

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1708

By: Derby

4
5 AS INTRODUCED

6 An Act relating to revenue and taxation; amending 68
7 O.S. 2001, Section 2355, as last amended by Section
8 7, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008,
9 Section 2355), which relates to income tax; repealing
10 corporate income tax contingent on computation of
11 revenue performance; imposing certain duties on State
12 Board of Equalization related to implementation of
13 repeal of corporate income tax rate; prescribing
14 method for computation; requiring repetition of
15 computation under certain circumstances; providing
16 for codification; and providing an effective date.

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

18 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2355, as
19 last amended by Section 7, Chapter 136, O.S.L. 2007 (68 O.S. Supp.
20 2008, Section 2355), is amended to read as follows:

21 Section 2355. A. Individuals. For all taxable years beginning
22 after December 31, 1998 and before January 1, 2006, a tax is hereby
23 imposed upon the Oklahoma taxable income of every resident or
24 nonresident individual, which tax shall be computed at the option of
the taxpayer under one of the two following methods:

1. METHOD 1.

1 a. Single individuals and married individuals filing
2 separately not deducting federal income tax:

3 (1) 1/2% tax on first \$1,000.00 or part thereof,

4 (2) 1% tax on next \$1,500.00 or part thereof,

5 (3) 2% tax on next \$1,250.00 or part thereof,

6 (4) 3% tax on next \$1,150.00 or part thereof,

7 (5) 4% tax on next \$1,300.00 or part thereof,

8 (6) 5% tax on next \$1,500.00 or part thereof,

9 (7) 6% tax on next \$2,300.00 or part thereof, and

10 (8) (a) for taxable years beginning after December

11 31, 1998, and before January 1, 2002, 6.75%

12 tax on the remainder,

13 (b) for taxable years beginning on or after

14 January 1, 2002, and before January 1, 2004,

15 7% tax on the remainder, and

16 (c) for taxable years beginning on or after

17 January 1, 2004, 6.65% tax on the remainder.

18 b. Married individuals filing jointly and surviving

19 spouse to the extent and in the manner that a

20 surviving spouse is permitted to file a joint return

21 under the provisions of the Internal Revenue Code and

22 heads of households as defined in the Internal Revenue

23 Code not deducting federal income tax:

24 (1) 1/2% tax on first \$2,000.00 or part thereof,

- 1 (2) 1% tax on next \$3,000.00 or part thereof,
2 (3) 2% tax on next \$2,500.00 or part thereof,
3 (4) 3% tax on next \$2,300.00 or part thereof,
4 (5) 4% tax on next \$2,400.00 or part thereof,
5 (6) 5% tax on next \$2,800.00 or part thereof,
6 (7) 6% tax on next \$6,000.00 or part thereof, and
7 (8) (a) for taxable years beginning after December
8 31, 1998, and before January 1, 2002, 6.75%
9 tax on the remainder,
10 (b) for taxable years beginning on or after
11 January 1, 2002, and before January 1, 2004,
12 7% tax on the remainder, and
13 (c) for taxable years beginning on or after
14 January 1, 2004, 6.65% tax on the remainder.

15 2. METHOD 2.

16 a. Single individuals and married individuals filing
17 separately deducting federal income tax:

- 18 (1) 1/2% tax on first \$1,000.00 or part thereof,
19 (2) 1% tax on next \$1,500.00 or part thereof,
20 (3) 2% tax on next \$1,250.00 or part thereof,
21 (4) 3% tax on next \$1,150.00 or part thereof,
22 (5) 4% tax on next \$1,200.00 or part thereof,
23 (6) 5% tax on next \$1,400.00 or part thereof,
24 (7) 6% tax on next \$1,500.00 or part thereof,

- 1 (8) 7% tax on next \$1,500.00 or part thereof,
- 2 (9) 8% tax on next \$2,000.00 or part thereof,
- 3 (10) 9% tax on next \$3,500.00 or part thereof, and
- 4 (11) 10% tax on the remainder.

5 b. Married individuals filing jointly and surviving
6 spouse to the extent and in the manner that a
7 surviving spouse is permitted to file a joint return
8 under the provisions of the Internal Revenue Code and
9 heads of households as defined in the Internal Revenue
10 Code deducting federal income tax:

- 11 (1) 1/2% tax on the first \$2,000.00 or part thereof,
- 12 (2) 1% tax on the next \$3,000.00 or part thereof,
- 13 (3) 2% tax on the next \$2,500.00 or part thereof,
- 14 (4) 3% tax on the next \$1,400.00 or part thereof,
- 15 (5) 4% tax on the next \$1,500.00 or part thereof,
- 16 (6) 5% tax on the next \$1,600.00 or part thereof,
- 17 (7) 6% tax on the next \$1,250.00 or part thereof,
- 18 (8) 7% tax on the next \$1,750.00 or part thereof,
- 19 (9) 8% tax on the next \$3,000.00 or part thereof,
- 20 (10) 9% tax on the next \$6,000.00 or part thereof, and
- 21 (11) 10% tax on the remainder.

