the depreciation is claimed. The taxpayer's decision to use immediate expensing for a qualified property or qualified improvement property in the year the investment cost is incurred is irrevocable for the property unless specifically authorized by the Oklahoma Tax Commission.~~

(a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains

available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

PART 7. CREDITS AGAINST TAX

710:50-15-94. Volunteer firefighter credit

(a) General provisions. An income tax credit of Two Hundred Dollars (\$200.00) for tax years 2005 through 2023, and Three Hundred Dollars (\$300.00) for tax year 2024 and subsequent tax years is available each year for a volunteer firefighter who has completed at least twelve (12) hours toward the State Support or State Basic Firefighter or Firefighter I offered by Oklahoma State University Fire Service Training or Oklahoma Department of Career and Technology Education. After the initial year, an additional Two Hundred Dollar (\$200.00) income tax credit is allowed for tax years 2005 through 2023, and Three Hundred Dollars (\$300.00) for tax year 2024 and subsequent tax years for each year the volunteer firefighter has completed an additional six (6) hours of State Support or State Basic Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshall Commission until such program or its equivalent is completed.

(b) Advanced training credit. An income tax credit of Four Hundred Dollars (\$400.00) each year for tax years 2005 through 2023, and Six Hundred Dollars (\$600.00) for tax year 2024 and subsequent tax years is available each year for a volunteer firefighter who, after completing the State Support or State Basic Firefighter program:

- (1) Completes at least six (6) hours of continuing education each year until the firefighter completes Intermediate or Advanced Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshall Commission or its equivalent;
- (2) After completion of Intermediate or Advanced Firefighter or Firefighter I, the volunteer firefighter shall complete six (6) hours of training per year to claim the tax credit;
- (3) Provides documentation from the fire chief of the applicable department that the firefighter has participated in all annual training as required by federal and state authorities; and,

(4) Provides documentation from the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

710:50-15-103. Credit for qualified railroad reconstruction or replacement expenditures

(a) **General provisions.** For tax years beginning after December 31, 2005, and ending before January 1, ~~2025~~, 2030 there is a credit allowed against the tax imposed by Section 2355 of Title 68 equal to 50% of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures. [68 O.S. § 2357.104]

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Eligible taxpayer"** means any railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(2) **"Qualified railroad reconstruction or replacement expenditures"** means expenditures for track maintenance, natural disasters, and reconstruction or replacement of railroad infrastructure. This includes track, roadbed, crossings, bridges, industrial leads and track-related structures owned or leased by a Class II or Class III railroad as of January 1, 2006. Qualified railroad reconstruction or replacement expenditures can also include new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings by a Class II or Class III railroad.

(c) **Limitations.**

(1) The amount of the credit may not exceed the product of the number of miles of railroad track owned or leased within this state by the eligible taxpayer as of the close of the taxable year and:

(A) Five Hundred Dollars (\$500.00) for tax year 2007.

(B) Two Thousand Dollars (\$2,000.00) for tax years 2008 through 2019.

(C) Five Thousand Dollars (\$5,000.00) for tax years 2020 through 2024.

(2) Effective for tax years beginning on or after January 1, 2016, and ending before January 1, 2020, the credit is limited to seventy-five percent (75%) of the otherwise allowable credit.

(d) **Transferability.** The credits allowed pursuant to this Section that are not used are freely transferable by written agreement, to subsequent transferees, at any time during the five (5) years following the year of qualification.

(1) **"Eligible transferee" defined.** For purposes of this subsection, an "eligible transferee" shall be any taxpayer subject to the tax imposed by Section 2355 of Title 68.

(2) **Written transfer agreement requirements.** The person originally allowed the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person, and the tax year or years for which the credit may be claimed.

(e) **Carryover provisions.** Any credit allowed pursuant to the provisions of this Section, to the extent not used, may be carried over in order to each of the five (5) years following the year of qualification.

(f) **Tax credit limitation.** The total amount of credits authorized by this Section used to

offset tax shall be adjusted annually to limit the annual amount of credits to Two Million Dollars (\$2,000,000.00) for tax years 2018 and 2019 and Five Million Dollars (\$5,000,000.00) for tax year 2020 and all subsequent tax years. The Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this Section shall be reduced so the total amount of credits used to offset tax does not exceed the applicable annual limit.

