

1 STATE OF OKLAHOMA

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

3 SENATE BILL 851

By: Wilson

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 2355, as last amended by Section
9 7, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008,
10 Section 2355), which relates to income tax; deleting
11 contingent change in certain income tax rate;
12 providing tax rates for certain taxpayers, and
13 applying contingency thereto; requiring Oklahoma Tax
14 Commission to calculate certain tax rate under
15 specified circumstances; providing for application of
16 certain tax rate during specified time period;
17 clarifying application of provision; establishing
18 certain contingency; defining term; requiring State
19 Board of Equalization to make certain determination
20 at specified meeting, to certify specified dollar
21 amount and to make certain finding authorizing
22 implementation of specified provision; repealing
23 Section 4, Chapter 42, 2nd Extraordinary Session,
24 O.S.L. 2006, as last amended by Section 13, Chapter
378, O.S.L. 2008 (68 O.S. Supp. 2008, Section
2355.1A), which relates to income tax rate; providing
for codification; and providing an effective date.

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

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

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

6 1. METHOD 1.

7 a. Single individuals and married individuals filing
8 separately not deducting federal income tax:

9 (1) 1/2% tax on first \$1,000.00 or part thereof,

10 (2) 1% tax on next \$1,500.00 or part thereof,

11 (3) 2% tax on next \$1,250.00 or part thereof,

12 (4) 3% tax on next \$1,150.00 or part thereof,

13 (5) 4% tax on next \$1,300.00 or part thereof,

14 (6) 5% tax on next \$1,500.00 or part thereof,

15 (7) 6% tax on next \$2,300.00 or part thereof, and

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

17 31, 1998, and before January 1, 2002, 6.75%

18 tax on the remainder,

19 (b) for taxable years beginning on or after

20 January 1, 2002, and before January 1, 2004,

21 7% tax on the remainder, and

22 (c) for taxable years beginning on or after

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

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1 b. Married individuals filing jointly and surviving
2 spouse to the extent and in the manner that a
3 surviving spouse is permitted to file a joint return
4 under the provisions of the Internal Revenue Code and
5 heads of households as defined in the Internal Revenue
6 Code not deducting federal income tax:

7 (1) 1/2% tax on first \$2,000.00 or part thereof,

8 (2) 1% tax on next \$3,000.00 or part thereof,

9 (3) 2% tax on next \$2,500.00 or part thereof,

10 (4) 3% tax on next \$2,300.00 or part thereof,

11 (5) 4% tax on next \$2,400.00 or part thereof,

12 (6) 5% tax on next \$2,800.00 or part thereof,

13 (7) 6% tax on next \$6,000.00 or part thereof, and

14 (8) (a) for taxable years beginning after December
15 31, 1998, and before January 1, 2002, 6.75%
16 tax on the remainder,

17 (b) for taxable years beginning on or after
18 January 1, 2002, and before January 1, 2004,
19 7% tax on the remainder, and

20 (c) for taxable years beginning on or after
21 January 1, 2004, 6.65% tax on the remainder.

22 2. METHOD 2.

23 a. Single individuals and married individuals filing
24 separately deducting federal income tax:

- 1 (1) 1/2% tax on first \$1,000.00 or part thereof,
- 2 (2) 1% tax on next \$1,500.00 or part thereof,
- 3 (3) 2% tax on next \$1,250.00 or part thereof,
- 4 (4) 3% tax on next \$1,150.00 or part thereof,
- 5 (5) 4% tax on next \$1,200.00 or part thereof,
- 6 (6) 5% tax on next \$1,400.00 or part thereof,
- 7 (7) 6% tax on next \$1,500.00 or part thereof,
- 8 (8) 7% tax on next \$1,500.00 or part thereof,
- 9 (9) 8% tax on next \$2,000.00 or part thereof,
- 10 (10) 9% tax on next \$3,500.00 or part thereof, and
- 11 (11) 10% tax on the remainder.

12 b. Married individuals filing jointly and surviving
13 spouse to the extent and in the manner that a
14 surviving spouse is permitted to file a joint return
15 under the provisions of the Internal Revenue Code and
16 heads of households as defined in the Internal Revenue
17 Code deducting federal income tax:

- 18 (1) 1/2% tax on the first \$2,000.00 or part thereof,
- 19 (2) 1% tax on the next \$3,000.00 or part thereof,
- 20 (3) 2% tax on the next \$2,500.00 or part thereof,
- 21 (4) 3% tax on the next \$1,400.00 or part thereof,
- 22 (5) 4% tax on the next \$1,500.00 or part thereof,
- 23 (6) 5% tax on the next \$1,600.00 or part thereof,
- 24 (7) 6% tax on the next \$1,250.00 or part thereof,

- 1 (8) 7% tax on the next \$1,750.00 or part thereof,
- 2 (9) 8% tax on the next \$3,000.00 or part thereof,
- 3 (10) 9% tax on the next \$6,000.00 or part thereof, and
- 4 (11) 10% tax on the remainder.

