

# OKLAHOMA TAX COMMISSION

## REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT SECOND REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 24, 2022

BILL NUMBER: SJR 35 STATUS AND DATE OF BILL: Engrossed 3/21/2022

AUTHORS: House Newton Senate Jech

TAX TYPE (S): Income Tax SUBJECT: Other

PROPOSAL: Amendatory

Engrossed SJR 35 proposes to put to a vote of the people an amendment to Article 10 of the Oklahoma Constitution. The constitutional amendment would add a new Section 12b.

EFFECTIVE DATE: Upon approval of the voters.

### REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 23: -0-

FY 24: -0-

### ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 23: Unknown cost

Mar. 29, 2022  
DATE

Rick Miller  
DIVISION DIRECTOR

mk

3/29/2022  
DATE

Huan Gong  
HUAN GONG, ECONOMIST

3/31/2022  
DATE

[Signature]  
FOR THE COMMISSION

*The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.*

Engrossed SJR 35 proposes to put to a vote of the people an amendment to Article 10 of the Oklahoma Constitution. The constitutional amendment would add a new Section 12b.

New Section 12b provides that all individual income taxes collected for any taxable year which exceed the average revenues collected from the previous 5 years shall be placed in the Taxpayer Allocation Program Fund by the State Treasurer. If the amount in the Taxpayer Allocation Program Fund exceeds \$400 million, amounts in excess of \$400 million are to be expended as a refundable income tax credit for those individuals that file an income tax return the following year. The credit for those whose income tax filing status is either married filing jointly, head of household or surviving spouse will have a credit double of those filing as single or married filing separately.

This measure has no effect on income tax collections.

As drafted, SJR 35 has some administrative challenges for the Tax Commission. As such there is an unknown administrative cost.

1. The term “Individual income tax collections” is not defined. Gross collections from individual income tax<sup>1</sup> is reduced by refunds and specific allocations to certain economic development projects. The balance is then apportioned to the following funds:
  - General Revenue Fund<sup>2</sup> - 85.66% for FY22 and 85.41% for FY23
  - Education Reform Revolving Fund - 8.34% for FY22 and 8.34% for FY23
  - Ad Valorem Reimbursement Fund – 1% for FY22 and FY23
  - Teachers’ Retirement System Dedicated Revenue Revolving Fund – 5% for FY22 and 5.25% for FY23

One hundred percent of income tax collections are apportioned as statutorily required. Even if collections increase year over year, there will never be excess revenues that are not statutorily encumbered.

2. Individual income tax revenue is generally derived from 3 primary sources throughout a calendar year: income tax withholding, estimated tax payments, and final payments submitted with the income tax return.<sup>3</sup> Additionally, remittances from audits or other OTC initiated adjustments, as well as any associated payments of penalty or interest, comprise income tax revenue in a calendar year. These funds are deposited daily into an OTC clearing fund. OTC generally transfers or apportions these monies monthly.<sup>4</sup> This process is done so that taxpayers can receive their income tax refunds timely as well as provide cash flow to the funds and entities that are statutorily authorized to receive the funds.

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<sup>1</sup> In FY21, gross collections from individual income tax were \$4.439 billion. Approximately \$664 million was refunded and \$87.4 million was transferred to a variety of specific economic development projects. The balance was apportioned to the General Revenue Fund, Education Reform Revolving Fund, Ad Valorem Reimbursement Fund, and Teachers’ Retirement System Dedicated Revenue Revolving Fund.

<sup>2</sup> The following funds received disbursements from the percentage that is apportioned to the General Revenue Fund: ROADS, Tourism and Passenger Fund, Public Transit Fund, and Film Rebate.

<sup>3</sup> Filed returns can include amended income tax returns from prior tax years.

<sup>4</sup> Refunds are issued daily, therefore income tax receipts are deposited more frequently in to a separate fund to ensure adequate reserves for refunds.

This measure does not specify the timing of the allocation to the Taxpayer Allocation Program Fund by the State Treasurer. Since the measure requires an analysis of “individual income tax collections in a tax year in excess of the average from the previous 5 taxable years” the earliest date that such an analysis could occur is after December 31. If the determination is made in early January, the January monthly collections would be deposited into the Taxpayer Allocation Program Fund disrupting normal statutorily required transfers and apportionment.

3. There is no prohibition of part-year or non-resident income tax filers claiming the full credit. There is no proration of the credit contemplated; since this credit is refundable, part-year and non-resident filers could conceivably have no tax liability yet claim the credit. Also, not all residents necessarily have a filing requirement. Persons not required to file an income tax return will most likely file a return in order to claim the credit. The OTC would be required to estimate the number of returns by filing status to calculate the amount of credit.
4. For tax year 2019, 1.834 million tax returns were filed (1.573 million resident returns and 261,000 part year and non-resident returns). As an example, if the amount of revenue in excess of \$400 million is less than \$1 million, the credit amount per return would be approximately 55 cents.