710:50-15-119. Parental Choice Tax Credit

(a) General provisions. There is hereby created the Oklahoma Parental Choice Tax Credit Program to provide an income tax credit to a taxpayer for qualified expenses to support the education of eligible students in Oklahoma. For tax year 2024 and subsequent tax years, there shall be allowed against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes a refundable income tax credit for any Oklahoma taxpayer who incurs a qualified expense on behalf of an eligible student. [See: 70 O.S. 2023, § 28-100, et seq.]

(b) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Curriculum" means a complete course of study for a particular content area or grade level.

(2) "Education service provider" means a person, business, public school district, public charter school, magnet school, or organization that provides educational goods and/or services to eligible students.

(3) "Eligible student" means a resident of Oklahoma who is eligible to enroll in a public school within the state at educational levels of pre-kindergarten through 12th grade. Eligible student shall include a student who is enrolled in and attends a private school in Oklahoma that is accredited by the State Board of Education or another accrediting association or a student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A).

(4) "Home school tax credit" means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(b).

(5) "Household" means the persons who reside in the same home as and provide financial support for the eligible student as of the date the application for the tax credit is submitted.

(6) "Oklahoma taxpayer" means:

(A) Any person owing or liable to pay any Oklahoma tax;

(B) Any person required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law; or

(C) Any person required to obtain a license or a permit or to keep any records under the provisions of any Oklahoma tax law. [See: 68 O.S. § 202]

(7) "Priority consideration" means an application will be reviewed and considered for approval before other applications received by the Tax Commission, regardless of whether the other applications were submitted on an earlier date. An application for the private school tax credit will only receive priority consideration if submitted on or before the deadline set by the Tax Commission and for an eligible student who is a member of a household in which the total federal adjusted gross income (AGI) does not exceed \$150,000.

(8) "Private school tax credit" means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(a).

(9) "Qualified expense" means:

(A) For the purpose of claiming the private school tax credit in subsection (c) of this Section, qualified expense means tuition and fees at a private school accredited by the State Board of Education or another accrediting association. Although not an exhaustive list fees may include enrollment, registration, or application fees; textbook fees; technology fees; activity fees; testing and assessment fees; and fees paid for school uniforms, if paid directly to the school.

(B) For the purpose of claiming the home school tax credit in subsection (d) of this Section, qualified expense means the following expenditures:

(i) Tuition and fees for nonpublic online learning programs;

(ii) Academic tutoring services provided by an individual or a private academic tutoring facility;

(iii) Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider; and

(iv) Fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments.

(10) "Second preceding tax year" means the tax year occurring two taxable years prior to the tax year for which the credit application is submitted.

(11) "Taxpayer" means an Oklahoma taxpayer who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(A) A foster parent, or the foster parents, shall be included within the meaning of other person with legal authority to act on behalf of an eligible student.

(B) Taxpayer shall not include a parent or the parents of an eligible student whose parental rights over the eligible student has been legally terminated.

(12) "Warrant" means an order for payment directing the State Treasurer to disburse funds to a designated payee. A warrant operates like a paper check.

(c) Private school tax credit.

(1) Amount of credit. If the eligible student attends or will attend a private school accredited by the State Board of Education or another accrediting association, the credit amount shall be equal to the amount of tuition and fees charged to or that will be paid by the taxpayer for attending the private school, subject to the following limitations:

(A) The maximum credit amount allowed is \$7,500 if the eligible student is a member of a household in which the total federal (AGI) during the second preceding tax year does not exceed \$75,000;

(B) The maximum credit amount allowed is \$7,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$75,000 but does not exceed \$150,000;

(C) The maximum credit amount allowed is \$6,500 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$150,000 but does not exceed \$225,000;

(D) The maximum credit amount allowed is \$6,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$225,000 but does not exceed \$250,000; or

(E) The maximum credit amount allowed is \$5,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$250,000.

(2) Annual cap and limitation of credit.

(A) The total amount of private school tax credits is subject to the following caps:

(i) For tax year 2024, the total amount of credits shall not exceed \$150,000,000.

(ii) For tax year 2025, the total amount of credits shall not exceed \$200,000,000.

(iii) For tax year 2026, and subsequent tax years, the total amount of credits shall not exceed \$250,000,000.

(B) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. 2023, § 28-101(I).

(3) Claiming the private school tax credit.

