

SB 1556

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THE STATE SENATE  
Wednesday, February 18, 2004

Senate Bill No. 1556

As Amended

SENATE BILL NO. 1556 - By: CRUTCHFIELD of the Senate and POPE of the House.

[ revenue and taxation - providing exemptions relating to withholding of income tax - effective date - emergency ]

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

SECTION 1. AMENDATORY Section 24, Chapter 472, O.S.L. 2003 (68 O.S. Supp. 2003, Section 2385.30), is amended to read as follows:

Section 2385.30 A. A pass-through entity shall withhold income tax at the rate of five percent (5%) of the Oklahoma share of income of the entity distributed to each nonresident member and pay the withheld amount as follows:

1. For distributions made to nonresident members during the months of January, February and March, the withholding amounts shall be due on or before April 30;

2. For distributions made to nonresident members during the months of April, May and June, the withholding amounts shall be due on or before July 31;

1           3. For distributions made to nonresident members payments made  
2 during the months of July, August and September, the withholding  
3 amounts shall be due on or before October 31; and

4           4. For distributions made to nonresident members during the  
5 months of October, November and December, the withholding amounts  
6 shall be due on or before January 31 of the succeeding calendar  
7 year.

8           The pass-through entity shall file a return with each payment to  
9 the Oklahoma Tax Commission. The return, in a form prescribed by  
10 the Tax Commission, shall show the amount of the Oklahoma  
11 distribution subject to withholding and the amount withheld.

12           B. A pass-through entity shall not be required to withhold  
13 income tax on distributions made to any entity exempt pursuant to  
14 subsection C of Section 2359 of ~~Title 68 of the Oklahoma Statutes~~  
15 this title or Section 501(c)(3) of the Internal Revenue Code, 26  
16 U.S.C., Section 501(c)(3).

17           C. Every pass-through entity required pursuant to this section  
18 to deduct and withhold income tax shall furnish to its nonresident  
19 member and to the Tax Commission annually, but not later than the  
20 last day of the second month after the end of its taxable year, a  
21 written statement of the amount of distribution made and of the tax  
22 withheld on behalf of the nonresident member on forms prescribed by  
23 the Tax Commission. The written statement shall show the name of

1 member, the applicable social security number or federal  
2 identification number, the amount of the Oklahoma distribution, the  
3 amounts withheld, and any such information as may be required by the  
4 Tax Commission.

5 D. If the Tax Commission, in any case, has justifiable reason  
6 to believe that the collection of the amount required in subsection  
7 A of this section is in jeopardy, the Tax Commission may require a  
8 pass-through entity to file a return and pay the withheld amounts at  
9 any time.

10 E. All amounts received by the Tax Commission pursuant to the  
11 provisions of Sections ~~23~~ 2385.29 through ~~25~~ 2385.31 of this ~~act~~  
12 title shall be deposited as provided by Section 2385.16 of ~~Title 68~~  
13 ~~of the Oklahoma Statutes~~ this title.

14 F. Notwithstanding the provisions of subsection A of this  
15 section, a pass-through entity is not required to withhold tax for a  
16 nonresident member if:

17 1. The Tax Commission has determined, by rule, that the income  
18 of the nonresident member is not subject to withholding;

19 2. The nonresident member files an affidavit with the Tax  
20 Commission, in the form and manner prescribed by the Tax Commission,  
21 whereby such nonresident member agrees to be subject to the personal  
22 jurisdiction of the Tax Commission in the courts of this state for  
23 the purpose of determining and collecting any Oklahoma taxes,

1 including estimated tax payments, together with any related interest  
2 and penalties. The Tax Commission may revoke an exemption granted  
3 by this subsection at any time it determines that the nonresident  
4 member is not abiding by the terms of the affidavit; or

5 3. The entity is a publicly traded partnership, as defined by  
6 Section 7704(b) of the Internal Revenue Code, which is treated as a  
7 partnership for the purposes of the Internal Revenue Code, and which  
8 has agreed to file an annual information return reporting the name,  
9 address, taxpayer identification number and other information  
10 requested by the Tax Commission of each **unitholder** with an income in  
11 the state in excess of Five Hundred Dollars (\$500.00).

12 SECTION 2. This act shall become effective July 1, 2004.

13 SECTION 3. It being immediately necessary for the preservation  
14 of the public peace, health and safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-10-04 - DO PASS,  
18 As Amended and Coauthored.