

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1417

By: Stites

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 2362, as amended by Section 27, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1996, Section 2362), which relates to Oklahoma taxable income of part-year residents and nonresidents; modifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2362, as amended by Section 27, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1996, Section 2362), is amended to read as follows:

Section 2362. For tax years beginning on or after January 1, 1994, the Oklahoma taxable income of a part-year resident individual, nonresident individual, a nonresident trust and a nonresident estate shall be calculated following the provisions of Section 2358 of this title as if all income were earned in Oklahoma.

Using Oklahoma income tax rates, part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates

shall compute their tax liability on the amount computed in the preceding paragraph.

From the liability computed there shall be deducted all allowable credits to determine the amount of tax due.

Part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates shall divide adjusted gross income from Oklahoma sources by the adjusted gross income from all sources to arrive at the applicable percentage that Oklahoma adjusted gross income represents of all adjusted income received by the taxpayer in the income year.

Part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates shall multiply the amount of Oklahoma tax computed by the applicable percentage calculated in the preceding paragraph in order to determine the amount of income tax which ~~must~~ shall be paid to ~~the State of Oklahoma~~ this state. Nothing in this section shall be construed to allow for greater than one hundred percent (100%) of a taxpayer's income to be taxed.

For purposes of determining the adjusted gross income from Oklahoma, the following shall be includable:

1. The ownership of any interest in real or tangible personal property in this state;
2. A business, trade, profession or occupation carried on in this state or compensation for services performed in this state;
3. A business, trade, profession or occupation carried on or compensation for services performed partly within and partly without this state to the extent allocable and apportionable to Oklahoma as determined under Section 2358 of this title;
4. The distributive share of the Oklahoma part of partnership income, gains, losses or deductions;
5. The distributive share of the Oklahoma part of estate or trust income, gains, losses or deductions;

6. Income from intangible personal property, including annuities, dividends, interest and gains from the disposition of intangible personal property to the extent that such income is from property employed in a trade, business, profession or occupation carried on in Oklahoma. A part-year resident individual, nonresident individual, nonresident trust or nonresident estate, other than a dealer holding property primarily for sale to customers in the ordinary course of his or its trade or business, shall not be deemed to carry on a business, trade, profession or occupation in Oklahoma solely by reason of the purchase and sale of property for his or its own account;

7. The distributive share of the Oklahoma taxable income or loss of a corporation defined in subchapter S of the Internal Revenue Code, 26 U.S.C., Section 1361 et seq.; and

8. Income received from all sources of wagering, games of chance or any other winnings from sources within this state. Proceeds which are not money shall be taken into account at their fair market value.

SECTION 2. This act shall become effective November 1, 1997.

46-1-5890

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