

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 485 By: Bergstrom of the Senate
3 and
4 Fetgatter of the House
5
6

7 An Act relating to Small Business Incubators
8 Incentives Act; amending 74 O.S. 2011, Sections 5072,
9 5075 and 5078, which relate to income tax exemptions;
10 updating statutory reference; modifying purpose;
11 eliminating exception for operator of incubator;
12 eliminating requirement for claiming exemption during
13 specified time period; amending 68 O.S. 2011, Section
14 2359, which relates to income tax exemptions;
15 eliminating exemption for sponsor of incubator; and
16 providing an effective date.

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19 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill
20 and replace with:
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23 "An Act relating to Small Business Incubators
24 Incentives Act; amending 74 O.S. 2011, Sections
5072, 5075 and 5078, which relate to income tax
exemptions; updating statutory reference; modifying
purpose; eliminating exception for operator of
incubator; eliminating requirement for claiming
exemption during specified time period; amending 68
O.S. 2011, Section 2359, which relates to income tax
exemptions; eliminating exemption for sponsor of
incubator; repealing 74 O.S. 2011, Section 5062.8a,
which relates to the Quality Jobs Investment
Program; and providing an effective date.

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

2 SECTION 1. AMENDATORY 74 O.S. 2011, Section 5072, is
3 amended to read as follows:

4 Section 5072. The purpose of ~~this act~~ the Small Business
5 Incubators Incentives Act shall be to promote, encourage and advance
6 economic prosperity and employment throughout the state by creating
7 a more favorable tax climate for ~~organizations which qualify as~~
8 ~~sponsors~~ tenants of small business incubators in this state ~~and a~~
9 ~~more favorable business climate for tenants.~~

10 SECTION 2. AMENDATORY 74 O.S. 2011, Section 5075, is
11 amended to read as follows:

12 Section 5075. A. ~~Income~~ For tax years ending before January 1,
13 2020, income earned by a sponsor from rental fees, service fees or
14 any other form of payment for services provided to a tenant as an
15 operator of an incubator, or for providing funding for such a
16 facility, shall be exempt from state income tax for a period not to
17 exceed ten (10) years from the date of the tenant's occupancy in an
18 incubator.

19 B. The Oklahoma Tax Commission shall promulgate rules and
20 regulations to implement the provisions of this section.

21 SECTION 3. AMENDATORY 74 O.S. 2011, Section 5078, is
22 amended to read as follows:

23 Section 5078. A. For a period of up to ten (10) years from the
24 date of tenant's occupancy in an incubator, income earned by the

1 tenant as a result of activities conducted as an occupant in an
2 incubator, including income distributed to partners, shareholders of
3 a corporation for which a Subchapter S election is in effect and to
4 the members of a limited liability company, shall be exempt from
5 state income tax. The exemption provided by this section shall
6 remain in effect for such activities by such tenant after the date
7 the tenant is no longer an occupant in an incubator, but not to
8 exceed a total duration of ten (10) years for any tenant.

9 B. ~~In~~ For tax years ending before January 1, 2020, in order to
10 qualify for the income tax exemption for the sixth through tenth
11 year as authorized by this section, the tenant must make at least
12 seventy-five percent (75%) of its gross sales constituting the
13 principal business activity of the business to buyers located
14 outside the state or to buyers whose principal business activity is
15 conducted outside the state or to the federal government or to
16 buyers located within the state if the product or service is resold
17 to an out-of-state customer or buyer for ultimate use. Provided, if
18 a tenant does not achieve the qualifying percentage for any one of
19 the above tax years, the tenant shall not be disqualified for
20 subsequent tax years in which the qualifying percentage is achieved.

21 The Oklahoma Tax Commission shall promulgate rules to implement
22 the provisions of this section.

23 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2359, is
24 amended to read as follows:

1 Section 2359. A. A person or organization exempt from federal
2 income taxation under the provisions of the Internal Revenue Code
3 shall also be exempt from the tax imposed by Section 2351 et seq. of
4 this title in each year in which such person or organization
5 satisfies the requirements of the Internal Revenue Code for
6 exemption from federal income taxation. If the exemption applicable
7 to any person or organization under the provisions of the Internal
8 Revenue Code is limited or qualified in any manner, the exemption
9 from taxes imposed by this article shall be limited or qualified in
10 a similar manner.

11 B. Notwithstanding the provisions of subsection A of this
12 section, the unrelated business taxable income or other income
13 subject to tax, as computed under the provisions of the Internal
14 Revenue Code, of any person or organization exempt from the tax
15 imposed by ~~this act~~ Section 2351 et seq. of this title and subject
16 to the tax imposed on such income by the Internal Revenue Code shall
17 be subject to the tax which would have been imposed by this act but
18 for the provisions of subsection A of this section.

19 C. Insurance companies paying, during or for the taxable year,
20 a tax to this state on gross premium income shall be exempt from the
21 provisions of this article and the taxes levied thereby.

22 D. Royalty earned by an inventor from products developed and
23 manufactured in this state shall be exempt from the tax imposed by
24

1 Section 2355 of this title for a seven-year period, pursuant to the
2 provisions of Section 5064.7 of Title 74 of the Oklahoma Statutes.

3 E. ~~Sponsors and tenants~~ Tenants of small business incubators
4 shall be exempt for the tax imposed by Section 2355 of this title,
5 pursuant to the provisions of ~~Sections 5075 and~~ Section 5078 of
6 Title 74 of the Oklahoma Statutes.

