

OKLAHOMA TAX COMMISSION

FISCAL IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
SECOND REGULAR SESSION, FIFTY-FOURTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 12, 2014

BILL NUMBER: HB 2508 STATUS AND DATE OF BILL: Engrossed Bill 3/6/14

AUTHORS: House Sears Senate Mazzei

TAX TYPE (S): Income Tax SUBJECT: Tax Rate

PROPOSAL: Amendatory, New Law and Repealer

HB 2508 proposes to maintain the top marginal individual income tax rate of 5.25% through 2015 and potentially reduce the top marginal individual income tax rate to 5.0% for tax year 2016 and subsequent tax years, contingent upon certain revenue growth. Further proposes to amend 68 O.S. § 2355(D) by decreasing the current corporate income tax rate from 6% to 5% beginning with tax year 2016, contingent upon findings by the Board of Equalization.

EFFECTIVE DATE: January 1, 2016

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 15: -0-

FY 16: Projected decrease in income tax collections of \$83,662,000

FY 17: Projected decrease in income tax collections of \$200,222,000

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 15: No additional cost or savings are anticipated due to this proposed legislation.

Mar. 13, 2014

DATE

Rick Miller

DIVISION DIRECTOR

mck

3-13-14

DATE

Reece Womack

REECE WOMACK, ECONOMIST

March 17, 2014

DATE

Dawn Cook

FOR THE COMMISSION

HB 2508 proposes to maintain the top marginal individual income tax rate of 5.25% through 2015 and potentially reduce the top marginal individual income tax rate to 5.0% for tax year 2016 and subsequent tax years, contingent upon certain revenue growth. Further proposes to amend 68 O.S. § 2355(D) by decreasing the current corporate income tax rate from 6% to 5% beginning with tax year 2016, contingent upon findings by the Board of Equalization.

SUMMARY:

Section 1 (68 O.S. § 2355) strikes language that was codified in HB 2032¹, language that the Oklahoma Supreme Court ruled unconstitutional in *Fent v. Fallin* (2013 OK 107, ___ P.3d ___).

Section 2 - Amends 68 O.S. § 2355 by maintaining the top marginal individual income tax rate of 5.25% through tax year 2015 and potentially reducing the top marginal individual income tax rate to 5.0% for tax year 2016 and subsequent tax years, contingent upon certain revenue growth. Further amends 68 O.S. § 2355(D) by decreasing the current corporate income tax rate from 6% to 5% beginning with tax year 2016, contingent upon findings by the Board of Equalization.

Section 3 – Proposes to enact a new law, 68 O.S. § 2355.1G, which provides a trigger mechanism to reduce the top marginal individual income tax rate to 5% beginning with tax year 2016.

- To trigger the lower rate of 5% for tax year 2016, the State Board of Equalization will have to make a preliminary finding at the December 2014 meeting that it anticipates a finding will be made at the February 2015 meeting that the estimated growth in General Revenue Collections for FY16 is **equal to or greater than** the estimated cost of decreasing the top marginal individual income tax rate to 5% for tax year 2016. The State Board of Equalization will then certify at their February 2015 meeting that the estimated growth in General Revenue Collections for FY16 will be equal to or greater than the estimated cost of decreasing the top marginal individual income tax rate to 5% for tax year 2016.
- If the State Board of Equalization makes a preliminary finding at the December 2014 meeting that it anticipates a finding will be made at the February 2015 meeting that the estimated growth in General Revenue Collections for FY16 is **less than** the estimated cost of decreasing the top marginal individual income tax rate to 5% for tax year 2016, the income tax rate will remain at 5.25% for tax year 2016. These procedures will be repeated at every December and February State Board of Equalization meeting until the top marginal individual income tax rate is 5%. Once that rate is achieved, the State Board of Equalization will no longer have to make the findings as outlined above.

Section 4 proposes to enact a new law, 68 O.S. § 2355.1F, which provides a trigger mechanism to reduce the corporate income tax rate to 5% beginning with tax year 2016.

