

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2949

By: McCall

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2021, Section 2355, as last amended by Section 1, Chapter 27, 1st Extraordinary Session of the 59th Oklahoma Legislature, O.S.L. 2023, which relates to income tax rates for individuals and other entities; modifying income tax rate for designated tax year; providing for reductions in income tax rates based upon certain determination with respect to tax collections; providing for further reductions in income tax rates using prescribed formula; amending 68 O.S. 2021, Section 2355.1P-4, which relates to the Pass Through-Entity Tax Act; modifying reference to income tax rate; defining terms; imposing tax on renewable power production; establishing amount of tax per megawatt-hour; making tax applicable after certain date; establishing timeline for remittance of tax and filing of reports; requiring the prescription of certain forms; providing fine and penalty for filing and remittance failures; requiring certain annual reporting; providing for apportionment of monies; providing for codification; and providing effective dates.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2355, as last amended by Section 1, Chapter 27, 1st Extraordinary Session,

1 O.S.L. 2023 (68 O.S. Supp. 2023, Section 2355), is amended to read
2 as follows:

3 Section 2355. A. Individuals. For all taxable years beginning
4 after December 31, 1998, and before January 1, 2006, a tax is hereby
5 imposed upon the Oklahoma taxable income of every resident or
6 nonresident individual, which tax shall be computed at the option of
7 the taxpayer under one of the two following methods:

8 1. METHOD 1.

9 a. Single individuals and married individuals filing
10 separately not deducting federal income tax:

11 (1) 1/2% tax on first \$1,000.00 or part thereof,

12 (2) 1% tax on next \$1,500.00 or part thereof,

13 (3) 2% tax on next \$1,250.00 or part thereof,

14 (4) 3% tax on next \$1,150.00 or part thereof,

15 (5) 4% tax on next \$1,300.00 or part thereof,

16 (6) 5% tax on next \$1,500.00 or part thereof,

17 (7) 6% tax on next \$2,300.00 or part thereof, and

18 (8) (a) for taxable years beginning after December
19 31, 1998, and before January 1, 2002, 6.75%
20 tax on the remainder,

21 (b) for taxable years beginning on or after
22 January 1, 2002, and before January 1, 2004,
23 7% tax on the remainder, and
24

1 (c) for taxable years beginning on or after
2 January 1, 2004, 6.65% tax on the remainder.

3 b. Married individuals filing jointly and surviving
4 spouse to the extent and in the manner that a
5 surviving spouse is permitted to file a joint return
6 under the provisions of the Internal Revenue Code and
7 heads of households as defined in the Internal Revenue
8 Code not deducting federal income tax:

9 (1) 1/2% tax on first \$2,000.00 or part thereof,

10 (2) 1% tax on next \$3,000.00 or part thereof,

11 (3) 2% tax on next \$2,500.00 or part thereof,

12 (4) 3% tax on next \$2,300.00 or part thereof,

13 (5) 4% tax on next \$2,400.00 or part thereof,

14 (6) 5% tax on next \$2,800.00 or part thereof,

15 (7) 6% tax on next \$6,000.00 or part thereof, and

16 (8) (a) for taxable years beginning after December

17 31, 1998, and before January 1, 2002, 6.75%

18 tax on the remainder,

19 (b) for taxable years beginning on or after

20 January 1, 2002, and before January 1, 2004,

21 7% tax on the remainder, and

22 (c) for taxable years beginning on or after

23 January 1, 2004, 6.65% tax on the remainder.

24 2. METHOD 2.

1 a. Single individuals and married individuals filing
2 separately deducting federal income tax:

3 (1) 1/2% tax on first \$1,000.00 or part thereof,

4 (2) 1% tax on next \$1,500.00 or part thereof,

5 (3) 2% tax on next \$1,250.00 or part thereof,

6 (4) 3% tax on next \$1,150.00 or part thereof,

7 (5) 4% tax on next \$1,200.00 or part thereof,

8 (6) 5% tax on next \$1,400.00 or part thereof,

9 (7) 6% tax on next \$1,500.00 or part thereof,

10 (8) 7% tax on next \$1,500.00 or part thereof,

11 (9) 8% tax on next \$2,000.00 or part thereof,

12 (10) 9% tax on next \$3,500.00 or part thereof, and

13 (11) 10% tax on the remainder.

