

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 102

By: Rader of the Senate

and

Tedford of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to income tax; amending 68 O.S. 2021,
12 Section 2362, which relates to nonresident taxable
13 income; defining terms; excluding certain
14 compensation of certain nonresidents; amending 68
15 O.S. 2021, Sections 2385.2 and 2385.3, as amended by
16 Section 11, Chapter 113, O.S.L. 2023 (68 O.S. Supp.
17 2025, Section 2385.3), which relate to withholding;
18 prohibiting requirement of employers to withhold
19 taxes from certain compensation; prohibiting
20 imposition of penalty and interest if certain
21 conditions are met; updating statutory language;
22 updating statutory references; and providing an
23 effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2362, is
amended to read as follows:

Section 2362. A. As used in this section:

1 1. "Professional athlete" means the same as the term is defined
2 in 8 U.S.C., Section 1154(i) (2);

3 2. "Professional entertainer" means a person who performs
4 services in the professional performing arts for compensation on a
5 per-event basis; and

6 3. "Public figure" means a person of prominence who performs
7 services at discrete events, including, but not limited to,
8 speeches, public appearances, or similar events, for compensation on
9 a per-event basis. The term does not include a member of a board of
10 directors or similar governing body of a business.

11 B. ~~For tax years beginning on or after January 1, 1994 year~~
12 ~~1994 and subsequent tax years,~~ the Oklahoma taxable income of a
13 part-year resident individual, nonresident individual, a nonresident
14 trust, and a nonresident estate shall be calculated following the
15 provisions of Section 2358 of this title as if all income were
16 earned in Oklahoma.

17 ~~B.~~ C. Using Oklahoma income tax rates, part-year resident
18 individuals, nonresident individuals, nonresident trusts, and
19 nonresident estates shall compute their tax liability on the amount
20 computed in ~~the preceding paragraph~~ subsection B of this section.

21 ~~C.~~ D. From the liability computed there shall be deducted all
22 allowable credits to determine the amount of tax due.

23 ~~D.~~ E. Part-year resident individuals, nonresident individuals,
24 nonresident trusts, and nonresident estates shall divide adjusted

1 gross income from Oklahoma sources by the adjusted gross income from
2 all sources to arrive at the applicable percentage that Oklahoma
3 adjusted gross income represents of all adjusted income received by
4 the taxpayer in the income year.

5 ~~E.~~ F. Part-year resident individuals, nonresident individuals,
6 nonresident trusts, and nonresident estates shall multiply the
7 amount of Oklahoma tax computed by the applicable percentage
8 calculated in ~~the preceding paragraph~~ subsection E of this section
9 in order to determine the amount of income tax which must be paid to
10 ~~the State of Oklahoma~~ this state. Nothing in this section shall be
11 construed to allow for greater than one hundred percent (100%) of a
12 taxpayer's income to be taxed.

13 ~~F.~~ G. For purposes of determining the adjusted gross income
14 from Oklahoma, the following shall be includable:

15 1. The ownership of any interest in real or tangible personal
16 property in this state;

17 2. A Except as provided for in subsection H of this section, a
18 business, trade, profession, or occupation carried on in this state
19 or compensation for services performed in this state;

20 3. A Except as provided for in subsection H of this section, a
21 business, trade, profession, or occupation carried on or
22 compensation for services performed partly within and partly without
23 this state to the extent allocable and apportionable to Oklahoma as
24 determined under Section 2358 of this title;

1 4. The distributive share of the Oklahoma part of partnership
2 income, gains, losses, or deductions;

3 5. The distributive share of the Oklahoma part of estate or
4 trust income, gains, losses, or deductions;

5 6. Income from intangible personal property, including
6 annuities, dividends, interest, and gains from the disposition of
7 intangible personal property to the extent that such income is from
8 property employed in a trade, business, profession, or occupation
9 carried on in Oklahoma. A part-year resident individual,
10 nonresident individual, nonresident trust, or nonresident estate,
11 other than a dealer holding property primarily for sale to customers
12 in the ordinary course of trade or business, shall not be deemed to
13 carry on a business, trade, profession, or occupation in Oklahoma
14 solely by reason of the purchase and sale of property for its own
15 account;

16 7. The distributive share of the Oklahoma taxable income or
17 loss of a corporation defined in subchapter S of the Internal
18 Revenue Code of 1986, as amended, 26 U.S.C., Section 1361 et seq.;

19 8. Income received from all sources of wagering, games of
20 chance, or any other winnings from sources within this state.
21 Proceeds which are not money shall be taken into account at their
22 fair market value; and

23 9. The distributive share of the Oklahoma part of limited
24 liability company income, gains, losses, or deductions.