5 B. Individuals. For all taxable years beginning on or after
6 January 1, 2008, a tax is hereby imposed upon the Oklahoma taxable
7 income of every resident or nonresident individual, which tax shall
8 be computed as follows:

9 1. Single individuals and married individuals filing
10 separately:

- 11 (a) 1/2% tax on first \$1,000.00 or part thereof,
- 12 (b) 1% tax on next \$1,500.00 or part thereof,
- 13 (c) 2% tax on next \$1,250.00 or part thereof,
- 14 (d) 3% tax on next \$1,150.00 or part thereof,
- 15 (e) 4% tax on next \$2,300.00 or part thereof,
- 16 (f) 5% tax on next \$1,500.00 or part thereof, and
- 17 (g) 5.50% tax on the remainder for the 2008 tax year and
18 any subsequent tax year ~~unless the rate prescribed by~~
19 ~~subparagraph (h) of this paragraph is in effect, and~~
- 20 ~~(h) 5.25% tax on the remainder for the 2009 and subsequent~~
21 ~~tax years. The decrease in the top marginal~~
22 ~~individual income tax rate otherwise authorized by~~
23 ~~this subparagraph shall be contingent upon the~~
24 ~~determination required to be made by the State Board~~

1 ~~of Equalization pursuant to Section 2355.1A of this~~
2 ~~title.~~

3 2. Married individuals filing jointly and surviving spouse to
4 the extent and in the manner that a surviving spouse is permitted to
5 file a joint return under the provisions of the Internal Revenue
6 Code and heads of households as defined in the Internal Revenue
7 Code:

- 8 (a) 1/2% tax on first \$2,000.00 or part thereof,
9 (b) 1% tax on next \$3,000.00 or part thereof,
10 (c) 2% tax on next \$2,500.00 or part thereof,
11 (d) 3% tax on next \$2,300.00 or part thereof,
12 (e) 4% tax on next \$2,400.00 or part thereof,
13 (f) 5% tax on next \$2,800.00 or part thereof, and
14 (g) 5.50% tax on the remainder for the 2008 tax year and
15 any subsequent tax year ~~unless the rate prescribed by~~
16 ~~subparagraph (h) of this paragraph is in effect, and~~
17 ~~(h) 5.25% tax on the remainder for the 2009 and subsequent~~
18 ~~tax years. The decrease in the top marginal~~
19 ~~individual income tax rate otherwise authorized by~~
20 ~~this subparagraph shall be contingent upon the~~
21 ~~determination required to be made by the State Board~~
22 ~~of Equalization pursuant to Section 2355.1A of this~~
23 ~~title.~~

1 3. Single individuals and married individuals filing separately
2 whose Oklahoma adjusted gross income for the immediately preceding
3 tax year was equal to or greater than Seventy-five Thousand Dollars
4 (\$75,000.00):

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, and

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 subsection H of this section is in effect.

14 4. Married individuals filing jointly and surviving spouse to
15 the extent and in the manner that a surviving spouse is permitted to
16 file a joint return under the provisions of the Internal Revenue
17 Code and heads of households as defined in the Internal Revenue
18 Code:

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

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

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

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

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

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

1 (g) 5.50% tax on the remainder for the 2008 tax year and
2 any subsequent tax year unless the rate prescribed by
3 subsection H of this section is in effect.

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

6 C. Nonresident aliens. In lieu of the rates set forth in
7 subsection A above, there shall be imposed on nonresident aliens, as
8 defined in the Internal Revenue Code, a tax of eight percent (8%)
9 instead of thirty percent (30%) as used in the Internal Revenue
10 Code, with respect to the Oklahoma taxable income of such
11 nonresident aliens as determined under the provision of the Oklahoma
12 Income Tax Act.