22 B. Individuals. For all taxable years beginning on or after
23 January 1, 2008, a tax is hereby imposed upon the Oklahoma taxable
24

1 income of every resident or nonresident individual, which tax shall
2 be computed as follows:

3 1. Single individuals and married individuals filing
4 separately:

5 (a) 1/2% tax on first \$1,000.00 or part thereof,

6 (b) 1% tax on next \$1,500.00 or part thereof,

7 (c) 2% tax on next \$1,250.00 or part thereof,

8 (d) 3% tax on next \$1,150.00 or part thereof,

9 (e) 4% tax on next \$2,300.00 or part thereof,

10 (f) 5% tax on next \$1,500.00 or part thereof,

11 (g) 5.50% tax on the remainder for the 2008 tax year and

12 any subsequent tax year unless the rate prescribed by

13 subparagraph (h) of this paragraph is in effect, and

14 (h) 5.25% tax on the remainder for the 2009 and subsequent

15 tax years. The decrease in the top marginal

16 individual income tax rate otherwise authorized by

17 this subparagraph shall be contingent upon the

18 determination required to be made by the State Board

19 of Equalization pursuant to Section 2355.1A of this

20 title.

21 2. Married individuals filing jointly and surviving spouse to
22 the extent and in the manner that a surviving spouse is permitted to
23 file a joint return under the provisions of the Internal Revenue
24

1 Code and heads of households as defined in the Internal Revenue

2 Code:

3 (a) 1/2% tax on first \$2,000.00 or part thereof,

4 (b) 1% tax on next \$3,000.00 or part thereof,

5 (c) 2% tax on next \$2,500.00 or part thereof,

6 (d) 3% tax on next \$2,300.00 or part thereof,

7 (e) 4% tax on next \$2,400.00 or part thereof,

8 (f) 5% tax on next \$2,800.00 or part thereof,

9 (g) 5.50% tax on the remainder for the 2008 tax year and
10 any subsequent tax year unless the rate prescribed by
11 subparagraph (h) of this paragraph is in effect, and

12 (h) 5.25% tax on the remainder for the 2009 and subsequent
13 tax years. The decrease in the top marginal
14 individual income tax rate otherwise authorized by
15 this subparagraph shall be contingent upon the
16 determination required to be made by the State Board
17 of Equalization pursuant to Section 2355.1A of this
18 title.

19 No deduction for federal income taxes paid shall be allowed to
20 any taxpayer to arrive at taxable income.

21 C. Nonresident aliens. In lieu of the rates set forth in
22 subsection A above, there shall be imposed on nonresident aliens, as
23 defined in the Internal Revenue Code, a tax of eight percent (8%)
24 instead of thirty percent (30%) as used in the Internal Revenue

1 Code, with respect to the Oklahoma taxable income of such
2 nonresident aliens as determined under the provision of the Oklahoma
3 Income Tax Act.

4 Every payer of amounts covered by this subsection shall deduct
5 and withhold from such amounts paid each payee an amount equal to
6 eight percent (8%) thereof. Every payer required to deduct and
7 withhold taxes under this subsection shall for each quarterly period
8 on or before the last day of the month following the close of each
9 such quarterly period, pay over the amount so withheld as taxes to
10 the Tax Commission, and shall file a return with each such payment.
11 Such return shall be in such form as the Tax Commission shall
12 prescribe. Every payer required under this subsection to deduct and
13 withhold a tax from a payee shall, as to the total amounts paid to
14 each payee during the calendar year, furnish to such payee, on or
15 before January 31, of the succeeding year, a written statement
16 showing the name of the payer, the name of the payee and the payee's
17 social security account number, if any, the total amount paid
18 subject to taxation, and the total amount deducted and withheld as
19 tax and such other information as the Tax Commission may require.
20 Any payer who fails to withhold or pay to the Tax Commission any
21 sums herein required to be withheld or paid shall be personally and
22 individually liable therefor to the State of Oklahoma.

23 D. 1. Corporations. For all taxable years beginning after
24 December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable

1 income of every corporation doing business within this state or
2 deriving income from sources within this state in an amount equal to
3 six percent (6%) thereof unless the repeal prescribed by paragraph 2
4 of this subsection has occurred.

5 There shall be no additional Oklahoma income tax imposed on
6 accumulated taxable income or on undistributed personal holding
7 company income as those terms are defined in the Internal Revenue
8 Code.

9 2. The corporate income tax rate otherwise authorized by this
10 subsection shall be repealed contingent upon the determination
11 required to be made by the State Board of Equalization pursuant to
12 Section 2 of this act.

13 E. Certain foreign corporations. In lieu of the tax imposed in
14 the first paragraph of subsection C of this section, for all taxable
15 years beginning after December 31, 1989, there shall be imposed on
16 foreign corporations, as defined in the Internal Revenue Code, a tax
17 of six percent (6%) instead of thirty percent (30%) as used in the
18 Internal Revenue Code, where such income is received from sources
19 within Oklahoma, in accordance with the provisions of the Internal
20 Revenue Code and the Oklahoma Income Tax Act.

