

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1790

By: Leewright

AS INTRODUCED

An Act relating to income tax; expressing legislative intent; defining terms; creating specified tax deduction for equity investment in qualified business; setting limit on amount of deduction which may be claimed; authorizing unused deduction to be carried forward for specified number of years; providing procedures and requirements for eligibility determination of a business by Oklahoma Department of Commerce; requiring Department of Commerce to make determination; requiring certain business to sign specified agreement; requiring signed agreement to be attached to certain tax return; providing for confidentiality of certain information; requiring Department of Commerce to promulgate rules; establishing maximum annual deductions; authorizing excess under specified circumstances and dictating certain action; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2358.8 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature that:

1. The state support the growth of technology-based industries to further diversify the state's economy;

1 2. In order to support and encourage these technology-based
2 industries and to further diversify the state's economy, Oklahoma
3 taxpayers should receive an incentive for investing in the growth of
4 these industries in this state;

5 3. The Oklahoma Department of Commerce and the Oklahoma Tax
6 Commission implement the provisions of this act and exercise all
7 powers as authorized in this act. The exercise of powers conferred
8 by this act shall be deemed and held to be the performance of
9 essential public purposes; and

10 4. Nothing herein shall be construed to constitute a guarantee
11 or assumption by this state of any debt of any individual, company,
12 corporation or association nor to authorize the credit of the State
13 of Oklahoma to be given, pledged or loaned to any individual,
14 company, corporation or association.

15 B. As used in this section:

16 1. "Eligible business" means a business establishment of any
17 legal form, including, but not limited to, a sole proprietorship,
18 partnership, limited liability company, corporation or any other
19 legal form that meets at least one of the following requirements:

- 20 a. operates in in a technology-based industry in this
21 state,
22 b. is supported by federal small business innovation
23 research grants in this state, or
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1 c. is supported by technology development or seed capital
2 investments made by the Oklahoma Center for the
3 Advancement of Science and Technology;

4 2. "Equity investment" means an investment in common stock or
5 preferred stock or its equivalent in a corporation, limited
6 liability company or partnership. Equity investment shall not
7 include:

8 a. new equity investments in business establishments
9 owned, or partially owned, by an investor or an
10 investor's family members. For the purposes of this
11 section, family members mean parents, grandparents,
12 children, grandchildren or siblings of the investor,
13 or

14 b. any fees or commissions paid by the investor or the
15 eligible business; and

16 3. "Technology-based industry" means:

17 a. those manufacturing activities that are defined or
18 classified in the NAICS Manual under Industry Sector
19 Nos. 31, 32 and 33 and for which the applicable
20 industry is included among the top one-third of
21 manufacturing industries in at least two (2) of the
22 following categories:

23 (1) the amount of capital expenditures in computers
24 and technology equipment, as identified by the
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- 1 Oklahoma Department of Commerce utilizing
2 information from the United States Census Bureau,
3 (2) the proportion of highly-paid production
4 occupations defined as Standard Occupational
5 Classification SOC-51, as identified by the
6 Oklahoma Department of Commerce utilizing
7 information derived from the United States Bureau
8 of Labor Statistics, or
9 (3) the proportion of engineers relative to
10 production occupations, as identified by the
11 Oklahoma Department of Commerce utilizing
12 information derived from the Bureau of Labor
13 Statistics,
- 14 b. those information technology and other computer-
15 related service activities defined or classified in
16 the NAICS Manual under Industry Group Nos. 5112, 5182,
17 5191 and 5415,
- 18 c. those sound recording and film production activities
19 defined or classified in the NAICS Manual under
20 Industry Group Nos. 52111 and 5122,
- 21 d. those scientific, research and development services
22 defined or classified in the NAICS Manual under
23 Industry Group No. 5417,
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- e. those professional scientific, consulting, laboratory and technical services defined or classified in the NAICS Manual under Industry Group Nos. 5416, 5419, and 6215,
- f. those engineering and design services defined or classified in the NAICS Manual under Industry Group Nos. 5413 and 5414, or
- g. those entertainment districts defined pursuant to Section 2393 of Title 68 of the Oklahoma Statutes.

C. 1. For taxable years beginning on or after January 1, 2021, and ending on December 31, 2029, there shall be allowed a deduction for up to sixty percent (60%) of an equity investment in an eligible business by an investor.

2. The deduction provided by paragraph 1 of this subsection shall be subject to the following:

- a. the deduction allowed in any taxable tax year shall not exceed fifty percent (50%) of the net Oklahoma income tax liability of the investor after all other credits and deductions have been calculated, and
- c. any deduction not used in any taxable year may be carried forward for a total of five (5) additional years.

D. 1. A business that seeks eligibility for the purposes of an equity investment incentive tax deduction for an investor shall

1 submit an application to the Oklahoma Department of Commerce. The
2 application shall include:

- 3 a. a business plan describing the proposed business for
4 which eligibility is sought,
- 5 b. a projection of the amount of capital being sought for
6 the proposed business, and
- 7 c. other information requested by the Oklahoma Department
8 of Commerce.

9 2. The Oklahoma Department of Commerce shall gather information
10 necessary to determine if the business is eligible pursuant to the
11 definition in subsection B of this section and if the tax deduction
12 is revenue neutral to the State of Oklahoma based on information
13 submitted in the application.

14 3. The Oklahoma Department of Commerce shall decide if an
15 equity investment incentive shall be offered to the business.

16 4. If a business is notified of approval of an application as
17 an eligible business, the business shall sign an equity investment
18 incentive agreement with the Oklahoma Department of Commerce.

19 5. The Oklahoma Department of Commerce shall send the signed
20 agreement to the Oklahoma Tax Commission and the investor shall
21 attach the signed agreement to their tax return.

22 6. Information received during the application process by the
23 Oklahoma Department of Commerce shall be considered confidential
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1 information and shall not be subject to the provisions of the
2 Oklahoma Open Records Act.

3 E. The Oklahoma Department of Commerce shall promulgate rules
4 for the purpose of administering the provisions of this act.

5 F. The total cumulative amount of tax deductions available in
6 any calendar year shall not exceed Seven Million Five Hundred
7 Thousand Dollars (\$7,500,000.00). In the event the total reduction
8 in tax liability authorized by this paragraph exceeds Seven Million
9 Five Hundred Thousand Dollars (\$7,500,000.00) in any calendar year,
10 the Tax Commission shall permit any excess over Seven Million Five
11 Hundred Thousand Dollars (\$7,500,000.00) but shall factor such
12 excess into the percentage for the following year.

13 SECTION 2. This act shall become effective November 1, 2020.

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