(A) Pursuant to 70 O.S. §28-101(C)(1)(a) for the tax year 2024 and subsequent tax years, if an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the tax year, the taxpayer may be eligible to claim the private school tax credit. If a taxpayer has more than one eligible student, the taxpayer may complete and submit a single application that includes each eligible student. The taxpayer shall complete and submit the application online, and attach the applicable documentation, which includes an Affidavit (Enrollment Verification Form). Taxpayer shall include the following with the application:

(i) The name, address, and social security or individual taxpayer identification number (ITIN) of the taxpayer;

(ii) The name, address, date of birth, and social security number or individual taxpayer identification number (ITIN) of the eligible student(s);

(iii) The name and address of the eligible student's parent(s) or legal guardians(s), if different from the taxpayer; and

(iv) Verification of federal AGI for the second preceding tax year for the household of which the eligible student is a member, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). For example, if a taxpayer is applying for the private school tax credit for tax year 2024 and has not previously filed an Oklahoma income tax return or the Tax Commission cannot verify a tax return has been filed the taxpayer may be required to provide a copy of the 2022 Oklahoma income tax return or federal income tax return of the household, even if the student did not reside in the household during that reporting period. If the household had no tax filing requirement, the taxpayer shall submit an Affidavit for No Filing Requirement and/or an Internal Revenue Service (IRS) Verification of Non-filing Letter, which provides proof from the IRS that there is no record of a filed tax form for the tax year requested.

(B) The Tax Commission will make available an Affidavit (Enrollment Verification Form) to be completed by the private school in which the eligible student is enrolled or is expected to enroll with the following information:

(i) The name, address and date of birth of eligible student.

(ii) The designated semester(s) and tax year during which the qualified expenses will be paid;

(iii) The name and address of the school;

(iv) The name and telephone number of a contact person(s) with the private school;

- (v) The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the tax year.
- (C) The private school tax credit shall be exclusively claimed through the submission of an application, as set out in this paragraph. The credit cannot be claimed on the Oklahoma income tax return.
- (i) The application process for tax year 2024 will commence on December 1, 2023, at 8:30 a.m. (CST). For any eligible student who is a member of a household in which the total federal AGI does not exceed \$150,000, applications must be submitted to the Tax Commission on or before February 1, 2024, to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E). The application shall include qualified expenses paid or expected to be paid for tax year 2024.
- (ii) If the application is approved, the credit will be paid in two installments. Each installment will be half of the amount of the anticipated private school tuition and fees the taxpayer expects to incur during the tax year based on the private school's Affidavit (Enrollment Verification Form), or half the amount of the allowable credit, whichever is less.
- (iii) The application deadline is on or before December 31 of the tax year the taxpayer incurs a qualified expense on behalf of an eligible student or until the annual cap has been met, whichever occurs first.
- (iv) The application process for subsequent tax years will commence at 8:30 a.m. (CST) on December 1 preceding the applicable tax year. For any eligible student who is a member of a household in which the total federal AGI does not exceed \$150,000, applications must be submitted to the Tax Commission on or before February 1 of the applicable tax year to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E).
- (v) If December 1 falls on a Saturday, Sunday or legal holiday, the application process will open on the next day that is not a Saturday, Sunday or legal holiday.
- (D) After all timely-filed applications entitled to priority consideration have been reviewed and processed, the Tax Commission will review and process remaining applications for the credit in the order received, provided the annual cap has not been reached.
- (E) Installment payments of the credit shall be made by the Tax Commission with individual warrants made payable to the taxpayer and mailed to the private school where the eligible student is enrolled or expected to enroll. The taxpayer shall restrictively endorse the warrant to the private school for deposit into the account of the school unless the tuition and fees for the eligible student have already been paid by the taxpayer.
- (F) Each participating private school will respond electronically to the Tax Commission's request to verify certain information to determine if the refundable tax credit was applied toward a qualified expense during the applicable tax year. Responses to the requested information are due on or before November 1 of each year. Information requested for verification shall include the following information for each eligible student for whom the school received a credit payment for the current tax year:
- (i) The name and address of the private school;
- (ii) The amount of credit received by the private school on behalf of the eligible student;

(iii) Dates of attendance of the eligible student; and

(iv) The name, address and date of birth of eligible student.

(G) The credit can be claimed only for the tax year in which the qualified expenses are actually incurred. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(H) If a taxpayer's application for the credit is denied, the taxpayer may file an application for a hearing before the Tax Commission pursuant to the provisions of 68 O.S. § 207(c).

(I) The total federal AGI of a student's household shall be determined as follows:

(i) If the student's parents or custodians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or custodians' second preceding year tax return will be used.

