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February 12, 2019

**AS AMENDED**

SENATE BILL NO. 485

By: Bergstrom

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[ Small Business Incubators Incentives Act - income
tax exemptions - purpose - exception for operator of
incubator - effective date ]
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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 economic prosperity and employment throughout the state by creating a more favorable tax climate for ~~organizations which qualify as sponsors~~ tenants of small business incubators in this state ~~and a more favorable business climate for tenants.~~

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

Section 5075. A. ~~Income~~ For tax years ending before January 1, 2020, income earned by a sponsor from rental fees, service fees or any other form of payment for services provided to a tenant as an operator of an incubator, or for providing funding for such a

1 facility, shall be exempt from state income tax for a period not to  
2 exceed ten (10) years from the date of the tenant's occupancy in an  
3 incubator.

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

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

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

18 B. ~~In~~ For tax years ending before January 1, 2020, in order to  
19 qualify for the income tax exemption for the sixth through tenth  
20 year as authorized by this section, the tenant must make at least  
21 seventy-five percent (75%) of its gross sales constituting the  
22 principal business activity of the business to buyers located  
23 outside the state or to buyers whose principal business activity is  
24 conducted outside the state or to the federal government or to

1 buyers located within the state if the product or service is resold  
2 to an out-of-state customer or buyer for ultimate use. Provided, if  
3 a tenant does not achieve the qualifying percentage for any one of  
4 the above tax years, the tenant shall not be disqualified for  
5 subsequent tax years in which the qualifying percentage is achieved.

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

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

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

20 **B. Notwithstanding the provisions of subsection A of this**  
21 **section, the unrelated business taxable income or other income**  
22 **subject to tax, as computed under the provisions of the Internal**  
23 **Revenue Code, of any person or organization exempt from the tax**  
24 **imposed by this act and subject to the tax imposed on such income by**

1 the Internal Revenue Code shall be subject to the tax which would  
2 have been imposed by this act but for the provisions of subsection A  
3 of this section.

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

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

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
19 February 12, 2019 - DO PASS AS AMENDED  
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