14 b. Married individuals filing jointly and surviving

15 spouse to the extent and in the manner that a

16 surviving spouse is permitted to file a joint return

17 under the provisions of the Internal Revenue Code and

18 heads of households as defined in the Internal Revenue

19 Code deducting federal income tax:

20 (1) 1/2% tax on the first \$2,000.00 or part thereof,

21 (2) 1% tax on the next \$3,000.00 or part thereof,

22 (3) 2% tax on the next \$2,500.00 or part thereof,

23 (4) 3% tax on the next \$1,400.00 or part thereof,

24 (5) 4% tax on the next \$1,500.00 or part thereof,

- 1 (6) 5% tax on the next \$1,600.00 or part thereof,
- 2 (7) 6% tax on the next \$1,250.00 or part thereof,
- 3 (8) 7% tax on the next \$1,750.00 or part thereof,
- 4 (9) 8% tax on the next \$3,000.00 or part thereof,
- 5 (10) 9% tax on the next \$6,000.00 or part thereof, and
- 6 (11) 10% tax on the remainder.

7 B. Individuals. For all taxable years beginning on or after
8 January 1, 2008, and ending any tax year which begins after December
9 31, 2015, for which the determination required pursuant to Sections
10 4 and 5 of this act is made by the State Board of Equalization, a
11 tax is hereby imposed upon the Oklahoma taxable income of every
12 resident or nonresident individual, which tax shall be computed as
13 follows:

14 1. Single individuals and married individuals filing
15 separately:

- 16 (a) 1/2% tax on first \$1,000.00 or part thereof,
- 17 (b) 1% tax on next \$1,500.00 or part thereof,
- 18 (c) 2% tax on next \$1,250.00 or part thereof,
- 19 (d) 3% tax on next \$1,150.00 or part thereof,
- 20 (e) 4% tax on next \$2,300.00 or part thereof,
- 21 (f) 5% tax on next \$1,500.00 or part thereof,
- 22 (g) 5.50% tax on the remainder for the 2008 tax year and
23 any subsequent tax year unless the rate prescribed by
24 subparagraph (h) of this paragraph is in effect, and

1 (h) 5.25% tax on the remainder for the 2009 and subsequent
2 tax years. The decrease in the top marginal
3 individual income tax rate otherwise authorized by
4 this subparagraph shall be contingent upon the
5 determination required to be made by the State Board
6 of Equalization pursuant to Section 2355.1A of this
7 title.

8 2. Married individuals filing jointly and surviving spouse to
9 the extent and in the manner that a surviving spouse is permitted to
10 file a joint return under the provisions of the Internal Revenue
11 Code and heads of households as defined in the Internal Revenue
12 Code:

13 (a) 1/2% tax on first \$2,000.00 or part thereof,

14 (b) 1% tax on next \$3,000.00 or part thereof,

15 (c) 2% tax on next \$2,500.00 or part thereof,

16 (d) 3% tax on next \$2,300.00 or part thereof,

17 (e) 4% tax on next \$2,400.00 or part thereof,

18 (f) 5% tax on next \$2,800.00 or part thereof,

19 (g) 5.50% tax on the remainder for the 2008 tax year and
20 any subsequent tax year unless the rate prescribed by
21 subparagraph (h) of this paragraph is in effect, and

22 (h) 5.25% tax on the remainder for the 2009 and subsequent
23 tax years. The decrease in the top marginal
24 individual income tax rate otherwise authorized by

1 this subparagraph shall be contingent upon the
2 determination required to be made by the State Board
3 of Equalization pursuant to Section 2355.1A of this
4 title.

