

ENGROSSED HOUSE
BILL NO. 1436

By: Nations, Balkman, Cargill,
Steele, Peters and Tibbs of
the House

and

Maddox of the Senate

(state government - amending 74 O.S., Section
5078 - exemption from income tax - Department
of Commerce -

effective date)

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 5078, as amended by Section 2, Chapter 230, O.S.L. 1997 (74 O.S. Supp. 2000, Section 5078), is amended to read as follows:

Section 5078. A. For a period of up to ~~five (5)~~ ten (10) years from the date of tenant's occupancy in an incubator, income earned by tenant as a result of occupancy in an incubator shall be exempt from state income tax. The exemption provided by this section shall remain in effect after the date a tenant is no longer an occupant in an incubator, but not to exceed a total duration of ten (10) years for any tenant.

B. In order to qualify for the income tax exemption authorized by this section, the tenant shall submit a detailed description of the goods or services or combination of goods and services, including processes for production and distribution of the goods or services, to the Oklahoma Department of Commerce on a form to be prescribed for such purpose by the Department. The Department of Commerce shall review the information contained in the application

to determine whether the business activity of the incubator applicant would constitute direct competition with any other business entity doing business within the State of Oklahoma. If the Department determines that the proposed business activity would constitute direct competition, the Department shall analyze the extent to which the proposed business activity would constitute direct competition in the same market area as an existing Oklahoma business. No income tax exemption shall be available to any tenant pursuant to the provisions of this section if the business activity of the tenant would constitute direct competition with an Oklahoma business in an identical market area. A tenant may occupy an incubator and have all other benefits associated with incubator occupancy, but shall not be eligible for the income tax exemption if the Department of Commerce determines that the business activity would constitute direct competition in the same market area as an existing Oklahoma business.

C. In order to qualify for the income tax exemption authorized by this section, the tenant must make at least seventy-five percent (75%) of its gross sales constituting the principal business activity of the business to buyers located outside the state or to buyers whose principal business activity is conducted outside the state or to the federal government or to buyers located within the state if the product or service is resold to an out-of-state customer or buyer for ultimate use.

D. The Oklahoma Tax Commission shall promulgate rules ~~and regulations~~ to implement the provisions of this section.

SECTION 2. This act shall become effective November 1, 2001.

Passed the House of Representatives the 8th day of March, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2001.

Presiding Officer of the Senate