

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Extraordinary Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1039

By: Wallace, Martinez, **Kendrix**,
and **Lepak** of the House

7 and

8 Thompson (Roger) and Hall
9 of the Senate

10
11 COMMITTEE SUBSTITUTE

12 An Act relating to revenue and taxation; amending 68
13 O.S. 2021, Sections 1203, 1204, and 1210, which
14 relate to the franchise tax upon corporations,
15 associations, joint-stock companies, and business
16 trusts, the franchise tax upon foreign corporations,
17 and annual reporting; removing levy of tax after
18 certain year; limiting annual statement requirement
19 to certain years; updating statutory language;
20 providing an effective date; and declaring an
21 emergency.

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

23 SECTION 1. AMENDATORY 68 O.S. 2021, Section 1203, is
24 amended to read as follows:

Section 1203. ~~There~~ For tax year 2023 and previous tax years,
there is hereby levied and assessed a franchise or excise tax upon
every corporation, association, joint-stock company and business

1 trust organized under the laws of this state, equal to One Dollar
2 and twenty-five cents (\$1.25) for each One Thousand Dollars
3 (\$1,000.00) or fraction thereof of the amount of capital used,
4 invested or employed in the exercise of any power, privilege or
5 right inuring to such organization, within this state; it being the
6 purpose of this section to require the payment to ~~the State of~~
7 ~~Oklahoma~~ this state this tax for the right granted by the laws of
8 this state to exist as such organization and enjoy, under the
9 protection of the laws of this state, the powers, rights, privileges
10 and immunities derived from the state by reason of the form of such
11 existence.

12 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1204, is
13 amended to read as follows:

14 Section 1204. ~~There~~ For tax year 2023 and previous tax years,
15 there is hereby levied and assessed upon every corporation,
16 association, joint-stock company and business trust, organized and
17 existing by virtue of the laws of some other state, territory or
18 country, now or hereafter doing business in this state, as
19 hereinbefore defined, a franchise or excise tax equal to One Dollar
20 and twenty-five cents (\$1.25) for each One Thousand Dollars
21 (\$1,000.00) or fraction thereof of the amount of capital used,
22 invested or employed within this state; it being the purpose of this
23 section to require the payment of a tax by all organizations not
24 organized under the laws of this state, measured by the amount of

1 capital, or its equivalent, used, invested or employed in this state
2 for which such organization receives the benefit and protection of
3 the government and laws of the state.

4 SECTION 3. AMENDATORY 68 O.S. 2021, Section 1210, is
5 amended to read as follows:

6 Section 1210. A. In addition to any other statement required
7 by law, for tax year 2023 and previous tax years, each and every
8 corporation, association or organization, as enumerated in Sections
9 1201, 1203, and 1204 of this title, subject to the provisions of
10 Section 1201 et seq. of this title, either during the period of July
11 1 to August 31, inclusive, of each year, or not later than June 1
12 for taxpayers that remitted the maximum amount of tax pursuant to
13 Section 1205 of this title for the preceding tax year, or, except
14 for taxpayers that remitted the maximum amount of tax pursuant to
15 Section 1205 of this title for the preceding tax year, on or before
16 the date by which an income tax return is required to be filed
17 pursuant to the provisions of subsection G of Section 2368 of this
18 title or pursuant to the provisions of Section 216 of this title,
19 based upon the election by the taxpayer regarding the due date for
20 payment of tax, shall file with the Oklahoma Tax Commission a
21 statement under oath of its president, secretary or managing
22 officer, or managing agent in this state. The statement shall be in
23 such form as the Tax Commission shall prescribe, including balance
24 sheets as at the close of its last preceding taxable year for which

1 an income tax return was required to be filed, showing the
2 following:

3 1. The amount of its authorized capital stock, interests,
4 certificates, or other evidence of interest or ownership;

5 2. The amount thereof then paid up;

6 3. The number of units into which the same is divided;

7 4. The par value of each unit and the number of such units
8 issued and outstanding;

9 5. The location of the office or offices;

10 6. The value of all property owned or used in its business and
11 wherever located;

12 7. The value of all property owned or used in its business
13 within this state as it existed on the last day of the tax year;

14 8. The total amount of all business wherever transacted during
15 the tax year;

16 9. The total amount of business transacted within ~~the State of~~
17 ~~Oklahoma~~ this state during such year; and

18 10. The names of its officers and the residence and post office
19 address of each as the same appear of record on the last day of the
20 tax year, based upon the election by the taxpayer regarding the due
21 date for payment of tax.

22 B. If any corporation, association or organization making a
23 return under the provisions of Section 1201 et seq. of this title
24 has no authorized capital, or if any of its shares of stock or other

1 evidences of interest or ownership have no par value, then such
2 corporation, association or organization shall so state in its
3 return, and shall, in addition thereto, state the book value of its
4 shares of stock or other evidences of interest or ownership. It
5 shall also, in making its return, make the showing required of all
6 other corporations, associations and organizations, and each foreign
7 corporation shall state the name of its registered agent residing at
8 the capital of the state. The return shall be in such form as the
9 Tax Commission shall prescribe.

10 C. A corporation or organization subject to the tax levied by
11 Section 1203 or Section 1204 of this title for which the computation
12 of capital employed in the state equals or exceeds Sixteen Million
13 Dollars (\$16,000,000.00), shall file a maximum franchise tax return
14 on such form as may be prescribed by the Oklahoma Tax Commission.

15 D. The Tax Commission shall prescribe a form for use by
16 corporations or organizations subject to the maximum tax imposed by
17 Section 1205 of this title in order for such corporations or
18 organizations to determine if the value of capital employed in this
19 state requires filing a maximum franchise tax return. The Tax
20 Commission shall also prescribe a form for use by corporations or
21 organizations exempt from the tax imposed by Sections 1203 and 1204
22 of this title pursuant to Section 1205 of this title. Such form
23 shall include the names of the officers of the corporation or
24 organization and the residence and post office address of each as

1 the same appears of record on the last day of the tax year and a
2 statement attesting that no tax is due for the taxable period. If a
3 corporation or organization is required to file the maximum
4 franchise tax return or is exempt from the tax imposed by Sections
5 1203 and 1204 of this title pursuant to Section 1205 of this title,
6 such return shall not be subject to the requirements of subsection A
7 of this section and the return shall only contain such information
8 as may be prescribed by the Commission. The return shall be in such
9 form as the Tax Commission shall prescribe.

10 SECTION 4. This act shall become effective July 1, 2023.

11 SECTION 5. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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16 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS
17 AND BUDGET, dated 05/23/2023 - DO PASS, As Amended and Coauthored.

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