

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 419

By: Brecheen

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5  
6 AS INTRODUCED

7 An Act relating to income tax rates; amending 68 O.S.  
8 2011, Section 2355, as last amended by Section 2,  
9 Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section  
10 2355), which relates to income tax rates; updating  
11 and conforming references; imposing specified duties  
12 on State Board of Equalization; defining terms;  
13 requiring Board to make certain determinations and  
14 computations at specified times related to imposition  
15 of certain top marginal income tax rate; mandating  
16 methodology and procedures and requiring certain  
17 action related thereto; providing for codification;  
18 and providing an effective date.

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

20 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2355, as  
21 last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp.  
22 2016, Section 2355), is amended to read as follows:

23 Section 2355. A. Individuals. For all taxable years beginning  
24 after December 31, 1998, and before January 1, 2006, a tax is hereby  
imposed upon the Oklahoma taxable income of every resident or  
nonresident individual, which tax shall be computed at the option of  
the taxpayer under one of the two following methods:

1. METHOD 1.

1 a. Single individuals and married individuals filing  
2 separately not deducting federal income tax:

3 (1) 1/2% tax on first \$1,000.00 or part thereof,

4 (2) 1% tax on next \$1,500.00 or part thereof,

5 (3) 2% tax on next \$1,250.00 or part thereof,

6 (4) 3% tax on next \$1,150.00 or part thereof,

7 (5) 4% tax on next \$1,300.00 or part thereof,

8 (6) 5% tax on next \$1,500.00 or part thereof,

9 (7) 6% tax on next \$2,300.00 or part thereof, and

10 (8) (a) for taxable years beginning after December

11 31, 1998, and before January 1, 2002, 6.75%

12 tax on the remainder,

13 (b) for taxable years beginning on or after

14 January 1, 2002, and before January 1, 2004,

15 7% tax on the remainder, and

16 (c) for taxable years beginning on or after

17 January 1, 2004, 6.65% tax on the remainder.

18 b. Married individuals filing jointly and surviving

19 spouse to the extent and in the manner that a

20 surviving spouse is permitted to file a joint return

21 under the provisions of the Internal Revenue Code and

22 heads of households as defined in the Internal Revenue

23 Code not deducting federal income tax:

24 (1) 1/2% tax on first \$2,000.00 or part thereof,

- 1 (2) 1% tax on next \$3,000.00 or part thereof,
- 2 (3) 2% tax on next \$2,500.00 or part thereof,
- 3 (4) 3% tax on next \$2,300.00 or part thereof,
- 4 (5) 4% tax on next \$2,400.00 or part thereof,
- 5 (6) 5% tax on next \$2,800.00 or part thereof,
- 6 (7) 6% tax on next \$6,000.00 or part thereof, and
- 7 (8) (a) for taxable years beginning after December
- 8 31, 1998, and before January 1, 2002, 6.75%
- 9 tax on the remainder,
- 10 (b) for taxable years beginning on or after
- 11 January 1, 2002, and before January 1, 2004,
- 12 7% tax on the remainder, and
- 13 (c) for taxable years beginning on or after
- 14 January 1, 2004, 6.65% tax on the remainder.

15 2. METHOD 2.

16 a. Single individuals and married individuals filing  
17 separately deducting federal income tax:

- 18 (1) 1/2% tax on first \$1,000.00 or part thereof,
- 19 (2) 1% tax on next \$1,500.00 or part thereof,
- 20 (3) 2% tax on next \$1,250.00 or part thereof,
- 21 (4) 3% tax on next \$1,150.00 or part thereof,
- 22 (5) 4% tax on next \$1,200.00 or part thereof,
- 23 (6) 5% tax on next \$1,400.00 or part thereof,
- 24 (7) 6% tax on next \$1,500.00 or part thereof,

- 1 (8) 7% tax on next \$1,500.00 or part thereof,
- 2 (9) 8% tax on next \$2,000.00 or part thereof,
- 3 (10) 9% tax on next \$3,500.00 or part thereof, and
- 4 (11) 10% tax on the remainder.