(ii) If the student's parents or custodians have an income tax filing status of "married, filing separately", the parents' or custodians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the student's household federal AGI.

(iii) If the student's household includes any additional person that is providing financial support to the student, the additional person's federal AGI for the second preceding tax year will be added to the federal AGI of the parents or custodians for the second preceding tax year.

(J) Each private school accredited by the State Board of Education or another accrediting association, shall initially complete an online Participation Agreement with the Tax Commission. The Participation Agreement shall include:

(i) Name, address, phone number, FEIN, and website of the private school;

(ii) Contact information for the private school;

(iii) Proof of accreditation from the State Board of Education or another accrediting association; and

(iv) Other school identification information.

(d) Home school tax credit.

(1) If the eligible student is educated pursuant to the other means of education exception [70 O.S. § 10-105(A)] the maximum annual credit amount shall be \$1,000 per eligible student.

(2) For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed \$5,000,000 annually.

(3) The tax credit may be claimed on the applicable tax year's Oklahoma income tax return.

(4) The credit must be claimed for the tax year in which the qualified expenses are actually incurred and paid. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(e) Records. A taxpayer claiming the Parental Choice Tax Credit shall maintain records of proof as to the qualified expenses paid for by the taxpayer. Records maintained by the taxpayer shall be subject to inspection by the Tax Commission and its duly authorized agents and employees.

(f) Offset. Pursuant to 68 O.S. §205.2(F) the Tax Commission shall deduct from the amount of the credit due to a taxpayer the amount of delinquent state tax, penalty, and

interest thereon, which the taxpayer owes pursuant to any state tax law prior to payment of such refund. [See 68 O.S. § 205.2(F)]

(g) **Recapture.** The Tax Commission shall recapture tax credits if:

- (1) The credit was claimed for expenditures that were not qualified expenses;
- (2) The taxpayer has claimed an eligible student who no longer attends a private school or has enrolled in a public school for the period for which the credit was claimed; or
- (3) Taxpayer fails to comply with any other provisions of 70 O.S. 2023, § 28-100, et seq.

710:50-15-120. Caring for Caregivers Credit

(a) **General provisions.** For tax years beginning on or after January 1, 2024, a nonrefundable income tax credit is allowed in the amount of 50% for eligible expenditures incurred by a family caregiver for the care and support of an eligible family member. The amount of the credit is 50% of the eligible expenditures not to exceed Two Thousand Dollars (\$2,000.00) per eligible family member. If the eligible family member is a veteran or has a diagnosis of dementia from a health care professional, the amount of the credit cannot exceed Three Thousand Dollars (\$3,000.00).

(b) **Definitions.** For purposes of this Section, "**activities of daily living**", "**eligible expenditure**", "**eligible family member**", and "**family caregiver**" mean the same as these terms are defined in 68 O.S. 2023, § 2357.801(A).

(c) **Multiple caregivers.** If two or more family caregivers claim the tax credit for the same eligible family member, the maximum allowable credit shall be allocated in equal amounts between each of the family caregivers.

(d) **Verification.** OTC Form 592 must be filed with each claimant's tax return, along with any other information or documentation the Tax Commission may require, such as receipts to support the claimed expenses, proof of veteran status and/or documentation to support a diagnosis of dementia for the eligible family member.

(e) **Limitation of credit.** The total credits authorized shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) annually. The Oklahoma Tax Commission shall calculate and publish, by the first day of the affected year, a percentage by which the credits shall be reduced so the total amount of credits used to offset tax does not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) per year.

SUBCHAPTER 17. OKLAHOMA TAXABLE INCOME FOR CORPORATIONS

PART 5. DETERMINATION OF TAXABLE CORPORATE INCOME

710:50-17-51. Adjustments to arrive at Oklahoma taxable income for corporations

The following is a partial list and not inclusive of all the allowable and unallowable adjustments that may be made to federal taxable income to arrive at Oklahoma taxable income for corporations: **[See: 68 O.S. § 2358]**

(1) Taxes based on income. [See: 68 O.S. § 2358(A)(5)]

(A) Taxes based on or measured by income shall not be allowed as a deduction.

(B) Type of taxes that are based on or measured by income are:

(i) State and Local Income Taxes,

(ii) Foreign Income Taxes, and

(iii) some Franchise Taxes that are based on or measured by income.

(2) Federal income taxes. Federal income taxes are not deductible.