1 H. For tax year 2027 and subsequent tax years, compensation
2 paid to a nonresident individual shall not be includable for
3 purposes of determining the adjusted gross income from Oklahoma if
4 the following conditions apply:

5 1. The compensation is paid for employment duties performed by
6 the individual while present in this state for thirty (30) or fewer
7 calendar days in the tax year; and

8 2. The individual performed employment duties in more than one
9 state during the tax year.

10 I. The provisions of subsection H of this section shall not
11 apply to compensation paid to an individual in the capacity of a
12 professional athlete, professional entertainer, or public figure.

13 J. For purposes of this section, an individual shall be
14 considered present and performing employment duties within this
15 state for a day if the individual performs more of the employment
16 duties of the individual in this state than in any other state
17 during that day. Any portion of the day during which the individual
18 is in transit shall not be considered in determining the location of
19 the performance of employment duties of the individual.

20 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2385.2, is
21 amended to read as follows:

22 Section 2385.2. A. Every employer making payment of wages
23 shall deduct and withhold from the wages paid each employee a tax in
24 an amount determined in accordance with a table fixing graduated

1 rates of tax to be withheld, which table shall be devised by the
2 Oklahoma Tax Commission and fix the rate of such tax to be withheld
3 from each employee as a percentage of the amount of federal income
4 tax withheld under the Internal Revenue Code, ~~and/or~~ or a percentage
5 of the amount of salary paid to the employee, giving consideration
6 to the approximate amount of the state tax liability of any such
7 employee, if such employee-taxpayer were to elect to use the
8 standard deduction. Such table shall be published by the Oklahoma
9 Tax Commission and furnished to all employers filing income
10 withholding tax returns as required by law.

11 B. Whenever the amount to be withheld from the wages of an
12 employee is calculated to total less than twenty-five cents (\$0.25)
13 in any quarterly period of a year, the provisions of subsection A of
14 this section shall not apply.

15 C. Every person, including the government of the United States,
16 a state or a political subdivision thereof or any instrumentalities
17 of the foregoing, making any payment of winnings which are subject
18 to withholding shall deduct and withhold from such payment a tax in
19 an amount equal to four percent (4%) of such payment.

20 D. An employer shall not be required to withhold taxes for
21 compensation that is paid to an individual as described in
22 subsection H of Section 2362 of this title, except that if, during
23 the taxable year, the individual performs employment duties while
24 present in this state for more than thirty (30) calendar days, an

1 employer shall withhold and remit taxes for every day the individual
2 performed employment duties while present in this state in that tax
3 year, including the first thirty (30) days in which the individual
4 performed employment duties in this state.

5 SECTION 3. AMENDATORY 68 O.S. 2021, Section 2385.3, as
6 amended by Section 11, Chapter 113, O.S.L. 2023 (68 O.S. Supp. 2025,
7 Section 2385.3), is amended to read as follows:

8 Section 2385.3. A. Every employer required to deduct and
9 withhold taxes under Section 2385.2 of this title shall pay over the
10 amount so withheld as taxes to the Oklahoma Tax Commission pursuant
11 to the schedule outlined in paragraphs 1 through 3 of this
12 subsection, and shall file a quarterly return in such form as the
13 Tax Commission shall prescribe on or before the twentieth day of the
14 month following the close of each calendar quarter:

15 1. Every employer required to remit federal withholding under
16 the Federal Semiweekly Deposit Schedule shall pay over the amount so
17 withheld under ~~subsection A of this section~~ subsection on the same
18 dates as required under the Federal Semiweekly Deposit Schedule for
19 federal withholding taxes;

20 2. Every employer owing an average of Five Hundred Dollars
21 (\$500.00) or more per quarter in taxes in the previous fiscal year
22 who is not subject to the provisions of paragraph 1 of this
23 subsection shall pay over the amount so withheld on or before the
24 twentieth day of each succeeding month; and

1 3. Every employer owing an average of less than Five Hundred
2 Dollars (\$500.00) per quarter in taxes in the previous fiscal year
3 shall pay over the amount so withheld on or before the twentieth day
4 of the month following the close of each succeeding quarterly
5 period.