5 C. Individuals. For all taxable years beginning on or after
6 January 1, 2024, and except as provided pursuant to the provisions
7 of subsection D of this section, a tax is hereby imposed upon the
8 Oklahoma taxable income of every resident or nonresident individual,
9 which tax shall be computed as follows:

10 1. Single individuals and married individuals filing
11 separately:

- 12 ~~(a) 0.25% tax on first \$1,000.00 or part thereof,~~
- 13 ~~(b) 0.75% tax on next \$1,500.00 or part thereof,~~
- 14 ~~(c) 1.75% tax on next \$1,250.00 or part thereof,~~
- 15 ~~(d) 2.75% tax on next \$1,150.00 or part thereof,~~
- 16 ~~(e) 3.75% tax on next \$2,300.00 or part thereof,~~
- 17 ~~(f) 4.75% 4.4% tax on the remainder.;~~

18 2. Married individuals filing jointly and surviving spouse to
19 the extent and in the manner that a surviving spouse is permitted to
20 file a joint return under the provisions of the Internal Revenue
21 Code and heads of households as defined in the Internal Revenue
22 Code:

- 23 ~~(a) 0.25% tax on first \$2,000.00 or part thereof,~~
- 24 ~~(b) 0.75% tax on next \$3,000.00 or part thereof,~~

- 1 ~~(c) 1.75% tax on next \$2,500.00 or part thereof,~~
2 ~~(d) 2.75% tax on next \$2,300.00 or part thereof,~~
3 ~~(e) 3.75% tax on next \$4,600.00 or part thereof,~~
4 ~~(f) 4.75% 4.4% tax on the remainder.~~

5 The tax levied pursuant to this subsection shall be levied only
6 upon the amounts of Oklahoma taxable income in excess of:

7 1. Ten Thousand Dollars (\$10,000.00) for taxpayers having a
8 single or married filing separate filing status; or

9 2. Twenty Thousand Dollars (\$20,000.00) for taxpayers having a
10 married joint return filing status, head of household or qualifying
11 widow filing status.

12 No deduction for federal income taxes paid shall be allowed to
13 any taxpayer to arrive at taxable income.

14 D. Individuals. 1. Except as otherwise provided by this
15 subsection, for all taxable years beginning on or after January 1,
16 2025, a tax is hereby imposed upon the Oklahoma taxable income of
17 every resident or nonresident individual, which tax shall be four
18 and four-tenths percent (4.4%) reduced by 0.233333, for purposes of
19 any reduction, for any income tax year beginning on the January 1
20 date immediately succeeding a fiscal year ending on the preceding
21 June 30 for which the State Board of Equalization makes a
22 certification, at its December meeting, that total tax collections
23 for such fiscal year exceeded the total tax collections for the
24 immediately preceding fiscal year by Four Hundred Million Dollars

1 (\$400,000,000.00) or more. Subject to the determinations regarding
2 the increase in total tax collections as prescribed by this
3 paragraph, the reductions prescribed by this paragraph shall be made
4 for all applicable income tax years until the rate of individual
5 income tax equals three percent (3.0%). After the sixth reduction
6 in the rate of four and four-tenths percent (4.4%), the tax rate
7 shall be deemed to be three percent (3.0%) for purposes of this
8 subsection.

9 2. If the individual income tax rate reaches three percent
10 (3.0%) as provided by paragraph 1 of this subsection, such income
11 tax rate shall be in effect for the income tax year beginning on the
12 January 1 date immediately following the income tax year for which
13 the rate of income tax was 3.23335 percent, and the rate of three
14 percent (3.0%) shall be reduced each succeeding income tax year by
15 0.3, such subtraction to be made from the whole number three (3).
16 Such reduction shall be made for each of the ten (10) succeeding
17 income tax years, each beginning January 1, until the rate of
18 individual income tax equals zero percent (0%).