(3) **Federal loss carryback/carryforward.** A federal net operating loss carryover or carryback will not be utilized in determining Oklahoma taxable income. For the allowance of Oklahoma net operating loss deduction refer to (4) of this Section.

(4) **Oklahoma net operating loss carryback/carryover.** An election may be made to forego the net operating loss (NOL) carryback period. A written statement of the election must be part of the timely filed Oklahoma loss year return.

(A) **Oklahoma net operating loss.** [See: 68 O.S. § 2358(A)(3)]

(i) An Oklahoma NOL may be carried back or over in accordance with 26 U.S.C.A. § 172 until December 31, 1992. However, no Oklahoma NOL can be carried back to years beginning before January 1, 1981 unless there is a federal NOL carryback from the same loss year to the same carryback year.

(I) For net operating losses incurred for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2007, the loss **carryback** shall be for a period as allowed in the Internal Revenue Code; and

(II) For tax years beginning after December 31, 2007, and ending before January 1, 2009, the loss carryback period shall be for a period of two (2) years; and

(III) For tax years beginning after December 31, 2008, the loss carryback period shall be for a period as allowed by Section 172 of the Internal Revenue Code.

(ii) Any Oklahoma NOL carryback not allowed, due to no federal loss carryback to the same year, may still be carried back to the years beginning after December 31, 1980, or carried over until utilized, without regard to a federal loss.

(B) **Oklahoma net operating loss computation for carryback to years beginning before January 1, 1981.** The following shall apply to Oklahoma net operating loss before January 1, 1981:

(i) Consolidated federal filing: In the loss year, the percentage of the Oklahoma loss to all loss companies in the consolidation. (If no consolidated loss, there is no NOL allowable.)

(ii) Separate company federal filing: In the loss year, the percentage of the Oklahoma loss to federal loss. (If no federal loss, there is no NOL allowable.) This percentage is then applied to the federal NOL (each loss year separately) when it is taken (absorbed) on the filed federal return. The Oklahoma NOL can be used in the same Oklahoma year it is used on the filed federal return year.

(5) **Oklahoma accrued income tax.**

(A) Oklahoma will allow a deduction for Oklahoma accrued income tax. The Oklahoma accrued income tax is computed as follows:

(i) Divide the Oklahoma net income by the number 26 for tax years beginning before January 1, 1985.

(ii) Divide the Oklahoma net income by the number 21 for tax years beginning after December 31, 1984 and ending before January 1, 1990.

(iii) Divide the Oklahoma net income by the number 17.667 for tax years beginning after December 31, 1989 and ending before January 1, 2022.

(iv) Divide the Oklahoma net income by the number 26 for tax years beginning after December 31, 2021.

(B) There is no deduction for Oklahoma accrued income tax when Oklahoma net income is a loss. [See: 68 O.S. § 2358(A)(5)] When credits are allowed, the accrual of Oklahoma tax will not be allowed on the amount of Oklahoma taxable income that is covered by the credit, except for credits that have been acquired by transfer. The amount paid for credits that have been acquired by transfer can be used as a payment of tax for purposes of computing the deduction for Oklahoma accrued tax. Tax accrual is allowed on the amount of income for which tax is actually paid. The example in Appendix A of this Chapter shows how the accrual should be calculated. A schedule such as the example should be attached and submitted with Form 512.

(6) **Expenses allocated to nontaxable income.** 68 O.S. § 2358(A)(4) provides that deductions should be allocated to assets that may produce nontaxable income.

(A) An adjustment is required when a corporation has an investment in assets which produce income which is non-unitary, or separately allocable. Such items may include, but are not limited to, investments in subsidiaries, other corporation's bonds, U.S. Obligations or other types of securities that produce income which is excluded from Oklahoma income.

(B) A ratio is used to allocate expenses between unitary business operations and all other activities that do not produce unitary income. The manner in which this adjustment is made is as follows: A fraction, or percentage, is computed by dividing the average of investment in assets, the income from which is allocable, by the average of total assets. This percentage is then applied to certain expenses claimed on the return to arrive at the amount of expenses related to non-unitary business, and the resulting amount is added back to federal taxable income.

(C) Generally, interest expense is the only expense against which the adjustment described in subparagraph (B) of this paragraph is applied. However, facts and circumstances may indicate that other expenses should be considered in this allocation. This adjustment will be considered in all cases where deemed appropriate. [See: 68 O.S. § 2358(A)(4)] [See example in Appendix E of this Chapter]

(7) **Interest income.**

(A) **U.S. obligations.** Interest income from U.S. obligations is excluded from federal taxable income to arrive at Oklahoma taxable income. Interest income received from FNMA, GNMA, or the Internal Revenue Service is not income from an obligation of the U.S. government and cannot be excluded to arrive at Oklahoma taxable income.

