STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1436

By: Mazzei, Childers, David, Ford, Halligan, Jolley, Russell, Simpson, Treat, Brinkley, Branan, Crain, Allen, Sparks, Burrage, Ivester, Wyrick, Paddack, Garrison, Johnson (Constance), McAffrey, Adelson and Ellis of the Senate

and

Dank of the House

COMMITTEE SUBSTITUTE

[business activity tax - franchise tax - repealer - effective date]

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 1218, is amended to read as follows:

Section 1218. A. ~~For tax years beginning on or after January 1, 2010~~ Except as otherwise provided by this subsection, there is hereby levied on each person doing business in this state an annual

tax in the amount of Twenty-five Dollars ($25.00). No sole proprietor or lawfully recognized business entity having gross revenue of less than One Million Dollars ($1,000,000.00) per year shall be required to pay the tax otherwise authorized by this subsection.

B. In addition to the tax levied in subsection A of this section, there shall be levied a tax equal to one percent (1%) of the net revenue derived from business activity that is allocated or apportioned to Oklahoma. No sole proprietor or lawfully recognized business entity having gross revenue of less than One Million Dollars ($1,000,000.00) per year shall be required to pay the tax otherwise authorized by this subsection.

C. Notwithstanding the provisions of subsection B of this section for tax years 2010, 2011, and 2012, corporations and any other persons subject to the franchise tax levied under the provisions of ~~Sections~~ Section 1203, 1204 or 1205 of ~~Title 68 of the Oklahoma Statutes~~ this title, the tax due under this section shall be equal to the amount such person paid or was required to pay for the taxable period ending prior to December 31, 2010.

D. Except as provided in subsections A and C of this section, no person shall be required to remit the tax levied pursuant to subsection B of this section for tax years 2010, 2011, and 2012.

E. The tax hereby levied shall be payable annually as provided in Section ~~7~~ 1220 of this ~~act~~ title.

F. The tax so levied or imposed pursuant to this section, when paid in full as provided in this act, or if not paid as a result of the exemption based on gross revenue authorized pursuant to subsection A or subsection B of this section, shall be in lieu of any and all other taxes imposed by the state, counties, cities, towns, townships, school districts, and other municipalities or political subdivisions of the state on intangible personal property of each such person, except for public service corporations, railroads and air carriers.

G. The tax remitted in 2011 shall also be in lieu of the ad valorem tax on intangible personal property of each such person, except for public service corporations, railroads and air carriers for the calendar years 2007, 2008, and 2009 in which the person was doing business in the state. No taxpayer shall be entitled to nor be allowed any refund of taxes paid upon intangible personal property prior to the effective date of this act. Upon the effective date of this act, there shall be no changes in the valuation methodology of personal property, and the valuation methodology of personal property for the January 1, 2010, assessment year shall be maintained and preserved.

H. A person is doing business in this state if any one of the paragraphs in this subsection applies. The person:

1. Is domiciled in this state as an individual for business purposes or is domiciled in this state for corporate, commercial or other business purposes;

2. Owns or uses a part or all of its capital in this state;

3. Has at any time during the calendar year property in this state with an aggregate value of at least Fifty Thousand Dollars ($50,000.00). For the purpose of this subsection, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge;

4. Has during the calendar year payroll in this state of at least Fifty Thousand Dollars ($50,000.00). Payroll in this state includes all of the following:

a. any amount subject to withholding by the person under Section 2385.2 of ~~Title 68 of the Oklahoma Statutes~~ this title,

b. any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state, and

c. any amount the person pays for services performed in this state on its behalf by another;

5. Has during the calendar year sales in this state of at least Five Hundred Thousand Dollars ($500,000.00);

6. Has at any time during the calendar year within this state at least twenty-five percent (25%) of the person's total property, total payroll, or total sales; or

7. Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this act under the Constitution of the United States.

SECTION 2. REPEALER 68 O.S. 2011, Sections 1203 and 1204, are hereby repealed.

SECTION 3. This act shall become effective July 1, 2013.

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