19 E. Nonresident aliens. In lieu of the rates set forth in
20 ~~subsection A~~ above, there shall be imposed on nonresident aliens, as
21 defined in the Internal Revenue Code, a tax of eight percent (8%)
22 instead of thirty percent (30%) as used in the Internal Revenue
23 Code, with respect to the Oklahoma taxable income of such
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1 nonresident aliens as determined under the provision of the Oklahoma
2 Income Tax Act.

3 Every payer of amounts covered by this subsection shall deduct
4 and withhold from such amounts paid each payee an amount equal to
5 eight percent (8%) thereof. Every payer required to deduct and
6 withhold taxes under this subsection shall for each quarterly period
7 on or before the last day of the month following the close of each
8 such quarterly period, pay over the amount so withheld as taxes to
9 the Tax Commission, and shall file a return with each such payment.
10 Such return shall be in such form as the Tax Commission shall
11 prescribe. Every payer required under this subsection to deduct and
12 withhold a tax from a payee shall, as to the total amounts paid to
13 each payee during the calendar year, furnish to such payee, on or
14 before January 31, of the succeeding year, a written statement
15 showing the name of the payer, the name of the payee and the payee's
16 Social Security account number, if any, the total amount paid
17 subject to taxation, and the total amount deducted and withheld as
18 tax and such other information as the Tax Commission may require.
19 Any payer who fails to withhold or pay to the Tax Commission any
20 sums herein required to be withheld or paid shall be personally and
21 individually liable therefor to the State of Oklahoma.

22 E. F. Corporations. For all taxable years beginning after
23 December 31, 2021, a tax is hereby imposed upon the Oklahoma taxable
24 income of every corporation doing business within this state or

1 deriving income from sources within this state in an amount equal to
2 four percent (4%) thereof.

3 There shall be no additional Oklahoma income tax imposed on
4 accumulated taxable income or on undistributed personal holding
5 company income as those terms are defined in the Internal Revenue
6 Code.

7 ~~F.~~ G. Certain foreign corporations. In lieu of the tax imposed
8 in the first paragraph of subsection ~~D~~ F of this section, for all
9 taxable years beginning after December 31, 2021, there shall be
10 imposed on foreign corporations, as defined in the Internal Revenue
11 Code, a tax of four percent (4%) instead of thirty percent (30%) as
12 used in the Internal Revenue Code, where such income is received
13 from sources within Oklahoma, in accordance with the provisions of
14 the Internal Revenue Code and the Oklahoma Income Tax Act.

15 Every payer of amounts covered by this subsection shall deduct
16 and withhold from such amounts paid each payee an amount equal to
17 four percent (4%) thereof. Every payer required to deduct and
18 withhold taxes under this subsection shall for each quarterly period
19 on or before the last day of the month following the close of each
20 such quarterly period, pay over the amount so withheld as taxes to
21 the Tax Commission, and shall file a return with each such payment.
22 Such return shall be in such form as the Tax Commission shall
23 prescribe. Every payer required under this subsection to deduct and
24 withhold a tax from a payee shall, as to the total amounts paid to

1 each payee during the calendar year, furnish to such payee, on or
2 before January 31, of the succeeding year, a written statement
3 showing the name of the payer, the name of the payee and the payee's
4 Social Security account number, if any, the total amounts paid
5 subject to taxation, the total amount deducted and withheld as tax
6 and such other information as the Tax Commission may require. Any
7 payer who fails to withhold or pay to the Tax Commission any sums
8 herein required to be withheld or paid shall be personally and
9 individually liable therefor to the State of Oklahoma.

10 ~~G.~~ H. Fiduciaries. A tax is hereby imposed upon the Oklahoma
11 taxable income of every trust and estate at the same rates as are
12 provided in subsection B ~~or~~, C, or D of this section for single
13 individuals. Fiduciaries are not allowed a deduction for any
14 federal income tax paid.

