

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3715

By: Wallace and Casey of the  
House

and

David, Fields and Smalley  
of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to revenue and taxation; amending 68  
12 O.S. 2011, Section 2368, as last amended by Section  
13 2, Chapter 235, O.S.L. 2017 (68 O.S. Supp. 2017,  
14 Section 2368), which relates to income tax returns  
15 and payment; and providing for certain installment  
16 payments based upon provisions of the Internal  
17 Revenue Code.

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

19                   SECTION 1.           AMENDATORY           68 O.S. 2011, Section 2368, as  
20 last amended by Section 2, Chapter 235, O.S.L. 2017 (68 O.S. Supp.  
21 2017, Section 2368), is amended to read as follows:

22                   Section 2368. A. For tax years ending before January 1, 2017,  
23 the following individuals shall each make a return stating  
24 specifically the taxable income and, where necessary, the adjusted  
gross income and the adjustments provided in Section 2351 et seq. of

1 this title to arrive at Oklahoma taxable income and, where  
2 necessary, Oklahoma adjusted gross income:

3 1. Every resident individual having a gross income, or gross  
4 receipts, for the taxable year in an amount sufficient to require  
5 the filing of a federal income tax return, if single, or if married  
6 and not living with husband or wife; and

7 2. Every resident individual having a gross income, or gross  
8 receipts, for the taxable year in an amount sufficient to require  
9 the filing of a federal income tax return, if married and living  
10 with husband or wife.

11 Provided however, every resident individual who does not meet  
12 the requirements sufficient to file a federal return, but has  
13 Oklahoma withholding, may file a claim for refund for all Oklahoma  
14 income taxes withheld and shall not be subject to the provisions of  
15 Section 2358 of this title; and

16 3. Every nonresident individual having Oklahoma gross income  
17 for the taxable year of One Thousand Dollars (\$1,000.00) or more.

18 B. If a husband and wife, living together, have an aggregate  
19 gross income or gross receipts, for such year, in an amount  
20 sufficient to require the filing of a federal income tax return:

21 1. Each shall make a return; or

22 2. The income of each shall be included in a single joint  
23 return, in which case the tax shall be computed on the aggregate net  
24 income.

1 C. 1. For tax years beginning on or after January 1, 2017,  
2 every resident individual whose gross income from both within and  
3 outside of Oklahoma exceeds the sum of the standard deduction and  
4 personal exemption allowed in Section 2358 of this title shall file  
5 an Oklahoma income tax return. Resident individuals not required to  
6 file a federal income tax return must attach a completed federal  
7 income tax return to the Oklahoma income tax return to show how  
8 adjusted gross income and deductions were determined, if their gross  
9 income is more than their adjusted gross income. The Oklahoma  
10 income tax return must show the taxable income and, where necessary,  
11 the adjusted gross income and modifications required by Section 2351  
12 et seq. of this title, and any other information the Tax Commission  
13 may require.

14 2. Every nonresident individual having Oklahoma gross income  
15 for the taxable year of One Thousand Dollars (\$1,000.00) or more  
16 shall file an Oklahoma income tax return.

17 D. If an individual is unable to make his or her own return,  
18 the return shall be made by a duly authorized agent or by the  
19 guardian or other person charged with the care of the person or  
20 property of such individual.

21 E. Every partnership shall make a return for each taxable year,  
22 stating the taxable income and the adjustments to arrive at Oklahoma  
23 income. The Oklahoma return shall include a schedule showing the  
24 distribution to partners of the various items of income as per the

1 federal return and the adjustments required by Section 2351 et seq.  
2 of this title for Oklahoma. The return shall be signed by one of  
3 the partners. If a partnership has elected pursuant to the  
4 provisions of Section 761 of the Internal Revenue Code, or any  
5 provision comparable thereto, not to file partnership income tax  
6 returns, that partnership shall not be required to file an Oklahoma  
7 partnership return. The Oklahoma Tax Commission shall promulgate  
8 rules for purposes of partnership returns when multiple partners  
9 would otherwise be required to file a nonresident return. The rules  
10 shall provide a specific number of partners in a partnership above  
11 which a composite return may be filed. The return shall be in such  
12 form as prescribed by the Tax Commission.

