STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2448 By: Quinn

AS INTRODUCED

An Act relating to revenue and taxation; repealing 68 O.S. 2011, Sections 1212.1, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227 and 1228, which relate to the Oklahoma Franchise Tax and the Oklahoma Business Activity Tax; repealing 18 O.S. 2011, Section 1142.2, which relates to a credit against certain registration fees; amending 68 O.S. 2011, Section 2370, which relates to a privilege tax; modifying reference to Oklahoma Business Activity Tax; providing an effective date; and declaring an emergency.

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

SECTION 1. REPEALER 68 O.S. 2011, Sections 1212.1, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227 and 1228, are hereby repealed.

SECTION 2. REPEALER 18 O.S. 2011, Section 1142.2, is hereby repealed.

SECTION 3. AMENDATORY 68 O.S. 2011, Section 2370, is amended to read as follows:

Section 2370. A. For taxable years beginning after December 31, 1989, for the privilege of doing business within this state,

every state banking association, national banking association and credit union organized under the laws of this state, located or doing business within the limits of the State of Oklahoma shall annually pay to this state a privilege tax at the rate of six percent (6%) of the amount of the taxable income as provided in this section.

B. 1. The privilege tax levied by this section shall be in addition to ~~the Business Activity Tax levied in Section 1218 of this title and~~ the franchise tax levied in Article 12 of this title and in lieu of the tax levied by Section 2355 of this title and in lieu of all taxes levied by the State of Oklahoma, or any subdivision thereof, upon the shares of stock or personal property of any banking association or credit union subject to taxation under this section.

2. Nothing in this section shall be construed to exempt the real property of any banking associations or credit unions from taxation to the same extent, according to its value, as other real property is taxed. Nothing herein shall be construed to exempt an association from payment of any fee or tax authorized or levied pursuant to the banking laws.

3. Personal property which is subject to a lease agreement between a bank or credit union, as lessor, and a nonbanking business entity or individual, as lessee, is not exempt from personal property ad valorem taxation. Provided further, that it shall be

the duty of the lessee of such personal property to return sworn lists or schedules of their taxable property within each county to the county assessor of such county as provided in Sections 2433 and 2434 of this title.

C. Any tax levied under this section shall accrue on the last day of the taxable year and be payable as provided in Section 2375 of this title. The accrual of such tax for the first taxable year to which this act applies, shall apply notwithstanding the prior accrual of a tax in the same taxable year based upon the net income of the next preceding taxable year; provided, however, any additional deduction enuring to the benefit of the taxpayer shall be deducted in accordance with the optional transitional deduction procedures in Section 2354 of this title.

D. The basis of the tax shall be United States taxable income as defined in paragraph 10 of Section 2353 of this title and any adjustments thereto under the provisions of Section 2358 of this title with the following adjustments:

1. There shall be deducted all interest income on obligations of the United States government and agencies thereof not otherwise exempted and all interest income on obligations of the State of Oklahoma or political subdivisions thereof, including public trust authorities, not otherwise exempted under the laws of this state; and

2. Expense deductions claimed in arriving at taxable income under paragraph 10 of Section 2353 of this title shall be reduced by an amount equal to fifty percent (50%) of excluded interest income on obligations of the United States government or agencies thereof and obligations of the State of Oklahoma or political subdivisions thereof.

E. 1. Except as otherwise provided in paragraph 2 of this subsection, there shall be allowed a credit against the tax levied in subsection A of this section in an amount equal to the amount of taxable income received by a participating financial institution as defined in Section 90.2 of Title 62 of the Oklahoma Statutes pursuant to a loan made under the Rural Economic Development Loan Act. Such credit shall be limited each year to five percent (5%) of the amount of annual payroll certified by the Oklahoma Rural Economic Development Loan Program Review Board pursuant to the provisions of paragraph 3 of subsection B of Section 90.4 of Title 62 of the Oklahoma Statutes with respect to the loan made by the participating financial institution and may be claimed for any number of years necessary until the amount of total credits claimed is equal to the total amount of taxable income received by the participating financial institution pursuant to the loan. Any credit allowed but not used in a taxable year may be carried forward for a period not to exceed five (5) taxable years. In no event

shall a credit allowed pursuant to the provisions of this subsection be transferable or refundable.

2. No credit otherwise authorized by the provisions of this subsection may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010 for which the credit would otherwise be allowable. The provisions of this paragraph shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this subsection may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this subsection.

SECTION 4. This act shall become effective July 1, 2012.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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