5 b. Married individuals filing jointly and surviving  
6 spouse to the extent and in the manner that a  
7 surviving spouse is permitted to file a joint return  
8 under the provisions of the Internal Revenue Code and  
9 heads of households as defined in the Internal Revenue  
10 Code deducting federal income tax:

- 11 (1) 1/2% tax on the first \$2,000.00 or part thereof,
- 12 (2) 1% tax on the next \$3,000.00 or part thereof,
- 13 (3) 2% tax on the next \$2,500.00 or part thereof,
- 14 (4) 3% tax on the next \$1,400.00 or part thereof,
- 15 (5) 4% tax on the next \$1,500.00 or part thereof,
- 16 (6) 5% tax on the next \$1,600.00 or part thereof,
- 17 (7) 6% tax on the next \$1,250.00 or part thereof,
- 18 (8) 7% tax on the next \$1,750.00 or part thereof,
- 19 (9) 8% tax on the next \$3,000.00 or part thereof,
- 20 (10) 9% tax on the next \$6,000.00 or part thereof, and
- 21 (11) 10% tax on the remainder.

22 B. Individuals. For all taxable years beginning on or after  
23 January 1, 2008, and ending any tax year which begins after December  
24 31, 2015, ~~for which the determination required pursuant to Sections~~

1 ~~4 and 5 of this act is made by the State Board of Equalization,~~ a  
2 tax is hereby imposed upon the Oklahoma taxable income of every  
3 resident or nonresident individual, which tax shall be computed as  
4 follows:

5 1. Single individuals and married individuals filing  
6 separately:

7 (a) 1/2% tax on first \$1,000.00 or part thereof,

8 (b) 1% tax on next \$1,500.00 or part thereof,

9 (c) 2% tax on next \$1,250.00 or part thereof,

10 (d) 3% tax on next \$1,150.00 or part thereof,

11 (e) 4% tax on next \$2,300.00 or part thereof,

12 (f) 5% tax on next \$1,500.00 or part thereof,

13 (g) 5.50% tax on the remainder for the 2008 tax year and  
14 any subsequent tax year unless the rate prescribed by  
15 subparagraph (h) of this paragraph is in effect, and

16 (h) 5.25% tax on the remainder for the 2009 and subsequent  
17 tax years. The decrease in the top marginal  
18 individual income tax rate otherwise authorized by  
19 this subparagraph shall be contingent upon the  
20 determination required to be made by the State Board  
21 of Equalization pursuant to Section 2355.1A of this  
22 title.

23 2. Married individuals filing jointly and surviving spouse to  
24 the extent and in the manner that a surviving spouse is permitted to

1 file a joint return under the provisions of the Internal Revenue  
2 Code and heads of households as defined in the Internal Revenue  
3 Code:

- 4 (a) 1/2% tax on first \$2,000.00 or part thereof,
- 5 (b) 1% tax on next \$3,000.00 or part thereof,
- 6 (c) 2% tax on next \$2,500.00 or part thereof,
- 7 (d) 3% tax on next \$2,300.00 or part thereof,
- 8 (e) 4% tax on next \$2,400.00 or part thereof,
- 9 (f) 5% tax on next \$2,800.00 or part thereof,
- 10 (g) 5.50% tax on the remainder for the 2008 tax year and  
11 any subsequent tax year unless the rate prescribed by  
12 subparagraph (h) of this paragraph is in effect, and
- 13 (h) 5.25% tax on the remainder for the 2009 and subsequent  
14 tax years. The decrease in the top marginal  
15 individual income tax rate otherwise authorized by  
16 this subparagraph shall be contingent upon the  
17 determination required to be made by the State Board  
18 of Equalization pursuant to Section 2355.1A of this  
19 title.

20 C. Individuals. For all taxable years beginning on or after  
21 January 1, 2016, and for which the ~~determination~~ determinations  
22 required pursuant to ~~Sections 4 and 5 of this act~~ is Section 2355.1G  
23 of this title and Section 2 of this act are made by the State Board  
24 of Equalization, a tax is hereby imposed upon the Oklahoma taxable

1 income of every resident or nonresident individual, which tax shall  
2 be computed as follows:

3 1. Single individuals and married individuals filing  
4 separately:

5 (a) 1/2% tax on first \$1,000.00 or part thereof,

6 (b) 1% tax on next \$1,500.00 or part thereof,

7 (c) 2% tax on next \$1,250.00 or part thereof,

8 (d) 3% tax on next \$1,150.00 or part thereof,

9 (e) 4% tax on next \$2,300.00 or part thereof,

10 (f) 5% tax on the remainder ~~if the State Board of~~  
11 ~~Equalization makes a determination pursuant to Section~~  
12 ~~4 of this act~~ or four and eighty-five hundredths  
13 percent (4.85%) tax on the remainder if the State  
14 Board of Equalization makes a determination pursuant  
15 to ~~Section 5 of this act~~ Section 2355.1G of this title  
16 or four and seventy-five hundredths percent (4.75%)  
17 tax on the remainder if the State Board of  
18 Equalization makes a determination pursuant to Section  
19 2 of this act.