21 Every payer of amounts covered by this subsection shall deduct
22 and withhold from such amounts paid each payee an amount equal to
23 six percent (6%) thereof. Every payer required to deduct and
24 withhold taxes under this subsection shall for each quarterly period

1 on or before the last day of the month following the close of each
2 such quarterly period, pay over the amount so withheld as taxes to
3 the Tax Commission, and shall file a return with each such payment.
4 Such return shall be in such form as the Tax Commission shall
5 prescribe. Every payer required under this subsection to deduct and
6 withhold a tax from a payee shall, as to the total amounts paid to
7 each payee during the calendar year, furnish to such payee, on or
8 before January 31, of the succeeding year, a written statement
9 showing the name of the payer, the name of the payee and the payee's
10 social security account number, if any, the total amounts paid
11 subject to taxation, the total amount deducted and withheld as tax
12 and such other information as the Tax Commission may require. Any
13 payer who fails to withhold or pay to the Tax Commission any sums
14 herein required to be withheld or paid shall be personally and
15 individually liable therefor to the State of Oklahoma.

16 F. Fiduciaries. A tax is hereby imposed upon the Oklahoma
17 taxable income of every trust and estate at the same rates as are
18 provided in subsection B of this section for single individuals.
19 Fiduciaries are not allowed a deduction for any federal income tax
20 paid.

21 G. Tax rate tables. For all taxable years beginning after
22 December 31, 1991, in lieu of the tax imposed by subsection A or B
23 of this section, as applicable there is hereby imposed for each
24 taxable year on the taxable income of every individual, whose

1 taxable income for such taxable year does not exceed the ceiling
2 amount, a tax determined under tables, applicable to such taxable
3 year which shall be prescribed by the Tax Commission and which shall
4 be in such form as it determines appropriate. In the table so
5 prescribed, the amounts of the tax shall be computed on the basis of
6 the rates prescribed by subsections A and B of this section. For
7 purposes of this subsection, the term "ceiling amount" means, with
8 respect to any taxpayer, the amount determined by the Tax Commission
9 for the tax rate category in which such taxpayer falls.

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2355.1C of Title 68, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The provisions of this section shall be applicable with
14 respect to the implementation of the repeal of the corporate income
15 tax authorized pursuant to the provisions of paragraph 2 of
16 subsection D of Section 2355 of Title 68 of the Oklahoma Statutes
17 which shall be contingent upon a determination by the State Board of
18 Equalization made by a comparison of the revenue computations
19 described by this section which shall be conducted until the repeal
20 of the corporate income tax is effective.

21 B. In addition to any other duties prescribed by law, at the
22 meeting required by paragraph 1 of Section 23 of Article X of the
23 Oklahoma Constitution to be held in December 2009, and for any
24 subsequent December meeting of the State Board of Equalization if

1 the corporate income tax rate prescribed by subsection D of Section
2 2355 of Title 68 of the Oklahoma Statutes has not been repealed, the
3 State Board of Equalization shall determine:

4 1. The amount of revenue growth in the General Revenue Fund of
5 the State Treasury by comparing the fiscal year General Revenue Fund
6 estimate for the fiscal year beginning on the next ensuing July 1
7 date to the revised General Revenue Fund estimate for the then
8 current fiscal year;

9 2. If the amount determined pursuant to the provisions of
10 paragraph 1 of this subsection shows positive growth then the Board
11 shall make a finding that the applicable revenue growth in the state
12 has authorized the repeal of the corporate income tax pursuant to
13 the provisions of paragraph 2 of subsection D of Section 2355 of
14 this title beginning on the second January 1 following such December
15 meeting; and

16 3. If the amount determined pursuant to the provisions of
17 paragraph 1 of this subsection does not show positive growth, the
18 Board shall make a finding that the applicable revenue growth in the
19 state will not authorize the implementation of the provisions of
20 paragraph 2 of subsection D of Section 2355 of this title beginning
21 on the second January 1 following such December meeting.

22 C. If the Board makes a finding that applicable revenue growth
23 in the state does not authorize the implementation of the provisions
24 of paragraph 2 of subsection D of Section 2355 of Title 68 of the

1 Oklahoma Statutes beginning with calendar year 2010 pursuant to the
2 provisions of subsection B of this section, the procedures
3 prescribed by subsection A and subsection B of this section shall be
4 repeated by the State Board of Equalization for each successive two-
5 year comparison. Once the corporate income tax authorized pursuant
6 to subsection D of Section 2355 of Title 68 of the Oklahoma Statutes
7 has been repealed as a result of the analysis of the General Revenue
8 Fund estimates there shall be no corporate income tax pursuant to
9 subsection D of Section 2355 of Title 68 of the Oklahoma Statutes.

10 SECTION 3. This act shall become effective January 1, 2010.

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