13 Every payer of amounts covered by this subsection shall deduct
14 and withhold from such amounts paid each payee an amount equal to
15 eight percent (8%) thereof. Every payer required to deduct and
16 withhold taxes under this subsection shall for each quarterly period
17 on or before the last day of the month following the close of each
18 such quarterly period, pay over the amount so withheld as taxes to
19 the Oklahoma Tax Commission, and shall file a return with each such
20 payment. Such return shall be in such form as the Tax Commission
21 shall prescribe. Every payer required under this subsection to
22 deduct and withhold a tax from a payee shall, as to the total
23 amounts paid to each payee during the calendar year, furnish to such
24 payee, on or before January 31, of the succeeding year, a written

1 statement showing the name of the payer, the name of the payee and
2 the payee's social security account number, if any, the total amount
3 paid subject to taxation, and the total amount deducted and withheld
4 as tax and such other information as the Tax Commission may require.
5 Any payer who fails to withhold or pay to the Tax Commission any
6 sums herein required to be withheld or paid shall be personally and
7 individually liable therefor to the State of Oklahoma.

8 D. Corporations. For all taxable years beginning after
9 December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable
10 income of every corporation doing business within this state or
11 deriving income from sources within this state in an amount equal to
12 six percent (6%) thereof.

13 There shall be no additional Oklahoma income tax imposed on
14 accumulated taxable income or on undistributed personal holding
15 company income as those terms are defined in the Internal Revenue
16 Code.

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

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

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

1 G. Tax rate tables. For all taxable years beginning after
2 December 31, 1991, in lieu of the tax imposed by subsection A or B
3 of this section, as applicable there is hereby imposed for each
4 taxable year on the taxable income of every individual, whose
5 taxable income for such taxable year does not exceed the ceiling
6 amount, a tax determined under tables, applicable to such taxable
7 year which shall be prescribed by the Tax Commission and which shall
8 be in such form as it determines appropriate. In the table so
9 prescribed, the amounts of the tax shall be computed on the basis of
10 the rates prescribed by subsections A and B of this section. For
11 purposes of this subsection, the term "ceiling amount" means, with
12 respect to any taxpayer, the amount determined by the Tax Commission
13 for the tax rate category in which such taxpayer falls.

14 H. When the State Board of Equalization certifies a change in
15 the dollar amount of legislative appropriations for health care
16 services pursuant to Section 2 of this act, the Tax Commission shall
17 calculate a top marginal income tax rate for taxpayers subject to
18 paragraphs 3 and 4 of subsection B of this section which will offset
19 the change in the certified amount. Such rate shall be applied to
20 taxpayers subject to paragraphs 3 and 4 of subsection B of this
21 section during the tax year which will begin on the second January 1
22 date following the Board of Equalization certification.

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

4 A. The provisions of this section shall be applicable to the
5 implementation of the increases or decreases in the top marginal
6 rate of individual income tax authorized pursuant to the provisions
7 of paragraphs 3 and 4 of subsection B and subsection H of Section
8 2355 of Title 68 of the Oklahoma Statutes. Such implementation
9 shall be contingent upon an annual determination by the State Board
10 of Equalization of the difference in the dollar amount of
11 legislative appropriations for health care services. For purposes
12 of this section, "legislative appropriations for health care
13 services" means expenditures made within a given fiscal year from
14 certified state funds for all programs and services provided by
15 medical and allied health professionals for the prevention,
16 treatment and management of illness and the preservation of mental
17 and physical well-being.

18 B. In addition to any other duties prescribed by law, at the
19 meeting required by paragraph 1 of Section 23 of Article X of the
20 Oklahoma Constitution to be held in December of each year beginning
21 in 2009, the State Board of Equalization shall determine the dollar
22 amount difference between:

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1 1. The amount appropriated by the Legislature from all
2 certified state funds for health care services for the most recently
3 concluded fiscal year; and

4 2. The amount appropriated by the Legislature from all
5 certified state funds for health care services for the fiscal year
6 immediately preceding the most recently concluded fiscal year.

7 C. The State Board of Equalization shall certify annually the
8 increase or decrease in the dollar amount of legislative
9 appropriations for health care services. The Board shall make a
10 finding that such increase or decrease will authorize the
11 implementation of an increase or decrease in the top marginal income
12 tax rate pursuant to Section 2355 of Title 68 of the Oklahoma
13 Statutes for the tax year to begin on the second January 1 date
14 following the certification.

15 SECTION 3. REPEALER Section 4, Chapter 42, 2nd
16 Extraordinary Session, O.S.L. 2006, as last amended by Section 13,
17 Chapter 378, O.S.L. 2008 (68 O.S. Supp. 2008, Section 2355.1A), is
18 hereby repealed.

19 SECTION 4. This act shall become effective November 1, 2009.
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