

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SUBCOMMITTEE RECOMMENDATION
FOR ENGROSSED

SENATE BILL NO. 602

By: Rader of the Senate

and

Fetgatter of the House

SUBCOMMITTEE RECOMMENDATION

An Act relating to revenue and taxation; amending
Section 1, Chapter 343, O.S.L. 2022 (68 O.S. Supp.
2022, Section 2358.6a), which relates to bonus
depreciation; clarifying application of depreciation;
clarifying procedure for claiming depreciation;
authorizing filing of amended tax return under
certain conditions; prohibiting Oklahoma Tax
Commission from assessing penalties or interest under
certain conditions; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 343, O.S.L.
2022 (68 O.S. Supp. 2022, Section 2358.6a), is amended to read as
follows:

Section 2358.6a A. As used in this section:

1. "Internal Revenue Code" means Title 26 of the United States
Code also known as the federal Internal Revenue Code of 1986, as
amended;

1 2. "Tax Cuts and Jobs Act" means Public Law No. 115-97 (115th
2 Congress Public Law 97);

3 3. "Qualified property" shall have the same meaning as in
4 Internal Revenue Code Section 168(k) as the Code existed on January
5 1, 2021, and shall apply to property placed in service after
6 December 31, 2021;

7 4. "Qualified improvement property" shall have the same meaning
8 as in Internal Revenue Code Section 168(e)(6) as the Code existed on
9 January 1, 2021, and shall apply to property placed in service after
10 December 31, 2021; and

11 5. "Full expensing" or "one hundred percent (100%) bonus
12 depreciation" means a method for taxpayers to recover costs for
13 certain expenditures in research and experimentation and depreciable
14 business assets by immediately deducting the full cost of such
15 expenditures in the tax year in which the cost is incurred or the
16 property is placed in service.

17 B. Taxpayers shall have the option for immediate and full
18 expensing for qualified property and qualified improvement property
19 as follows:

20 1. For purposes of computing income tax for taxable years
21 beginning after December 31, 2021, the cost of expenditures for
22 business assets that are qualified property or qualified improvement
23 property covered under Section 168 of the Internal Revenue Code
24 shall be eligible for one hundred percent (100%) bonus depreciation

1 and may be deducted as an expense incurred by the taxpayer during
2 the taxable year during which the property is placed in service,
3 notwithstanding any changes to federal law related to amortization
4 of cost recovery beginning on or after January 1, 2023, and shall
5 permanently remain fully and immediately deductible as an expense in
6 the tax year in which the property is placed in service for purposes
7 of calculating the taxpayer's income; ~~and~~

8 2. If a taxpayer elects immediate and full expensing of
9 qualified property or qualified improvement property, any
10 depreciation calculated and claimed pursuant to this section shall
11 in no event be a duplication of any depreciation or bonus
12 depreciation allowed or permitted on the federal income tax return
13 of the taxpayer. For income tax returns filed on or after January
14 1, 2023, federal taxable income shall be increased by the amount of
15 depreciation received under the Internal Revenue Code for the
16 qualified property or qualified improvement property for which the
17 election has been made to immediately and fully expense the asset on
18 the Oklahoma income tax return for the year in which the property
19 was placed in service. A taxpayer filing a return for which federal
20 taxable income is not increased as provided for in this section
21 prior to October 1, 2023, shall file an amended return reflecting
22 such increase not later than June 30, 2024. The Tax Commission
23 shall not assess penalties or interest with respect to the failure
24

1 to reflect such increase if a correct amended return is filed as
2 required herein; and

3 3. The taxpayer's decision to recover investment costs through
4 immediate expensing in the year the investment cost is incurred, or
5 amortized over an amortization schedule, is irrevocable unless
6 specifically allowed for by the Oklahoma Tax Commission.

7 C. 1. To conform to Section 179 of the Internal Revenue Code,
8 taxpayers shall be allowed to immediately deduct as an expense the
9 cost of certain depreciable business assets in the tax year in which
10 the property is placed in service.

11 2. For purposes of computing income tax for taxable years
12 beginning after December 31, 2021, taxpayers may elect to treat the
13 cost of any Section 179 of the Internal Revenue Code property as an
14 expense which is not chargeable to the capital account. Any cost so
15 treated shall be allowed as a deduction for the taxable year in
16 which the Section 179 Internal Revenue Code property is placed in
17 service.

18 D. The Oklahoma Tax Commission shall, within sixty (60) days of
19 the effective date of this act, promulgate rules for implementation
20 of this act which shall conform to the Internal Revenue Code of 1986
21 and must be consistent with the Internal Revenue Service's rules.
22 The provisions of this section shall supersede to the extent of any
23 inconsistency with any administrative rule.

SECTION 2. This act shall become effective November 1, 2023.

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