15 ~~H.~~ I. Tax rate tables. For all taxable years beginning after
16 December 31, 1991, in lieu of the tax imposed by subsection A, B ~~or~~,
17 C, or D of this section, as applicable there is hereby imposed for
18 each taxable year on the taxable income of every individual, whose
19 taxable income for such taxable year does not exceed the ceiling
20 amount, a tax determined under tables, applicable to such taxable
21 year which shall be prescribed by the Tax Commission and which shall
22 be in such form as it determines appropriate. In the table so
23 prescribed, the amounts of the tax shall be computed on the basis of
24 the rates prescribed by subsection A, B ~~or~~, C, or D of this section.

1 For purposes of this subsection, the term "ceiling amount" means,
2 with respect to any taxpayer, the amount determined by the Tax
3 Commission for the tax rate category in which such taxpayer falls.

4 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2355.1P-4,
5 is amended to read as follows:

6 Section 2355.1P-4 A. For tax years beginning on or after
7 January 1, 2022, there is hereby levied on each electing pass-
8 through entity the pass-through entity tax which shall be calculated
9 as follows:

10 1. With regard to each member of an electing pass-through
11 entity, the electing pass-through entity shall multiply such
12 member's Oklahoma distributive share of the electing pass-through
13 entity's Oklahoma net entity income for the tax year by:

14 a. the ~~highest Oklahoma marginal~~ income tax rate levied
15 on the taxable income of natural persons pursuant to
16 Section 2355 of this title if the member is an
17 individual, trust, or estate,

18 b. four percent (4%) if the member is classified as a
19 corporation pursuant to the Internal Revenue Code, and
20 is not classified as an S corporation,

21 c. four percent (4%) if the member is a pass-through
22 entity,

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- 1 d. four percent (4%) if the member is a financial
2 institution subject to tax imposed pursuant to the
3 provisions of Section 2370 of this title, and
4 e. the highest Oklahoma marginal income tax rate that
5 would be applicable to any item of the electing pass-
6 through entity's income or gain without the election
7 made pursuant to subsection F of this section, if the
8 member is an organization described in Section 2359 of
9 this title; and

10 2. The electing pass-through entity shall aggregate the amounts
11 determined with respect to all members pursuant to paragraph 1 of
12 this subsection and the pass-through entity tax for the applicable
13 tax year shall be equal to such aggregated tax amount for the tax
14 year with respect to which the election has been made.

15 B. Sections 2385.29, 2385.30 and 2385.31 of this title shall
16 not be applicable to an electing pass-through entity.

17 C. The pass-through entity tax shall be due and payable on the
18 same date as provided for the filing of the electing pass-through
19 entity's Oklahoma income tax return, and for tax years beginning on
20 or after January 1, 2020, estimated tax payments shall be required
21 as provided in Section 2385.9 of this title.

22 D. If the pass-through entity election results in a net entity
23 loss for Oklahoma income tax purposes in any tax year, the net
24 entity loss may be carried back and carried forward by the electing

1 pass-through entity for Oklahoma income tax purposes as set forth in
2 subparagraph b of paragraph 3 of subsection A of Section 2358 of
3 this title.

4 E. Notwithstanding paragraph 2 of subsection C of Section 2368
5 of this title, a nonresident individual who is a member of an
6 electing pass-through entity is not required to file an Oklahoma
7 income tax return, if, for the taxable year, the only source of
8 income allocable or apportionable to this state for the member, or,
9 if a joint income tax return is filed, the member and his or her
10 spouse, is from one or more electing pass-through entities, and each
11 electing pass-through entity files and pays the taxes due under this
12 section.

13 F. Any entity required to file an Oklahoma partnership income
14 tax return or an Oklahoma S corporation income tax return may elect
15 to become an electing pass-through entity. The election shall be
16 made on such form and in such manner as the Oklahoma Tax Commission
17 may prescribe, and any election under this subsection shall have
18 priority over and revoke any election to file a composite Oklahoma
19 partnership return or requirement of a Subchapter S corporation to
20 report and pay tax on behalf of a nonresident shareholder for the
21 same tax year.

