

MEMORANDUM

OKLAHOMA TAX COMMISSION
TAX POLICY AND RESEARCH

DATE: February 19, 2016

SUBJECT: SB 916 – Committee Substitute (Req. No. 3114)

TO: Tony Mastin, Executive Director

FROM: Michael C. Kaufmann, Tax Policy Analyst

As we discussed yesterday; the CS for SB 916 (Req. No. 3114) is an attempt to cap the amount of certain income tax credits that are used to reduce / offset income tax; effective for tax year 2016; regardless of the pool (if applicable) of credits from prior years that are carried over to tax year 2016. The language as drafted does not always specify this.

The credits that are subject to the proposed caps are:

- Child Care / Child Tax Credit (68 O.S. §2357)
- Oklahoma Investment/New Jobs (68 O.S. §2357.4)
- Investments in Clean-Burning Vehicles (68 O.S. §2357.22)
- Credit for Electricity Generated by Zero-Emission Facilities (68 O.S. §2357.32A)
- Tax Credit for Qualified Rehabilitation Expenditures (68 O.S. §2357.41)
- Oklahoma Earned Income Tax Credit (68 O.S. §2357.43)
- Credit for the Construction of Energy Efficient Homes (68 O.S. §2357.46)
- Affordable Housing Credit (68 O.S. §2357.403)
- Sales Tax Relief (68 O.S. §5011)

The proposed cap is accomplished in one of two ways. Some of the aforementioned credits will have a cap on the amount of the credits that may be used to reduce tax and would require the Tax Commission to annually adjust each taxpayer's credit so the aggregate cap is not exceeded. Essentially the Tax Commission would be required to monitor and adjust this cap in real time. The processing of tax returns is not conducive to this type of continual adjustment. The credits under this type of proposed cap are:

- Oklahoma Investment/New Jobs (68 O.S. §2357.4) – aggregate annual cap of \$25 million.
- Investments in Clean-Burning Vehicles (68 O.S. §2357.22) - aggregate annual cap of \$5 million.
- Credit for Electricity Generated by Zero-Emission Facilities (68 O.S. §2357.32A) - aggregate annual cap of \$10 million.

- Credit for Qualified Rehabilitation Expenditures (68 O.S. §2357.41) - aggregate annual cap of \$5 million.
- Credit for the Construction of Energy Efficient Homes (68 O.S. §2357.46) – aggregate annual cap of \$3 million.

The other type of cap is achieved by reducing the credit itself. For example, under current law the Oklahoma Earned Income Tax Credit is 5% of the federal earned income credit. This proposal would lower that percentage to 4%. The Tax Commission is able to effectively administer this type of cap. The credits under this type of proposed cap are:

- Child Care / Child Tax Credit (68 O.S. §2357) – terminate effective for tax year 2016
- Oklahoma Earned Income Tax Credit (68 O.S. §2357.43) – lower to 4% of federal credit
- Affordable Housing Credit (68 O.S. §2357.403) – Reduced as follows:
 1. \$2 million for projects placed in service before July 1, 2016
 2. \$1.5 million for projects placed in service on or after July 1, 2016, and before January 1, 2017
 3. \$3 million for projects placed into service during any allocation year which begins on or after January 1, 2017.
- Sales Tax Relief (68 O.S. §5011) – lower to \$30 per exemption claimed.

In order to estimate the potential revenue impact, it is assumed that all of the credits are capped for tax year 2016 (regardless of the existence of carryover credits) despite the language as drafted. The table below shows the estimated tax year 2016 impact on income tax collections which will all occur in FY17 when the income tax returns are filed.

Cite	Credits With an Aggregate Cap	FY17
68 O.S. § 2357.4	Oklahoma Investment/New Jobs Credit	\$8,714,000
68 O.S. § 2357.22	Credit for Conversion of Motor Vehicles to Clean Burning Fuel	\$5,958,000
68 O.S. § 2357.32A	Credit for Electricity Generated by Zero-Emission Facilities	\$46,090,000
68 O.S. § 2357.41	Credit for Qualified Rehabilitation Expenditures ¹	\$0
68 O.S. § 2357.46	Credit for the Construction of Energy Efficient Homes	\$4,414,000
	Total	\$65,176,000

Cite	Credits With a Calculation Cap ²	FY17
68 O.S. § 2357	Child Care / Child Tax Credit; Oklahoma Earned Income Credit; Low Income Sales Tax Relief	\$45,565,000
68 O.S. § 2357.43		
68 O.S. § 5011		
68 O.S. § 2357.403	Affordable Housing Credit	\$3,500,000
	Total	\$49,065,000

Total increase to FY17 income tax collections \$114,241,000.

¹The Credit for Qualified Rehabilitation Expenditures estimate does not include any potential impact on the Premium Tax.

² The fiscal impact for these credits is aggregated, with the exception of the Affordable Housing Credit.