(B) **Other interest income.**

(i) Interest income is to be directly allocated to the domiciliary situs of the taxpayer; except that interest income received from accounts receivable income shall be included in apportionable income.

(ii) There shall be added to Oklahoma taxable income, interest income on obligations of any state or political subdivision thereof which is not otherwise exempted pursuant to federal laws or laws of this State, to the extent said interest is not included in federal taxable income or adjusted gross income.

(8) **Dividends.** Dividends are to be allocated to the domiciliary situs of the taxpayer. [See: 68 O.S. § 2358(A)(4)(b)]

(A) For purposes of calculating Oklahoma taxable income, foreign earnings deemed repatriated pursuant to 26 U.S.C. § 965 shall be considered dividend income and shall be allocated to the domiciliary situs of the taxpayer.

(i) To the extent such income is not included in the calculation of a taxpayer's federal taxable income due to inclusion on an IRC 965 Transition Tax Statement rather than the income tax return, the income shall be included on the Oklahoma return as an addition to net taxable income.

(ii) If a taxpayer elects to make installment payments of tax pursuant to the provisions 26 U.S.C. § 965, such election may also apply to the payment of Oklahoma income tax, attributable to the income upon which such installment payments are based.

(B) For purposes of calculating Oklahoma taxable income, global intangible low-taxed income included in federal income pursuant to 26 U.S.C. § 951A shall be considered dividend income and shall be allocated to the domiciliary situs of the taxpayer.

(9) **Domestic International Sales Corporation (DISC) and Foreign Sales Corporation (FSC) Commission Expense.** Expenses incurred in producing DISC and FSC Dividend income shall be allocated on the same basis as the DISC and FSC Dividend income. [See: 68 O.S. § 2358(A)(4)]

(10) **Net oil and gas income.** Income or loss from oil and mining production or royalties, and gains or losses from sales of such property, shall be allocated in accordance with the situs of such property. General and administrative expenses will be allocated on the basis of Oklahoma direct expense to total direct expense. [See: 68 O.S. § 2358(A)(4)(a)]

(11) **Oklahoma 22% depletion.** Oklahoma depletion on oil and gas may be computed at twenty-two percent (22%) of gross income derived from each Oklahoma property during the taxable year.

(A) For tax years beginning on or after January 1, 2001, and ending on or before December 31, 2011, and for tax years beginning on or after January 1, 2014, major oil companies, as defined by 52 O.S. § 288.2(4), shall be limited to fifty percent (50%) of net income for such property (computed without allowance for depletion).

(B) During years not specified herein, the Oklahoma depletion allowance, for all taxpayers, shall not exceed fifty percent (50%) of the net income of the taxpayer (computed without allowance for depletion) from the property.

(C) The percentage depletion calculated shall not be a duplication of the depletion allowed on the federal income tax return. [See: 68 O.S. § 2353(10)]

(12) **Net rental income and safe harbor leasing.** The following provisions apply to the treatment of net rental income and safe harbor leasing:

(A) Net rental income is separately allocated. [See: 68 O.S. § 2358(A)(4)]

(B) A schedule of net rental income is required to be filed with the return showing gross income and all expenses (depreciation, repairs, taxes, interest, general and administrative expense, etc.).

(13) **Royalties; patents; copyrights.** [See: 68 O.S. § 2358(A)(5)]

(A) Income from patent or copyright royalties is apportionable.

(B) Income from which expenses have been deducted in producing such patent or copyright royalties in arriving at apportionable income (including the purchase of such patent or copyright royalties) shall be apportionable.

(14) **Capital gains or loss - 4797 gains or loss.**

(A) Gains (losses) from the sale or other disposition of unitary assets or any other assets used in the unitary enterprise are apportionable. [See: 68 O.S. § 2358(A)(5)]

(B) Gains (losses) from sale of property, the income from which is separately allocated shall also be separately allocated.

(15) Partnership income or loss from corporate partners.

(A) Partnership income or loss shall be separately allocated. [See: 68 O.S. § 2358(A)(4)]

(B) The Oklahoma distributive share of partnership income as determined under 68 O.S. § 2358 and 68 O.S. § 2362 shall be allocated to Oklahoma.