7 SECTION 5. REPEALER 74 O.S. 2011, Section 5062.8a, is
8 hereby repealed.

9 SECTION 6. This act shall become effective in accordance with
10 the provisions of Section 58 of Article V of the Oklahoma
11 Constitution."

12 Passed the House of Representatives the 23rd day of April, 2019.

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15 _____
16 Presiding Officer of the House of
Representatives

17 Passed the Senate the ____ day of _____, 2019.

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21 Presiding Officer of the Senate
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1 ENGROSSED SENATE
2 BILL NO. 485

By: Bergstrom of the Senate

3 and

4 Fetgatter of the House
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6 An Act relating to Small Business Incubators
7 Incentives Act; amending 74 O.S. 2011, Sections 5072,
8 5075 and 5078, which relate to income tax exemptions;
9 updating statutory reference; modifying purpose;
10 eliminating exception for operator of incubator;
11 eliminating requirement for claiming exemption during
12 specified time period; amending 68 O.S. 2011, Section
2359, which relates to income tax exemptions;
eliminating exemption for sponsor of incubator; and
providing an effective date.

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

14 SECTION 7. AMENDATORY 74 O.S. 2011, Section 5072, is
15 amended to read as follows:

16 Section 5072. The purpose of ~~this act~~ the Small Business
17 Incubators Incentives Act shall be to promote, encourage and advance
18 economic prosperity and employment throughout the state by creating
19 a more favorable tax climate for ~~organizations which qualify as~~
20 ~~sponsors~~ tenants of small business incubators in this state ~~and a~~
21 ~~more favorable business climate for tenants.~~

22 SECTION 8. AMENDATORY 74 O.S. 2011, Section 5075, is
23 amended to read as follows:
24

1 Section 5075. A. ~~Income~~ For tax years ending before January 1,
2 2020, income earned by a sponsor from rental fees, service fees or
3 any other form of payment for services provided to a tenant as an
4 operator of an incubator, or for providing funding for such a
5 facility, shall be exempt from state income tax for a period not to
6 exceed ten (10) years from the date of the tenant's occupancy in an
7 incubator.

8 B. The Oklahoma Tax Commission shall promulgate rules and
9 regulations to implement the provisions of this section.

10 SECTION 9. AMENDATORY 74 O.S. 2011, Section 5078, is
11 amended to read as follows:

12 Section 5078. A. For a period of up to ten (10) years from the
13 date of tenant's occupancy in an incubator, income earned by the
14 tenant as a result of activities conducted as an occupant in an
15 incubator, including income distributed to partners, shareholders of
16 a corporation for which a Subchapter S election is in effect and to
17 the members of a limited liability company, shall be exempt from
18 state income tax. The exemption provided by this section shall
19 remain in effect for such activities by such tenant after the date
20 the tenant is no longer an occupant in an incubator, but not to
21 exceed a total duration of ten (10) years for any tenant.

22 B. ~~In~~ For tax years ending before January 1, 2020, in order to
23 qualify for the income tax exemption for the sixth through tenth
24 year as authorized by this section, the tenant must make at least

seventy-five percent (75%) of its gross sales constituting the principal business activity of the business to buyers located outside the state or to buyers whose principal business activity is conducted outside the state or to the federal government or to buyers located within the state if the product or service is resold to an out-of-state customer or buyer for ultimate use. Provided, if a tenant does not achieve the qualifying percentage for any one of the above tax years, the tenant shall not be disqualified for subsequent tax years in which the qualifying percentage is achieved.

The Oklahoma Tax Commission shall promulgate rules to implement the provisions of this section.

SECTION 4. AMENDATORY 68 O.S. 2011, Section 2359, is amended to read as follows:

Section 2359. A. A person or organization exempt from federal income taxation under the provisions of the Internal Revenue Code shall also be exempt from the tax imposed by Section 2351 et seq. of this title in each year in which such person or organization satisfies the requirements of the Internal Revenue Code for exemption from federal income taxation. If the exemption applicable to any person or organization under the provisions of the Internal Revenue Code is limited or qualified in any manner, the exemption from taxes imposed by this article shall be limited or qualified in a similar manner.

1 B. Notwithstanding the provisions of subsection A of this
2 section, the unrelated business taxable income or other income
3 subject to tax, as computed under the provisions of the Internal
4 Revenue Code, of any person or organization exempt from the tax
5 imposed by ~~this act~~ Section 2351 et seq. of this title and subject
6 to the tax imposed on such income by the Internal Revenue Code shall
7 be subject to the tax which would have been imposed by this act but
8 for the provisions of subsection A of this section.

9 C. Insurance companies paying, during or for the taxable year,
10 a tax to this state on gross premium income shall be exempt from the
11 provisions of this article and the taxes levied thereby.

12 D. Royalty earned by an inventor from products developed and
13 manufactured in this state shall be exempt from the tax imposed by
14 Section 2355 of this title for a seven-year period, pursuant to the
15 provisions of Section 5064.7 of Title 74 of the Oklahoma Statutes.

16 E. ~~Sponsors and tenants~~ Tenants of small business incubators
17 shall be exempt for the tax imposed by Section 2355 of this title,
18 pursuant to the provisions of ~~Sections 5075 and~~ Section 5078 of
19 Title 74 of the Oklahoma Statutes.

20 SECTION 10. This act shall become effective in accordance with
21 the provisions of Section 58 of Article V of the Oklahoma
22 Constitution.

1 Passed the Senate the 20th day of February, 2019.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2019.

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8 _____
9 Presiding Officer of the House
10 of Representatives