20 2. Married individuals filing jointly and surviving spouse to  
21 the extent and in the manner that a surviving spouse is permitted to  
22 file a joint return under the provisions of the Internal Revenue  
23 Code and heads of households as defined in the Internal Revenue  
24 Code:

- 1 (a) 1/2% tax on first \$2,000.00 or part thereof,  
2 (b) 1% tax on next \$3,000.00 or part thereof,  
3 (c) 2% tax on next \$2,500.00 or part thereof,  
4 (d) 3% tax on next \$2,300.00 or part thereof,  
5 (e) 4% tax on next \$2,400.00 or part thereof,  
6 (f) 5% tax on the remainder ~~if the State Board of~~  
7 ~~Equalization makes a determination pursuant to Section~~  
8 ~~4 of this act~~ or four and eighty-five hundredths  
9 percent (4.85%) tax on the remainder if the State  
10 Board of Equalization makes a determination pursuant  
11 to ~~Section 5 of this act~~ Section 2355.1G of this title  
12 or four and seventy-five hundredths percent (4.75%)  
13 tax on the remainder if the State Board of  
14 Equalization makes a determination pursuant to Section  
15 2 of this act.

16 No deduction for federal income taxes paid shall be allowed to  
17 any taxpayer to arrive at taxable income.

18 D. Nonresident aliens. In lieu of the rates set forth in  
19 subsection A above, there shall be imposed on nonresident aliens, as  
20 defined in the Internal Revenue Code, a tax of eight percent (8%)  
21 instead of thirty percent (30%) as used in the Internal Revenue  
22 Code, with respect to the Oklahoma taxable income of such  
23 nonresident aliens as determined under the provision of the Oklahoma  
24 Income Tax Act.

1       Every payer of amounts covered by this subsection shall deduct  
2 and withhold from such amounts paid each payee an amount equal to  
3 eight percent (8%) thereof. Every payer required to deduct and  
4 withhold taxes under this subsection shall for each quarterly period  
5 on or before the last day of the month following the close of each  
6 such quarterly period, pay over the amount so withheld as taxes to  
7 the Tax Commission, and shall file a return with each such payment.  
8 Such return shall be in such form as the Tax Commission shall  
9 prescribe. Every payer required under this subsection to deduct and  
10 withhold a tax from a payee shall, as to the total amounts paid to  
11 each payee during the calendar year, furnish to such payee, on or  
12 before January 31, of the succeeding year, a written statement  
13 showing the name of the payer, the name of the payee and the payee's  
14 social security account number, if any, the total amount paid  
15 subject to taxation, and the total amount deducted and withheld as  
16 tax and such other information as the Tax Commission may require.  
17 Any payer who fails to withhold or pay to the Tax Commission any  
18 sums herein required to be withheld or paid shall be personally and  
19 individually liable therefor to the State of Oklahoma.

20       E. Corporations. For all taxable years beginning after  
21 December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable  
22 income of every corporation doing business within this state or  
23 deriving income from sources within this state in an amount equal to  
24 six percent (6%) thereof.

1       There shall be no additional Oklahoma income tax imposed on  
2 accumulated taxable income or on undistributed personal holding  
3 company income as those terms are defined in the Internal Revenue  
4 Code.

5       F. Certain foreign corporations. In lieu of the tax imposed in  
6 the first paragraph of subsection D of this section, for all taxable  
7 years beginning after December 31, 1989, there shall be imposed on  
8 foreign corporations, as defined in the Internal Revenue Code, a tax  
9 of six percent (6%) instead of thirty percent (30%) as used in the  
10 Internal Revenue Code, where such income is received from sources  
11 within Oklahoma, in accordance with the provisions of the Internal  
12 Revenue Code and the Oklahoma Income Tax Act.