6 B. Every employer subject to the provisions of paragraph 1 of
7 subsection A of this section shall file returns pursuant to the Tax
8 Commission's electronic data interchange program.

9 C. Every employer required under Section 2385.2 of this title
10 to deduct and withhold a tax from the wages paid an employee shall,
11 as to the total wages paid to each employee during the calendar
12 year, furnish to such employee, on or before January 31 of the
13 succeeding year, a written statement showing the name of the
14 employer, the name of the employee and the employee's Social
15 Security account number, if any, the total amount of wages subject
16 to taxation, and the total amount deducted and withheld as tax and
17 such other information as the Tax Commission may require. If an
18 employee's employment is terminated before the close of a calendar
19 year, the written statement must be furnished within thirty (30)
20 days of the date of which the last payment of wages is made.

21 D. Every employer required under Section 2385.2 of this title
22 to deduct and withhold a tax from the wages paid an employee shall
23 furnish to the Oklahoma Tax Commission, on or before January 31 of
24 the succeeding year, an annual reconciliation and such other

1 information as the Tax Commission may require pursuant to the Tax
2 Commission's electronic data interchange program. Failure of an
3 employer to provide an annual reconciliation within thirty (30) days
4 of the due date may result in a penalty to be imposed on the
5 employer in an amount not to exceed One Thousand Dollars
6 (\$1,000.00). The additional penalty may be collected in the same
7 manner as provided by law for collection of delinquent taxes.

8 E. If the Tax Commission, in any case, has justifiable reason
9 to believe that the collection of the tax provided for in Section
10 2385.2 of this title is in jeopardy, the Tax Commission may require
11 the employer to file a return and pay the tax at any time.

12 F. Any sum or sums withheld in accordance with the provisions
13 of Section 2385.2 of this title shall be deemed to be held in trust
14 for the State of Oklahoma, and, as trustee, the employer shall have
15 a fiduciary duty to the State of Oklahoma in regard to such sums and
16 shall be subject to the trust laws of this state.

17 G. If any employer fails to withhold the tax required to be
18 withheld by Section 2385.2 of this title and thereafter the income
19 tax is paid by the employee, the tax so required to be withheld
20 shall not be collected from the employer but such employer shall not
21 be relieved from the liability for penalties or interest otherwise
22 applicable because of such failure to withhold the tax.

23 H. Every person making payments of winnings subject to
24 withholding shall, for each monthly period, on or before the

1 twentieth day of the month following the payment of such winnings
2 pay over to the Tax Commission the amounts so withheld, and shall
3 file a return, in a form as prescribed by the Tax Commission.

4 I. Every person making payments of winnings subject to
5 withholding shall furnish to each recipient on or before January 31
6 of the succeeding year a written statement in a form as prescribed
7 by the Tax Commission. Every person making such reports shall also
8 furnish a copy of such report to the Tax Commission in a manner and
9 at a time as shall be prescribed by the Tax Commission.

10 J. The Oklahoma Tax Commission shall not impose any penalty or
11 interest on an employer for failure to withhold taxes from
12 nonresident employee compensation if, when determining whether
13 withholding was required, the employer met either of the following
14 conditions:

15 1. The employer, in its sole discretion, maintains a time and
16 attendance system specifically designed to allocate employee wages
17 for income tax purposes among all taxing jurisdictions in which an
18 individual performs employment duties for such employer, and the
19 employer relied on data from that system; or

20 2. The employer does not maintain a time and attendance system
21 and the employer relied on the following:

22 a. records of the employer, maintained in the regular
23 course of business, of the location of the employee,

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- 1 b. the reasonable determination of the employee of the
2 time such employee expected to spend performing
3 employment duties in this state, provided that the
4 employer did not have actual knowledge of fraud on the
5 part of the individual in making the determination and
6 that the employer and the individual did not conspire
7 to evade taxation in making the determination,
8 c. travel records,
9 d. travel expense reimbursement records, or
10 e. a signed, written statement from the employee of the
11 number of days spent performing services in this state
12 during the tax year.

13 K. As used in this section, "time and attendance system" means
14 a system through which an individual is required to record the work
15 location of the individual for every day worked outside the state
16 where the employment duties of the individual are primarily
17 performed and which is designed to allow the employer to allocate
18 the compensation of the individual for income tax purposes among all
19 states in which the individual performs employment duties for the
20 employer.

21 SECTION 4. This act shall become effective November 1, 2026.

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