

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 485

By: Bergstrom of the Senate

and

Fetgatter of the House

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11 COMMITTEE SUBSTITUTE

12 An Act relating to Small Business Incubators
13 Incentives Act; amending 74 O.S. 2011, Sections 5072,
14 5075 and 5078, which relate to income tax exemptions;
15 updating statutory reference; modifying purpose;
16 eliminating exception for operator of incubator;
17 eliminating requirement for claiming exemption during
18 specified time period; amending 68 O.S. 2011, Section
19 2359, which relates to income tax exemptions;
20 eliminating exemption for sponsor of incubator;
21 repealing 74 O.S. 2011, Section 5062.8a, which
22 relates to the Quality Job Investment Program; and
23 providing an effective date.

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

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

Section 5072. The purpose of ~~this act~~ the Small Business
Incubators Incentives Act shall be to promote, encourage and advance

1 economic prosperity and employment throughout the state by creating
2 a more favorable tax climate for ~~organizations which qualify as~~
3 ~~sponsors~~ tenants of small business incubators in this state ~~and a~~
4 ~~more favorable business climate for tenants.~~

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

7 Section 5075. A. ~~Income~~ For tax years ending before January 1,
8 2020, income earned by a sponsor from rental fees, service fees or
9 any other form of payment for services provided to a tenant as an
10 operator of an incubator, or for providing funding for such a
11 facility, shall be exempt from state income tax for a period not to
12 exceed ten (10) years from the date of the tenant's occupancy in an
13 incubator.

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

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

18 Section 5078. A. For a period of up to ten (10) years from the
19 date of tenant's occupancy in an incubator, income earned by the
20 tenant as a result of activities conducted as an occupant in an
21 incubator, including income distributed to partners, shareholders of
22 a corporation for which a Subchapter S election is in effect and to
23 the members of a limited liability company, shall be exempt from
24 state income tax. The exemption provided by this section shall

1 remain in effect for such activities by such tenant after the date
2 the tenant is no longer an occupant in an incubator, but not to
3 exceed a total duration of ten (10) years for any tenant.

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

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

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

20 Section 2359. A. A person or organization exempt from federal
21 income taxation under the provisions of the Internal Revenue Code
22 shall also be exempt from the tax imposed by Section 2351 et seq. of
23 this title in each year in which such person or organization
24 satisfies the requirements of the Internal Revenue Code for

1 exemption from federal income taxation. If the exemption applicable
2 to any person or organization under the provisions of the Internal
3 Revenue Code is limited or qualified in any manner, the exemption
4 from taxes imposed by this article shall be limited or qualified in
5 a similar manner.

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

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

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

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

1 SECTION 4. REPEALER 74 O.S. 2011, Section 5062.8a, is
2 hereby repealed.

3 SECTION 5. This act shall become effective in accordance with
4 the provisions of Section 58 of Article V of the Oklahoma
5 Constitution.

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7 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 04/11/2019 - DO PASS,
8 As Amended.
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