(16) Overhead allocation. The Commission may adjust or allocate overhead expenses to or from a parent or subsidiary, or between divisions in order to more accurately reflect the overhead expenses. [See: 68 O.S. § 2366]

(17) Federal new jobs credit deduction. For tax years beginning after December 31, 1980, the Federal New Jobs deduction is disallowed due to Oklahoma's own Investment/New Jobs Credit.

(18) Deductions related to directly allocated income/loss. Deductions incurred in producing income of a nonunitary nature shall be allocated on the same basis as the income. (Examples: Liquidation of subsidiaries, worthless stock loss, bad debts due subsidiaries on sale of stock, etc.) [See: 68 O.S. § 2358(A)(4)]

(19) Intercompany eliminations. There are no provisions to allow intercompany eliminations in computing the income of each company filing an Oklahoma Consolidated Return.

(20) Other income. Generally, other income, unless it is separately allocable under 68 O.S. § 2358(A)(4) is apportionable. [See: 68 O.S. § 2358(A)(5)]

(21) Add-back of federal bonus depreciation for Oklahoma income tax purposes. Generally, corporations claiming the federal bonus depreciation (as allowed under provisions of the federal *Job Creation and Workers Assistance Act of 2002*, the provisions of the federal *Economic Stimulus Act of 2008* or the federal *American Recovery and Reinvestment Act of 2009*) are required to add back a portion of the bonus depreciation and then claim it in later years for Oklahoma income tax purposes.

(A) Corporations filing Oklahoma income tax returns will have to add back eighty percent (80%) of any bonus depreciation claimed under provisions of the federal *Job Creation and Workers Assistance Act of 2002*, the federal *Economic Stimulus Act of 2008* or the federal *American Recovery and Reinvestment Act of 2009*). Any amount added back can be claimed in later years. Twenty-five percent (25%) of the amount of bonus depreciation added back may be subtracted in the first taxable year beginning after the bonus depreciation was added back, and twenty-five percent (25%) of the bonus depreciation added back may be deducted in each of the next three succeeding taxable years.

(B) The provisions relating to the add-back of the federal bonus depreciation apply only to C-Corporations and are not applicable to corporations which have elected to be treated as Subchapter S Corporations pursuant to 26 U.S.C. § 1361 et seq. of the Internal Revenue Code, nor to Limited Liability Companies.

(22) Add-back of applicable Section 179 expenses. For tax years beginning on or after January 1, 2009 and ending on or before December 31, 2009, any amount in excess of One Hundred Seventy-five Thousand Dollars (\$175,000.00) which has been deducted as a small business expense under Internal Revenue Code Section 179 as

provided in the federal *American Recovery and Reinvestment Act of 2009* must be added back to Oklahoma taxable income.

(23) Add-back of federal depreciation for Oklahoma income tax purposes.—~~For tax years beginning on or after January 1, 2023, taxpayers have the option for immediate and full expensing of qualified property and qualified improvement property by deducting the full cost of these expenditures in the tax year in which the cost is incurred or the property is placed in service. [68 O.S. § 2358.6A] If this option is taken, amounts that are depreciated for federal income tax purposes shall be added back to Oklahoma taxable income in the year the depreciation is claimed. The taxpayer's decision to use immediate expensing for a qualified property or qualified improvement property in the year the investment cost is incurred is irrevocable for the property unless specifically authorized by the Oklahoma Tax Commission.~~

(A) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(B) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(C) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

SUBCHAPTER 19. OKLAHOMA TAXABLE INCOME FOR PARTNERSHIPS

710:50-19-5 Add-back of federal depreciation for Oklahoma income tax purposes

~~For tax years beginning on or after January 1, 2023, partnerships have the option for immediate and full expensing of qualified property and qualified improvement property by deducting the full cost of these expenditures in the tax year in which the cost is incurred or the property is placed in service. [68 O.S. § 2358.6A] If this option is taken, amounts that are depreciated for federal income tax purposes shall be added back to the Oklahoma distributive share of partnership income in the year the depreciation is claimed. The taxpayer's decision to use immediate expensing for a qualified property or qualified improvement property in the year the investment cost is incurred is irrevocable for the property unless specifically authorized by the Oklahoma Tax Commission.~~ (a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred

percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

SUBCHAPTER 21. OKLAHOMA TAXABLE INCOME FOR SUBCHAPTER "S" CORPORATIONS

710:50-21-1. Subchapter "S" corporations and 512S Oklahoma returns

(a) A corporation having an election in effect under Subchapter S of the Internal Revenue Code shall not be subject to the Oklahoma income tax on the corporation. However, if any of the shareholders of such corporation are nonresidents of Oklahoma during any part of the corporation's taxable year, the corporation shall be taxed for such year on the nonresident shareholder's distributive share of income, unless the corporation files with its return for such year an agreement executed by each nonresident stockholder stating that such nonresident will file an Oklahoma income tax return reporting his or her portion of Oklahoma taxable income.

