

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3331

By: Fugate

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5  
6 AS INTRODUCED

7 An Act relating to Oklahoma Tax Commission; requiring  
8 Oklahoma Tax Commission publish certain information  
9 online; amending 68 O.S. 2021, Section 205, which  
10 relates to confidentiality; creating exception for  
11 certain information; providing for codification; and  
12 providing an effective date.

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

14 SECTION 1. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 296 of Title 68, unless there is  
16 created a duplication in numbering, reads as follows:

17 A. For tax year 2021 and each tax year thereafter, the Oklahoma  
18 Tax Commission is authorized and directed to make the following data  
19 available on its website:

20 1. An aggregate list of all income tax deductions claimed by  
21 individual taxpayers in the top one percent (1%) as determined by  
22 their gross taxable income;

23 2. The aggregate amounts claimed for each of the deductions  
24 listed in paragraph 1 of this subsection; and

1           3. The net effective tax percentage paid by individual  
2 taxpayers in the top one percent (1%) as determined by their gross  
3 taxable income.

4           B. The Tax Commission shall make the data available on its  
5 website on or before January 1, 2023. The data shall be made  
6 available in an open-structured data format that may be downloaded  
7 by the public and that allows the user to systematically sort,  
8 search, and access all data without any fee or charge for access.

9           SECTION 2.           AMENDATORY           68 O.S. 2021, Section 205, is  
10 amended to read as follows:

11           Section 205. A. The records and files of the Oklahoma Tax  
12 Commission concerning the administration of the Uniform Tax  
13 Procedure Code or of any state tax law shall be considered  
14 confidential and privileged, except as otherwise provided for by  
15 law, and neither the Tax Commission nor any employee engaged in the  
16 administration of the Tax Commission or charged with the custody of  
17 any such records or files nor any person who may have secured  
18 information from the Tax Commission shall disclose any information  
19 obtained from the records or files or from any examination or  
20 inspection of the premises or property of any person.

21           B. Except as provided in paragraph 26 of subsection C of this  
22 section, neither the Tax Commission nor any employee engaged in the  
23 administration of the Tax Commission or charged with the custody of  
24 any such records or files shall be required by any court of this

1 state to produce any of the records or files for the inspection of  
2 any person or for use in any action or proceeding, except when the  
3 records or files or the facts shown thereby are directly involved in  
4 an action or proceeding pursuant to the provisions of the Uniform  
5 Tax Procedure Code or of the state tax law, or when the  
6 determination of the action or proceeding will affect the validity  
7 or the amount of the claim of the state pursuant to any state tax  
8 law, or when the information contained in the records or files  
9 constitutes evidence of violation of the provisions of the Uniform  
10 Tax Procedure Code or of any state tax law.

11 C. The provisions of this section shall not prevent the Tax  
12 Commission from disclosing the following information and no  
13 liability whatsoever, civil or criminal, shall attach to any member  
14 of the Tax Commission or any employee thereof for any error or  
15 omission in the disclosure of such information:

16 1. The delivery to a taxpayer or a duly authorized  
17 representative of the taxpayer of a copy of any report or any other  
18 paper filed by the taxpayer pursuant to the provisions of the  
19 Uniform Tax Procedure Code or of any state tax law;

20 2. The exchange of information that is not protected by the  
21 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,  
22 pursuant to reciprocal agreements entered into by the Tax Commission  
23 and other state agencies or agencies of the federal government;

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1       3. The publication of statistics so classified as to prevent  
2 the identification of a particular report and the items thereof;

3       4. The examination of records and files by the State Auditor  
4 and Inspector or the duly authorized agents of the State Auditor and  
5 Inspector;

6       5. The disclosing of information or evidence to the Oklahoma  
7 State Bureau of Investigation, Attorney General, Oklahoma State  
8 Bureau of Narcotics and Dangerous Drugs Control, any district  
9 attorney or agent of any federal law enforcement agency when the  
10 information or evidence is to be used by such officials to  
11 investigate or prosecute violations of the criminal provisions of  
12 the Uniform Tax Procedure Code or of any state tax law or of any  
13 federal crime committed against this state. Any information  
14 disclosed to the Oklahoma State Bureau of Investigation, Attorney  
15 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs  
16 Control, any district attorney or agent of any federal law  
17 enforcement agency shall be kept confidential by such person and not  
18 be disclosed except when presented to a court in a prosecution for  
19 violation of the tax laws of this state or except as specifically  
20 authorized by law, and a violation by the Oklahoma State Bureau of  
21 Investigation, Attorney General, Oklahoma State Bureau of Narcotics  
22 and Dangerous Drugs Control, district attorney or agent of any  
23 federal law enforcement agency by otherwise releasing the  
24 information shall be a felony;

