

SB 442

Senate Bill No. 442
As Amended

SENATE BILL NO. 442 - By: KERR and LITTLEFIELD of the Senate and
BRADDOCK and SWEEDEN of the House.

[economic development - inventor tax incentives provided
under Inventors Assistance Act - effective date]

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 5064.3, is
amended to read as follows:

Section 5064.3 As used in Section 5064.1 et seq. of this title:

1. "Commercial stage" means the point at which the product has
advanced beyond the theoretical and prototype stage and is capable
of being manufactured or reduced to practice commercially;

2. "Inventor" means any person who perceives a new concept
which may result in a product or patentable process;

3. "Person" means any individual, sole proprietor, partnership
or corporation;

4. "Product" means any device, technique or process;

5. "Qualified product" means any product that is patented, in
patent pending, or trademarked pursuant to federal law and
registered with the Oklahoma Center for the Advancement of Science
and Technology (OCAST);

1 6. "Proposal" means a plan provided by the inventor which
2 includes technical and descriptive information on the concept; and

3 ~~6.~~ 7. "Royalties" means all things of value received by an
4 inventor in connection with the licensing, rental or sale of a
5 qualified product patented, in patent pending, or trademarked
6 ~~pursuant to federal law.~~ The term "royalties" shall include, for an
7 inventor who is also the manufacturer and seller of a qualified
8 product, net profits or net proceeds received by the inventor in
9 connection with the sale of the qualified product directly to its
10 customers; and

11 8. "Net profits" or "net proceeds" means the gross sales of the
12 qualified product minus the cost of goods sold, calculated in
13 accordance with generally accepted accounting principles, allocable
14 to the qualified product, minus selling, general, and administrative
15 expenses allocable on a pro rata basis to the qualified product.

16 SECTION 2. AMENDATORY 74 O.S. 2001, Section 5064.7, is
17 amended to read as follows:

18 Section 5064.7 A. The following incentives shall be available
19 to inventors for qualified products developed and manufactured in
20 this state and to instate manufacturers of said qualified products;
21 provided, ~~to qualify for the incentives, the product shall be~~
22 ~~patented or have patent pending pursuant to federal law and shall be~~
23 ~~registered with the Oklahoma Center for the Advancement of Science~~

1 ~~and Technology (OCAST)~~ when an inventor is both the inventor and
2 manufacturer of a qualified product, the inventor shall be entitled
3 to both incentives set forth in this subsection:

4 1. ~~Royalty~~ Royalties earned by an inventor from a qualified
5 product developed and manufactured in this state shall be exempt
6 from state income tax for a period of seven (7) years from January 1
7 of the first year in which such ~~royalty is~~ royalties are received as
8 long as the manufacturer remains in the state; and

9 2. An instate manufacturer of a qualified product developed in
10 this state by an inventor shall be eligible for a tax credit, as
11 provided for in Section 2357.4 of Title 68 of the Oklahoma Statutes.
12 In addition such manufacturer may exclude from Oklahoma taxable
13 income, or in the case of an individual, the Oklahoma adjusted gross
14 income, sixty-five percent (65%) of the cost of depreciable property
15 purchased and utilized directly in manufacturing the product. The
16 maximum exclusion shall not exceed Five Hundred Thousand Dollars
17 (\$500,000.00). If the exclusion allowed by this paragraph exceeds
18 the Oklahoma taxable income, or in the case of an individual, the
19 Oklahoma adjusted gross income, the amount of the exclusion that is
20 in excess of such income may be carried forward as an exclusion
21 against subsequent Oklahoma taxable income or in the case of an
22 individual, subsequent Oklahoma adjusted gross income, for a period
23 not to exceed four (4) years. For the purposes of this paragraph,

1 "depreciable property" means machinery, fixtures, equipment,
2 buildings, or substantial improvements thereto, placed in service in
3 this state during the taxable year.

4 B. The Oklahoma Tax Commission, in conjunction with the
5 Oklahoma Center for the Advancement of Science and Technology, shall
6 promulgate rules to implement the provisions of this section.

7 SECTION 3. AMENDATORY 68 O.S. 2001, Section 2359, is
8 amended to read as follows:

9 Section 2359. A. A person or organization exempt from federal
10 income taxation under the provisions of the Internal Revenue Code
11 shall also be exempt from the tax imposed by Section 2351 et seq. of
12 this title in each year in which such person or organization
13 satisfies the requirements of the Internal Revenue Code for
14 exemption from federal income taxation. If the exemption applicable
15 to any person or organization under the provisions of the Internal
16 Revenue Code is limited or qualified in any manner, the exemption
17 from taxes imposed by this article shall be limited or qualified in
18 a similar manner.

19 B. Notwithstanding the provisions of subsection A of this
20 section, the unrelated business taxable income or other income
21 subject to tax, as computed under the provisions of the Internal
22 Revenue Code, of any person or organization exempt from the tax
23 imposed by this act and subject to the tax imposed on such income by

1 the Internal Revenue Code shall be subject to the tax which would
2 have been imposed by this act but for the provisions of subsection A
3 of this section.

4 C. Insurance companies paying, during or for the taxable year,
5 a tax to this state on gross premium income shall be exempt from the
6 provisions of this article and the taxes levied thereby.

7 D. ~~Royalty~~ Royalties earned by an inventor from qualified
8 products developed and manufactured in this state shall be exempt
9 from the tax imposed by Section 2355 of this title for a seven-year
10 period, pursuant to the provisions of Section 5064.7 of Title 74 of
11 the Oklahoma Statutes.

12 E. Sponsors and tenants of small business incubators shall be
13 exempt for the tax imposed by Section 2355 of this title, pursuant
14 to the provisions of Sections 5075 and 5078 of Title 74 of the
15 Oklahoma Statutes.

16 SECTION 4. This act shall become effective January 1, 2004.

17 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-18-03 - DO PASS,
18 As Amended and Coauthored.