(b) The shareholders of a Subchapter "S" Corporation shall include in their taxable income their distributive share of such corporation's federal income, subject to the modifications as set forth in 68 O.S. §2358 and 68 O.S. §2362.

~~(c) For tax years beginning on or after January 1, 2023, a Subchapter "S" Corporation has the option for immediate and full expensing of qualified property and qualified improvement property by deducting the full cost of these expenditures in the tax year in which the cost is incurred or the property is placed in service. [68 O.S. § 2358.6A] If this option is taken, amounts that are depreciated for federal income tax purposes shall be added back to the distributive share of such corporation's federal income in the year the depreciation is claimed. The taxpayer's decision to use immediate expensing for a qualified property or qualified improvement property in the year the investment cost is incurred is irrevocable for the property unless specifically authorized by the Oklahoma Tax Commission.~~

(d) A Subchapter "S" corporation that files its return without including necessary nonresident shareholder agreements, shall be taxed on such nonresident(s) shareholders distributive share of income. The method of filing the return shall be irrevocable for each tax period once the return is filed. However, if a nonresident shareholder fails to file his or her individual Oklahoma income tax return the corporation will be assessed the tax.

710:50-21-5. Add-back of federal depreciation for Oklahoma income tax purposes

(a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME**

RULE IMPACT STATEMENT

Pursuant to 75 O.S. §303(D), the Oklahoma Tax Commission provides the following rule impact statement with regard to proposed rule changes to Chapter 50 of Title 710 of the Oklahoma Administrative Code.

DESCRIPTION: The proposed amendments to Section 710:50-3-4 and Section 710:50-9-2 implement the provisions of HB 2289 which provides that failure to pay the amount of tax due on or before the date the return is due, not including any extensions, will cause the tax to become delinquent, and 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.

The proposed amendments to Sections 710:50-15-69.1, 710:50-17-51 and 710:50-19-5 and 710:50-21-1 and the promulgation of new Section 710:50-21-5 implement the provisions of SB 602 which amended 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.

The proposed amendment to Section 710:50-15-94 implements the provisions of SB 747 which increased the existing income tax credits for volunteer firefighters, effective for tax year 2024 and subsequent tax years.

The proposed amendment to Section 710:50-15-103 implements the provisions of SB 17X which extended through tax year 2029 the existing credit for qualified railroad reconstruction or replacement expenditures.

The proposed new Section 710:50-15-119 implements the provisions of HB 1934 which created the Oklahoma Parental Choice Tax Credit Act.

The proposed new Section 710:50-15-120 implements the provisions of HB 1029X which enacted the Caring for Caregivers Act and created 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.

CLASSES AFFECTED: All individual income taxpayers and corporate income taxpayers, including but not limited to taxpayers claiming the volunteer firefighter income tax credit, qualified railroad reconstruction or replacement expenditures income tax credit, caring for caregivers income tax credit, and taxpayers who elect to take bonus depreciation.

PERSONS BENEFITED: All taxpayers affected by this rulemaking action may benefit; the proposed amendments update the Tax Commission's rules consistent with recent legislation.

PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS: There are no anticipated increase to costs associated with the proposed rule changes.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: The rulemaking action does not levy, implement, or increase an existing fee.

PROBABLE COSTS TO THE AGENCY: Costs to promulgate and enforce the proposed rules will be funded through normal agency budget. No measurable impact on State revenues is anticipated.

ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule changes at this time.

SMALL BUSINESS IMPACT: After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rules will have no adverse impact upon Small Business.

ALTERNATIVE METHODS AND COSTS OF COMPLIANCE: There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rules. No formalized compliance cost minimization measures have been pursued.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rules at this time.

DETERMINATION OF THE DETRIMENTAL EFFECT WILL THERE BE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE RULE CHANGE IS NOT IMPLEMENTED: The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rules at this time.

DATE PREPARED: November 27, 2023