1           6. The use by any division of the Tax Commission of any  
2 information or evidence in the possession of or contained in any  
3 report or return filed with any other division of the Tax  
4 Commission;

5           7. The furnishing, at the discretion of the Tax Commission, of  
6 any information disclosed by its records or files to any official  
7 person or body of this state, any other state, the United States or  
8 foreign country who is concerned with the administration or  
9 assessment of any similar tax in this state, any other state or the  
10 United States. The provisions of this paragraph shall include the  
11 furnishing of information by the Tax Commission to a county assessor  
12 to determine the amount of gross household income pursuant to the  
13 provisions of Section 8C of Article X of the Oklahoma Constitution  
14 or Section 2890 of this title. The Tax Commission shall promulgate  
15 rules to give guidance to the county assessors regarding the type of  
16 information which may be used by the county assessors in determining  
17 the amount of gross household income pursuant to Section 8C of  
18 Article X of the Oklahoma Constitution or Section 2890 of this  
19 title. The provisions of this paragraph shall also include the  
20 furnishing of information to the State Treasurer for the purpose of  
21 administration of the Uniform Unclaimed Property Act;

22           8. The furnishing of information to other state agencies for  
23 the limited purpose of aiding in the collection of debts owed by  
24 individuals to such requesting agencies;

1           9. The furnishing of information requested by any member of the  
2 general public and stated in the sworn lists or schedules of taxable  
3 property of public service corporations organized, existing, or  
4 doing business in this state which are submitted to and certified by  
5 the State Board of Equalization pursuant to the provisions of  
6 Section 2858 of this title and Section 21 of Article X of the  
7 Oklahoma Constitution, provided such information would be a public  
8 record if filed pursuant to Sections 2838 and 2839 of this title on  
9 behalf of a corporation other than a public service corporation;

10           10. The furnishing of information requested by any member of  
11 the general public and stated in the findings of the Tax Commission  
12 as to the adjustment and equalization of the valuation of real and  
13 personal property of the counties of the state, which are submitted  
14 to and certified by the State Board of Equalization pursuant to the  
15 provisions of Section 2865 of this title and Section 21 of Article X  
16 of the Oklahoma Constitution;

17           11. The furnishing of information as to the issuance or  
18 revocation of any tax permit, license or exemption by the Tax  
19 Commission as provided for by law. Such information shall be  
20 limited to the name of the person issued the permit, license or  
21 exemption, the name of the business entity authorized to engage in  
22 business pursuant to the permit, license or exemption, the address  
23 of the business entity and the grounds for revocation;

1           12. The posting of notice of revocation of any tax permit or  
2 license upon the premises of the place of business of any business  
3 entity which has had any tax permit or license revoked by the Tax  
4 Commission as provided for by law. Such notice shall be limited to  
5 the name of the person issued the permit or license, the name of the  
6 business entity authorized to engage in business pursuant to the  
7 permit or license, the address of the business entity and the  
8 grounds for revocation;

9           13. The furnishing of information upon written request by any  
10 member of the general public as to the outstanding and unpaid amount  
11 due and owing by any taxpayer of this state for any delinquent tax,  
12 together with penalty and interest, for which a tax warrant or a  
13 certificate of indebtedness has been filed pursuant to law;

14           14. After the filing of a tax warrant pursuant to law, the  
15 furnishing of information upon written request by any member of the  
16 general public as to any agreement entered into by the Tax  
17 Commission concerning a compromise of tax liability for an amount  
18 less than the amount of tax liability stated on such warrant;

19           15. The disclosure of information necessary to complete the  
20 performance of any contract authorized by this title to any person  
21 with whom the Tax Commission has contracted;

22           16. The disclosure of information to any person for a purpose  
23 as authorized by the taxpayer pursuant to a waiver of  
24

1 confidentiality. The waiver shall be in writing and shall be made  
2 upon such form as the Tax Commission may prescribe;

3 17. The disclosure of information required in order to comply  
4 with the provisions of Section 2369 of this title;

5 18. The disclosure to an employer, as defined in Sections  
6 2385.1 and 2385.3 of this title, of information required in order to  
7 collect the tax imposed by Section 2385.2 of this title;

8 19. The disclosure to a plaintiff of a corporation's last-known  
9 address shown on the records of the Franchise Tax Division of the  
10 Tax Commission in order for such plaintiff to comply with the  
11 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