13       Every payer of amounts covered by this subsection shall deduct  
14 and withhold from such amounts paid each payee an amount equal to  
15 six percent (6%) thereof. Every payer required to deduct and  
16 withhold taxes under this subsection shall for each quarterly period  
17 on or before the last day of the month following the close of each  
18 such quarterly period, pay over the amount so withheld as taxes to  
19 the Tax Commission, and shall file a return with each such payment.  
20 Such return shall be in such form as the Tax Commission shall  
21 prescribe. Every payer required under this subsection to deduct and  
22 withhold a tax from a payee shall, as to the total amounts paid to  
23 each payee during the calendar year, furnish to such payee, on or  
24 before January 31, of the succeeding year, a written statement

1 showing the name of the payer, the name of the payee and the payee's  
2 social security account number, if any, the total amounts paid  
3 subject to taxation, the total amount deducted and withheld as tax  
4 and such other information as the Tax Commission may require. Any  
5 payer who fails to withhold or pay to the Tax Commission any sums  
6 herein required to be withheld or paid shall be personally and  
7 individually liable therefor to the State of Oklahoma.

8 G. Fiduciaries. A tax is hereby imposed upon the Oklahoma  
9 taxable income of every trust and estate at the same rates as are  
10 provided in subsection B or C of this section for single  
11 individuals. Fiduciaries are not allowed a deduction for any  
12 federal income tax paid.

13 H. Tax rate tables. For all taxable years beginning after  
14 December 31, 1991, in lieu of the tax imposed by subsection A, B or  
15 C of this section, as applicable there is hereby imposed for each  
16 taxable year on the taxable income of every individual, whose  
17 taxable income for such taxable year does not exceed the ceiling  
18 amount, a tax determined under tables, applicable to such taxable  
19 year which shall be prescribed by the Tax Commission and which shall  
20 be in such form as it determines appropriate. In the table so  
21 prescribed, the amounts of the tax shall be computed on the basis of  
22 the rates prescribed by subsection A, B or C of this section. For  
23 purposes of this subsection, the term "ceiling amount" means, with  
24

1 respect to any taxpayer, the amount determined by the Tax Commission  
2 for the tax rate category in which such taxpayer falls.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2355.1H of Title 68, unless  
5 there is created a duplication in numbering, reads as follows:

6 A. 1. The provisions of this section shall be applicable with  
7 respect to the implementation of the four and seventy-five  
8 hundredths percent (4.75%) top marginal income tax rate, which shall  
9 be contingent upon a determination by the State Board of  
10 Equalization made by computations described by this section which  
11 shall be conducted until the income tax rate of four and seventy-  
12 five hundredths percent (4.75%) is effective.

13 2. For purposes of this section:

14 a. "four and seventy-five hundredths percent (4.75%) top  
15 marginal income tax rate" means the rate otherwise  
16 authorized pursuant to the provisions of subparagraph  
17 (f) of paragraphs 1 and 2 of subsection C of Section  
18 2355 of Title 68 of the Oklahoma Statutes, and

19 b. "zero-emission tax credits" shall mean the income tax  
20 credits actually allowed for a calendar year pursuant  
21 to Section 2357.32A of Title 68 of the Oklahoma  
22 Statutes.

23 B. In addition to any other duties prescribed by law, at the  
24 meeting required by paragraph 1 of Section 23 of Article X of the

1 Oklahoma Constitution to be held in December of 2021, and for any  
2 subsequent December meeting of the State Board of Equalization, if  
3 the four and seventy-five hundredths percent (4.75%) top marginal  
4 income tax rate has not become effective, the State Board of  
5 Equalization shall:

6 1. Determine the dollar amount of zero-emission tax credits  
7 allowed for calendar year 2016, which shall be established as the  
8 baseline amount;

9 2. Compute the average annual dollar amount of zero-emission  
10 credits allowed for the most recent three-year time period for which  
11 data are available, which shall be established as the rolling three-  
12 year average;

13 3. Compute any reduction, if applicable, between the baseline  
14 amount and rolling three-year average in the annual dollar amount of  
15 zero-emission tax credits allowed; and

16 4. Determine the amount by which the income tax revenue for the  
17 calendar year which will begin on the second January 1 following  
18 such December meeting is estimated to be reduced by a ten hundredths  
19 percent (0.10%) decrease in the top marginal income tax rate, in  
20 order for a top marginal income tax rate of four and seventy-five  
21 hundredths percent (4.75%) to be effective, which shall be  
22 established as the estimated cost of a top marginal tax rate  
23 decrease.