22 G. Pursuant to procedures prescribed by the Tax Commission, if
23 the amount of tax required to be paid by a pass-through entity
24 pursuant to the provisions of this section is not paid when due, the

1 Oklahoma Tax Commission may revoke the pass-through entity's
2 election under subsection F of this section effective for the first
3 year for which the tax is not paid.

4 H. The election authorized by the provisions of this section
5 shall be made pursuant to procedures prescribed by the Tax
6 Commission and shall be filed (i) within sixty (60) days of
7 enactment and pursuant to procedures prescribed by the Oklahoma Tax
8 Commission for any income tax year beginning on or after January 1,
9 2019, and prior to January 1, 2020, or (ii) for any income tax year
10 beginning on or after January 1, 2020, at any time during the
11 preceding tax year or two (2) months and fifteen (15) days after the
12 beginning of the tax year. Any such election shall be binding until
13 revoked pursuant to procedures prescribed by the Tax Commission.
14 The effective date of a revocation (i) made within two (2) months
15 and fifteen (15) days of the electing pass-through entity's taxable
16 year shall be the first day of such taxable year and (ii) made
17 during the electing pass-through entity's taxable year but after
18 such fifteenth day shall be effective on the first day of the
19 following taxable year. No election made by a pass-through entity
20 with respect to income tax to be paid by such entity using the
21 calculations prescribed by this section shall be binding on any
22 other pass-through entity, and each pass-through entity shall be
23 able to make an election under the provisions of this act
24 independently.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6701 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Megawatt-hour" means the energy equivalent of one million
6 (1,000,000) watts consumed within a period of one (1) hour;

7 2. "Renewable power" means the production of electricity from a
8 source that is not depleted when used, including but not limited to
9 wind power, solar power, geothermal energy, biomass, and
10 hydroelectric power; and

11 3. "Renewable power business" means any for-profit business
12 enterprise engaged in the wholesale production of electricity by
13 means of renewable power.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 6702 of Title 68, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Effective January 1, 2025, there shall be imposed a levy of
18 One Dollar (\$1.00) per megawatt-hour upon electricity produced by a
19 renewable power business within the state.

20 B. The tax shall be due and owing not later than the fifteenth
21 day of the month immediately following the month during which the
22 electricity was produced.

23 C. The Oklahoma Tax Commission shall prescribe a form for use
24 in reporting the tax imposed pursuant to the provisions of this act.

1 D. The renewable power business shall timely file the report
2 and make remittance of the tax as required by this section. Failure
3 to timely file the report shall result in a fine of One Hundred
4 Dollars (\$100.00) per day for each day the return remains unfiled
5 not to exceed a maximum of sixty (60) days.

6 E. Failure to remit the tax to the Tax Commission as required
7 pursuant to the provisions of this section shall result in a penalty
8 equal to ten percent (10%) of the principal amount of the monthly
9 tax amount due and owing. The penalty shall become part of the
10 principal amount of the tax due and owing.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 6703 of Title 68, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Any renewable power business subject to the tax imposed
15 pursuant to the provisions of this act shall be required to file an
16 annual report with the Oklahoma Tax Commission which summarizes the
17 total amount of electric power produced from any and all renewable
18 power facilities owned by the renewable power business within the
19 state for the period of January 1 through December 31 of the year
20 prior to the year in which the report is filed as required by this
21 section. The summary shall include the amount of electric power
22 produced each month by each renewable power facility device owned by
23 the renewable power business in the state.

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1 B. The Oklahoma Tax Commission shall prescribe a form for the
2 report required by this section. The report shall be filed with the
3 Oklahoma Tax Commission not later than February 15 each year
4 covering the electric power produced by renewable power facilities
5 owned by a renewable power business located in the state for the
6 preceding calendar year.

7 SECTION 6. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6704 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 The monies derived from taxes, fines, and penalties imposed
11 pursuant to the provisions of this act shall be apportioned to the
12 General Revenue Fund.

13 SECTION 7. Sections 1 and 2 of this act shall become effective
14 January 1, 2024.

15 SECTION 8. Sections 3 through 6 of this act shall become
16 effective November 1, 2024.

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