12 20. The disclosure of information directly involved in the  
13 resolution of the protest by a taxpayer to an assessment of tax or  
14 additional tax or the resolution of a claim for refund filed by a  
15 taxpayer, including the disclosure of the pendency of an  
16 administrative proceeding involving such protest or claim, to a  
17 person called by the Tax Commission as an expert witness or as a  
18 witness whose area of knowledge or expertise specifically addresses  
19 the issue addressed in the protest or claim for refund. Such  
20 disclosure to a witness shall be limited to information pertaining  
21 to the specific knowledge of that witness as to the transaction or  
22 relationship between taxpayer and witness;

23 21. The disclosure of information necessary to implement an  
24 agreement authorized by Section 2702 of this title when such

1 information is directly involved in the resolution of issues arising  
2 out of the enforcement of a municipal sales tax ordinance. Such  
3 disclosure shall be to the governing body or to the municipal  
4 attorney, if so designated by the governing body;

5 22. The furnishing of information regarding incentive payments  
6 made pursuant to the provisions of Sections 3601 through 3609 of  
7 this title or incentive payments made pursuant to the provisions of  
8 Sections 3501 through 3508 of this title;

9 23. The furnishing to a prospective purchaser of any business,  
10 or his or her authorized representative, of information relating to  
11 any liabilities, delinquencies, assessments or warrants of the  
12 prospective seller of the business which have not been filed of  
13 record, established or become final and which relate solely to the  
14 seller's business. Any disclosure under this paragraph shall only  
15 be allowed upon the presentment by the prospective buyer, or the  
16 buyer's authorized representative, of the purchase contract and a  
17 written authorization between the parties;

18 24. The furnishing of information as to the amount of state  
19 revenue affected by the issuance or granting of any tax permit,  
20 license, exemption, deduction, credit or other tax preference by the  
21 Tax Commission as provided for by law. Such information shall be  
22 limited to the type of permit, license, exemption, deduction, credit  
23 or other tax preference issued or granted, the date and duration of  
24 such permit, license, exemption, deduction, credit or other tax

1 preference and the amount of such revenue. The provisions of this  
2 paragraph shall not authorize the disclosure of the name of the  
3 person issued such permit, license, exemption, deduction, credit or  
4 other tax preference, or the name of the business entity authorized  
5 to engage in business pursuant to the permit, license, exemption,  
6 deduction, credit or other tax preference;

7       25. The examination of records and files of a person or entity  
8 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
9 Control pursuant to a court order by a magistrate in whose  
10 territorial jurisdiction the person or entity resides, or where the  
11 Tax Commission records and files are physically located. Such an  
12 order may only be issued upon a sworn application by an agent of the  
13 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
14 certifying that the person or entity whose records and files are to  
15 be examined is the target of an ongoing investigation of a felony  
16 violation of the Uniform Controlled Dangerous Substances Act and  
17 that information resulting from such an examination would likely be  
18 relevant to that investigation. Any records or information obtained  
19 pursuant to such an order may only be used by the Oklahoma State  
20 Bureau of Narcotics and Dangerous Drugs Control in the investigation  
21 and prosecution of a felony violation of the Uniform Controlled  
22 Dangerous Substances Act. Any such order issued pursuant to this  
23 paragraph, along with the underlying application, shall be sealed  
24 and not disclosed to the person or entity whose records were

1 examined, for a period of ninety (90) days. The issuing magistrate  
2 may grant extensions of such period upon a showing of good cause in  
3 furtherance of the investigation. Upon the expiration of ninety  
4 (90) days and any extensions granted by the magistrate, a copy of  
5 the application and order shall be served upon the person or entity  
6 whose records were examined, along with a copy of the records or  
7 information actually provided by the Tax Commission;

8 26. The disclosure of information, as prescribed by this  
9 paragraph, which is related to the proposed or actual usage of tax  
10 credits pursuant to Section 2357.7 of this title, the Small Business  
11 Capital Formation Incentive Act or the Rural Venture Capital  
12 Formation Incentive Act. Unless the context clearly requires  
13 otherwise, the terms used in this paragraph shall have the same  
14 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this  
15 title. The disclosure of information authorized by this paragraph  
16 shall include:

- 17 a. the legal name of any qualified venture capital  
18 company, qualified small business capital company or  
19 qualified rural small business capital company,
- 20 b. the identity or legal name of any person or entity  
21 that is a shareholder or partner of a qualified  
22 venture capital company, qualified small business  
23 capital company or qualified rural small business  
24 capital company,