- To trigger the lower rate of 5% for tax year 2016, the State Board of Equalization will have to make a preliminary finding at the December 2014 meeting that it anticipates a finding will be made at the February 2015 meeting that the estimated growth in General Revenue Collections for FY16 is **equal to or greater than** the estimated cost of decreasing the corporate income tax rate to 5% for tax year 2016. The State Board of Equalization will certify at their February 2015 meeting that the estimated growth in General Revenue Collections for FY16 will be equal to or greater than the estimated cost of decreasing the corporate income tax rate to 5% for tax year 2016.
- If the State Board of Equalization makes a preliminary finding at the December 2014 meeting that it anticipates a finding will be made at the February 2015 meeting that the

¹ Oklahoma Session Laws - 2013 Section 253 - [HB 2032]

estimated growth in General Revenue Collections for FY16 is **less than** the estimated cost of decreasing the corporate income tax rate to 5% for tax year 2016, the corporate income tax rate will remain at 6% for tax year 2016. These procedures will be repeated at every December and February State Board of Equalization meeting until the top marginal individual income tax rate is 5%. Once that rate is achieved, the State Board of Equalization will no longer have to make the findings as outlined above.

Section 5 (68 O.S. § 2355.1E) repeals language that was codified in HB 2032¹, language that the Oklahoma Supreme Court ruled unconstitutional in *Fent v. Fallin* (2013 OK 107, ___ P.3d ___).

REVENUE IMPACT:

Sections 1 and 5 will not change revenue collections.

Sections 2, 3, and 4: Income Tax Rate Changes and Triggers

Individual Income Tax:

Under current law, Oklahoma has a progressive individual income tax rate structure with the top marginal tax rate at 5.25%. This proposal would provide for a top marginal tax rate of 5.0% for tax year 2016 and all subsequent tax years contingent upon certain revenue growth.

The table below shows the estimated effect of the top rate decreasing to 5.0% for tax year 2016 and all subsequent tax years. This assumes the State Board of Equalization will make a finding at their February 2015 meeting authorizing a top marginal income tax rate of 5% for tax year 2016.

FY EFFECT INCOME TAX TOP RATE CHANGE (top rate 5.0% in 2016 & subsequent years)			
		Fiscal Impact	
Tax year 2016		\$(142,620,000)	
Tax year 2017		\$(153,557,000)	
FY CONVERSION		FY16	FY17
Tax Year 2016	\$(142,620,000)	\$(57,048,000)	\$(85,572,000)
Tax Year 2017	\$(153,557,000)		\$(61,423,000)
	FY TOTAL	\$(57,048,000)	\$(146,995,000)

Source: Oklahoma Individual Income Tax Micro-Simulation Model.

Corporate Income Tax:

Under current law, Oklahoma has a flat corporate income tax rate of 6%. This proposal would provide for a corporate income tax rate of 5% for tax year 2016 and all subsequent tax years contingent upon certain revenue growth.

Corporate income tax historically has large swings in annual collections. FY01 through FY13 collections were examined and the amount of revenue apportioned ranged from a low of \$106.99 million to a high of \$585.15 million. To develop this fiscal impact, the average amount of corporate income tax apportioned was calculated, beginning with FY01 and including the FY14 and FY15 estimates.² The average amount of corporate income tax apportioned over the past 13 fiscal years, and including the FY14 and FY15 estimates³ was calculated to be \$319.3 million.

Tax year 2011 corporate income tax return data was analyzed and an estimate was made of what the tax collections for tax year 2011 would have been if the proposed rate structure was in place. The estimate was a decrease of 16.67% in corporate income tax collections. Applying this 16.67%

² Using the average FY collections from several fiscal years was used to eliminate the volatility associated with corporate income tax collections.

³ Oklahoma Tax Commission Revenue Re-Estimate for FY14 and Forecast for FY15 (February 13, 2014)

decrease to the average amount of corporate income tax apportioned over the past several years, yields a \$53.227 million decrease in revenue for tax year 2016. With this proposal *potentially* effective for tax year 2016, it is estimated that one-half of the impact (\$26.614 million) will occur in FY16. The full impact of \$53.227 million would occur in FY17.

FY EFFECT INCOME TAX TOP RATE CHANGE		
	FY16	FY17
Individual Income Tax	\$(57,048,000)	\$(146,995,000)
Corporate Income Tax	\$(26,614,000)	\$(53,227,000)
Total	\$(83,662,000)	\$(200,222,000)