

OKLAHOMA TAX COMMISSION

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

DATE OF IMPACT STATEMENT: January 22, 2014

BILL NUMBER: SB 1140 STATUS AND DATE OF BILL: Introduced 11/5/13

AUTHORS: House n/a Senate Mazzei

TAX TYPE (S): Income Tax SUBJECT: Deduction

PROPOSAL: Amendatory

SB 1140 proposes to amend 68 O.S § 2358 as it relates to the Oklahoma capital gain deduction for corporations and individuals effective for tax years beginning on or after January 1, 2015.

EFFECTIVE DATE: January 1, 2015

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: -0-

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.

Jan. 24, 2014
DATE

Rick Miller
DIVISION DIRECTOR

mck

1-24-14
DATE

Reece Womack
REECE WOMACK, ECONOMIST

Jan 29, 2014
DATE

Dan East
FOR THE COMMISSION

ATTACHMENT TO FISCAL IMPACT - SB 1140[Introduced] Prepared January 22, 2014

SB 1140 proposes to amend 68 O.S. § 2358 as it relates to the Oklahoma capital gain deduction for corporations and individuals effective for tax years beginning on or after January 1, 2015.

Under current law, both corporate¹ and individual² taxpayers are allowed to deduct from Oklahoma adjusted gross income one hundred percent (100%) of Oklahoma source capital gains³, provided certain holding periods are met. Section 2358 (D) of Title 68 (corporate deduction) was deemed unconstitutional by the Oklahoma Court of Civil Appeals in *CDR Systems Corporation v. Oklahoma Tax Commission*. That case is currently pending before the Oklahoma Supreme Court. Although not part of the *CDR* case, section 2358 (F) of Title 68 (individual deduction) is identical to the corporate deduction.

This measure proposes to amend both 68 O.S. § 2358 (D) and 68 O.S. § 2358 (F) by limiting these subsections to taxable years beginning after December 31, 2005, and ending before January 1, 2015. A new subsection is added [68 O.S. § 2358 (H)] limiting the capital gain deduction of both corporate and individual income taxpayers to fifty percent (50%) of the net capital gain from real or tangible personal property located in Oklahoma, as well as fifty percent (50%) of the net capital gain from the sale of stock or ownership interest in any company, limited liability company or partnership.

There is no expected measureable fiscal impact of this proposal. Any costs associated with the expansion of the capital gain deduction to *any* company, limited liability company or partnership is estimated to be offset by reducing the current Oklahoma source capital gain deduction from one hundred percent (100%) to fifty percent (50%).

¹ 68 O.S. § 2358 (D) Corporate taxpayers also includes estates or trusts.

² 68 O.S. § 2358 (F)

³ Oklahoma source capital gains generally means real or tangible personal property located in Oklahoma or the sale of stock or ownership interest in an Oklahoma company, limited liability company or partnership. Oklahoma company, limited liability company or partnership is an entity whose primary headquarters has been in Oklahoma at least three (3) uninterrupted years prior to the date of the transaction generating the capital gain.