- 1           c.    the identity or legal name of any Oklahoma business  
2                    venture, Oklahoma small business venture or Oklahoma  
3                    rural small business venture in which a qualified  
4                    investment has been made by a capital company, or  
5           d.    the amount of funds invested in a qualified venture  
6                    capital company, the amount of qualified investments  
7                    in a qualified small business capital company or  
8                    qualified rural small business capital company and the  
9                    amount of investments made by a qualified venture  
10                  capital company, qualified small business capital  
11                  company, or qualified rural small business capital  
12                  company;

13           27.   The disclosure of specific information as required by  
14 Section 46 of Title 62 of the Oklahoma Statutes;

15           28.   The disclosure of specific information as required by  
16 Section 205.5 of this title;

17           29.   The disclosure of specific information as required by  
18 Section 205.6 of this title;

19           30.   The disclosure of information to the State Treasurer  
20 necessary to implement Section 2368.27 of this title;

21           31.   The disclosure of specific information to the Oklahoma  
22 Health Care Authority for purposes of determining eligibility for  
23 current or potential recipients of assistance from the Oklahoma  
24 Medicaid Program; ~~or~~

1           32. The disclosure of information to the Oklahoma Department of  
2 Veterans Affairs including but not limited to the name and basis for  
3 eligibility of each individual who qualifies for the sales tax  
4 exemption authorized in paragraph 34 of Section 1357 of this title;  
5 or

6           33. The disclosure of specific information as required by  
7 Section 1 of this act.

8           D. The Tax Commission shall cause to be prepared and made  
9 available for public inspection in the office of the Tax Commission  
10 in such manner as it may determine an annual list containing the  
11 name and post office address of each person, whether individual,  
12 corporate or otherwise, making and filing an income tax return with  
13 the Tax Commission.

14           It is specifically provided that no liability whatsoever, civil  
15 or criminal, shall attach to any member of the Tax Commission or any  
16 employee thereof for any error or omission of any name or address in  
17 the preparation and publication of the list.

18           E. The Tax Commission shall prepare or cause to be prepared a  
19 report on all provisions of state tax law that reduce state revenue  
20 through exclusions, deductions, credits, exemptions, deferrals or  
21 other preferential tax treatments. The report shall be prepared not  
22 later than October 1 of each even-numbered year and shall be  
23 submitted to the Governor, the President Pro Tempore of the Senate  
24 and the Speaker of the House of Representatives. The Tax Commission

1 may prepare and submit supplements to the report at other times of  
2 the year if additional or updated information relevant to the report  
3 becomes available. The report shall include, for the previous  
4 fiscal year, the Tax Commission's best estimate of the amount of  
5 state revenue that would have been collected but for the existence  
6 of each such exclusion, deduction, credit, exemption, deferral or  
7 other preferential tax treatment allowed by law. The Tax Commission  
8 may request the assistance of other state agencies as may be needed  
9 to prepare the report. The Tax Commission is authorized to require  
10 any recipient of a tax incentive or tax expenditure to report to the  
11 Tax Commission such information as requested so that the Tax  
12 Commission may fulfill its obligations as required by this  
13 subsection. The Tax Commission may require this information to be  
14 submitted in an electronic format. The Tax Commission may disallow  
15 any claim of a person for a tax incentive due to its failure to file  
16 a report as required under the authority of this subsection.

17 F. It is further provided that the provisions of this section  
18 shall be strictly interpreted and shall not be construed as  
19 permitting the disclosure of any other information contained in the  
20 records and files of the Tax Commission relating to income tax or to  
21 any other taxes.

22 G. Unless otherwise provided for in this section, any violation  
23 of the provisions of this section shall constitute a misdemeanor and  
24 shall be punishable by the imposition of a fine not exceeding One

1 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail  
2 for a term not exceeding one (1) year, or by both such fine and  
3 imprisonment, and the offender shall be removed or dismissed from  
4 office.

5 H. Offenses described in Section 2376 of this title shall be  
6 reported to the appropriate district attorney of this state by the  
7 Tax Commission as soon as the offenses are discovered by the Tax  
8 Commission or its agents or employees. The Tax Commission shall  
9 make available to the appropriate district attorney or to the  
10 authorized agent of the district attorney its records and files  
11 pertinent to prosecutions, and such records and files shall be fully  
12 admissible as evidence for the purpose of such prosecutions.

13 SECTION 3. This act shall become effective November 1, 2022.

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