24

1        If a reduction is computed pursuant to paragraph 3 of this  
2 subsection, and the amount exceeds the estimated cost of the tax  
3 rate decrease, as determined pursuant to paragraph 4 of this  
4 subsection, the Board shall make a preliminary finding that the  
5 Board anticipates that a finding will be made at the February  
6 meeting immediately subsequent to the December meeting that the  
7 computations required by this section will authorize the  
8 implementation of the four and seventy-five hundredths percent  
9 (4.75%) top marginal income tax rate beginning on the second January  
10 1 following the December meeting.

11        If a reduction is not computed pursuant to paragraph 3 of this  
12 subsection, or if the reduction does not exceed the estimated cost  
13 of the a tax rate decrease, as determined pursuant to paragraph 4 of  
14 this subsection, the Board shall make a preliminary finding that the  
15 Board anticipates that a finding will be made at the February  
16 meeting immediately subsequent to the December meeting that the  
17 revenue computations required by this section will not authorize the  
18 implementation of the four and seventy-five hundredths percent  
19 (4.75%) top marginal income tax rate beginning on the second January  
20 1 following the December meeting.

21        C. In addition to any other duties prescribed by law, at the  
22 meeting required by paragraph 3 of Section 23 of Article X of the  
23 Oklahoma Constitution to be held in February of 2022, and for any  
24 subsequent February meeting of the State Board of Equalization, if

1 the four and seventy-five hundredths percent (4.75%) top marginal  
2 income tax rate has not become effective, the State Board of  
3 Equalization shall:

4 1. Determine the dollar amount of zero-emission tax credits  
5 actually allowed for calendar year 2016, which shall be established  
6 as the baseline amount;

7 2. Compute the average annual dollar amount of zero-emission  
8 credits allowed for the most recent three-year time period for which  
9 data are available, which shall be established as the rolling three-  
10 year average;

11 3. Compute any reduction, if applicable, between the baseline  
12 amount and rolling three-year average in the annual total amount of  
13 zero-emission tax credits allowed; and

14 4. Determine the amount by which the income tax revenue for the  
15 calendar year which will begin on the January 1 following such  
16 February meeting is estimated to be reduced by a ten hundredths  
17 percent (0.10%) decrease in the top marginal income tax rate, in  
18 order for a top marginal income tax rate of four and seventy-five  
19 hundredths percent (4.75%) to be effective, which shall be  
20 established as the estimated cost of the tax rate decrease.

21 If a reduction is computed pursuant to paragraph 3 of this  
22 subsection, and the amount exceeds the estimated cost of the tax  
23 rate decrease, as determined pursuant to paragraph 4 of this  
24 subsection, the Board shall make a finding that the computations

1 required by this section will authorize the implementation of the  
2 four and seventy-five hundredths percent (4.75%) top marginal rate  
3 beginning on the January 1 following the February meeting.

4 If a reduction is not computed pursuant to paragraph 3 of this  
5 subsection, or if the reduction does not exceed the estimated cost  
6 of the a tax rate decrease, as determined pursuant to paragraph 4 of  
7 this subsection, the Board shall make a finding that the revenue  
8 computations required by this section will not authorize the  
9 implementation of the four and seventy-five hundredths percent  
10 (4.75%) top marginal income tax rate beginning on the January 1  
11 following the February meeting.

12 D. If the Board makes a finding that the revenue computations  
13 required by this section do not authorize the implementation of the  
14 four and seventy-five hundredths percent (4.75%) top marginal income  
15 tax rate beginning with calendar year 2022 pursuant to the  
16 provisions of subsection C of this section, the procedures  
17 prescribed by subsection A, subsection B, and subsection C of this  
18 section shall be repeated by the State Board of Equalization each  
19 year. Once the four and seventy-five hundredths percent (4.75%) top  
20 marginal income tax rate has been implemented, such income tax rate  
21 shall be in effect for all subsequent tax years.

22 SECTION 3. This act shall become effective November 1, 2017.

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24 56-1-348 JCR 1/19/2017 11:36:59 AM