

STATE OF OKLAHOMA

2nd Extraordinary Session of the 50th Legislature (2006)

HOUSE BILL 1230

By: Roggow

AS INTRODUCED

An Act relating to revenue and taxation; authorizing income tax credit for certain equity investment in qualified agricultural processing business; defining terms; specifying amount of credit; prohibiting use of credit in conjunction with certain credits; requiring notification to Tax Commission regarding proposed use of credit; providing credit inapplicable to certain invested amount; specifying percentage of credit applicable for designated taxable years; providing for reduction of credit percentage for certain taxable years; requiring capital investment of invested funds within particular period of time; prohibiting special allocation of tax credit; prohibiting use of credit to reduce liability to less than certain amount; authorizing carryover; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.25B of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Eligible direct investment" means the exchange of money for the documented equity interest in a lawfully recognized business entity and includes shares in a corporation, membership interest in a limited liability company, partnership interests in a general or limited partnership, or other evidence of the transfer of money to the business entity in exchange for the equity securities of the business entity subject to the requirement of this section that the credit may only be based upon investment in excess of One Million Dollars (\$1,000,000.00) and not in excess of Sixteen Million Dollars (\$16,000,000.00);

2. "Qualified agricultural processing business" means any lawfully recognized entity:

- a. having its headquarters and principal business activity in the state,
- b. classified under Sector No. 311 of the North American Industry Classification System (NAICS), latest revision,
- c. which documents investment of direct equity by the issuance of shares of stock, membership certificates, evidence of partnership interests or other documents or securities which evidence the rights of an investor,
- d. which constructs for the first time after receipt of direct equity investment qualifying for the credit authorized by this section improvements on real property constituting a qualified agricultural processing facility, and
- e. which conducts the manufacturing process within the state using qualified agricultural inputs;

3. "Qualified agricultural commodity processing facility" means the real property and improvements, including equipment, owned or leased by an eligible business entity and at which qualified agricultural inputs are manufactured into a value-added product and sold to an ultimate consumer for consumption by humans or animals or which are manufactured into a value-added product and sold to another manufacturer who adds additional value to the goods sold and which ultimately are sold to the final consumer for consumption by humans or animals if the activity is described by any Industry Number under Sector 311 of the North American Industry Classification System (NAICS); and

4. "Qualified agricultural inputs" means any growing crop of the type capable of being grown within the boundary of the state,

regardless of whether the actual inputs in the manufacturing process are harvested within the state, or any livestock of the kind capable of being raised within the boundary of the state, regardless of whether the livestock or associated products are actually raised within the state prior to the time the livestock or by-products are used as inputs in a manufacturing process, but excluding growing crops, livestock or by-products of growing crops or livestock grown, raised or produced from any jurisdiction other than the United States of America.

B. Subject to the other requirements of this section, for taxable years beginning after December 31, 2006, there shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes in the amount of thirty percent (30%) of the eligible direct investment in a qualified agricultural processing business.

C. The credit authorized by this section shall not be claimed in connection with any tax credit claimed based upon investment in a qualified agricultural processing facility pursuant to Section 2357.25 of Title 68 of the Oklahoma Statutes.

D. A promoter or organizer of a qualified agricultural processing business that intends to seek equity investment in connection with a qualified agricultural commodity processing facility shall notify the Oklahoma Tax Commission of all direct equity investment for which the credit authorized by this section may be claimed by an investor. The Tax Commission may require such information from the promoter or the investor or both as may be required in order to ensure that the credit authorized by this section is not claimed for the same taxable year and for the same equity investment in an agricultural processing facility for which the credit authorized by Section 2357.25 of Title 68 of the Oklahoma Statutes has been or may be claimed.

E. The credit authorized by this section shall not be applicable to the first One Million Dollars (\$1,000,000.00) of direct equity investment in the qualified agricultural processing business.

F. The credit authorized by this section may be claimed for the amount of direct equity investment exceeding One Million Dollars (\$1,000,000.00), but not exceeding Sixteen Million Dollars (\$16,000,000.00) made in a qualified agricultural processing business.

G. The credit amount in the percentage described in subsection B of this section shall be applicable for all tax credits based upon investment occurring in taxable years beginning after December 31, 2006, and ending not later than December 31, 2013.

H. For taxable years ending after December 31, 2013, the percentage of the credit available shall decrease by two (2) percentage points each taxable year for the next fourteen (14) taxable years according to the following schedule:

<u>Taxable Year Ending</u>	<u>Credit Percentage</u>
1. December 31, 2014	28%;
2. December 31, 2015	26%;
3. December 31, 2016	24%;
4. December 31, 2017	22%;
5. December 31, 2018	20%;
6. December 31, 2019	18%;
7. December 31, 2020	16%;
8. December 31, 2021	14%;
9. December 31, 2022	12%;
10. December 31, 2023	10%;
11. December 31, 2024	8%;
12. December 31, 2025	6%;
13. December 31, 2026	4%;
14. December 31, 2027	2%; and

15. December 31, 2028

0%.

I. In order to qualify for the credit authorized by this section, the capital investment by the qualified agricultural processing business for purposes of construction of and equipping of a qualified agricultural processing business shall be made within two (2) years of the date the eligible direct equity investment is made in the qualified agricultural processing business.

J. The credit authorized by this section shall be allocated on the basis of the direct equity investment made by the investor in the qualified agricultural processing business and such credits shall not be specially allocated for purposes of Oklahoma income tax returns even if special allocation of the credits is otherwise permissible for purposes of income tax returns governed by the provisions of the Internal Revenue Code of 1986, as amended.

K. The credit authorized by this section may not be used to reduce the tax liability of the tax credit claimant to less than zero (0).

L. To the extent not used, the credit authorized by this section may be carried over, in order, to each of the next succeeding ten (10) taxable years.

SECTION 2. This act shall become effective January 1, 2007.

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