13 F. Every corporation shall make a return for each taxable year  
14 stating the taxable income and the adjustments provided in Section  
15 2351 et seq. of this title to arrive at Oklahoma taxable income. In  
16 addition, corporations electing subchapter S treatment pursuant to  
17 the Internal Revenue Code and Section 2351 et seq. of this title,  
18 shall include a schedule showing the distribution to shareholders of  
19 the various items of income as per the federal return and the  
20 adjustments for Oklahoma. All corporation returns shall be signed  
21 by the president, vice president, or other principal officer and the  
22 corporate seal impressed. In cases where receivers, trustees in  
23 bankruptcy, or assignees are operating the property or business of  
24 corporations, such receivers, trustees, or assignees shall make a

1 return for such corporations in the same manner and form as  
2 corporations are required to make returns. Any tax due on the basis  
3 of such returns made by receivers, trustees, or assignees shall be  
4 collected in the same manner as if collected from the corporations  
5 of whose business or property they have custody and control.

6 G. Every resident estate and trust shall make a return for each  
7 taxable year stating the taxable income and the adjustments to  
8 arrive at Oklahoma taxable income. Every nonresident estate or  
9 trust having Oklahoma taxable income as provided in Section 2362 of  
10 this title shall make a return for each taxable year stating the  
11 taxable income and the adjustments to arrive at Oklahoma taxable  
12 income. The Oklahoma return shall include a schedule showing the  
13 distribution to beneficiaries, if any, of the various items of  
14 income as per the federal return and the adjustments for Oklahoma.  
15 The fiduciary shall be responsible for making the return and the  
16 return shall be signed by the fiduciary, or by one fiduciary if  
17 there is more than one. The Tax Commission shall promulgate rules  
18 for purposes of estate and trust returns when multiple returns would  
19 otherwise be required of nonresident beneficiaries of estates or  
20 trusts. The return shall be in such form as prescribed by the Tax  
21 Commission.

22 H. 1. All individual returns, except individual returns filed  
23 electronically, made on the basis of the calendar year shall be due  
24 on or before the fifteenth day of April following the close of the

1 taxable year. Provided, if the Internal Revenue Code provides for a  
2 later due date for returns of individuals, the Tax Commission shall  
3 accept returns filed by individuals by such date and such returns  
4 shall be considered as timely filed.

5 2. All individual returns filed electronically, made on the  
6 basis of the calendar year, shall be due on or before the twentieth  
7 day of April following the close of the taxable year.

8 3. All individual returns made on the basis of a fiscal year  
9 shall be due on or before the fifteenth day of the fourth month  
10 following the close of the fiscal year.

11 4. For tax years beginning before January 1, 2016, calendar  
12 year corporation returns shall be due on or before the fifteenth day  
13 of March following the close of the taxable year. For tax years  
14 beginning on or after January 1, 2016, calendar year corporation  
15 returns shall be due no later than thirty (30) days after the due  
16 date established under the Internal Revenue Code.

17 5. For tax years beginning before January 1, 2016, fiscal year  
18 corporation returns shall be due on or before the fifteenth day of  
19 the third month following the close of the fiscal year. For tax  
20 years beginning on or after January 1, 2016, fiscal year corporation  
21 returns shall be due no later than thirty (30) days after the due  
22 date established under the Internal Revenue Code.

23 6. For tax years beginning before January 1, 2016, partnership  
24 returns shall be due on or before the fifteenth day of April

1 following the close of the taxable year. For tax years beginning on  
2 or after January 1, 2016, partnership returns shall be due no later  
3 than thirty (30) days after the due date established under the  
4 Internal Revenue Code.

5 7. All estate and trust returns made on the basis of the  
6 calendar year shall be due on or before the fifteenth day of April  
7 following the close of the taxable year. All estate and trust  
8 returns made on the basis of a fiscal year shall be due on or before  
9 the fifteenth day of the fourth month following the close of the  
10 fiscal year.

11 8. In the case of complete liquidation, or the dissolution, of  
12 a corporation the return of such corporation shall be made on or  
13 before the fifteenth day of the fourth month following the month in  
14 which the corporation is completely liquidated. A corporation which  
15 has terminated its business activities, satisfied or made provision  
16 for all of its liabilities or has distributed all of its assets,  
17 even though not formally dissolved under state law, is deemed to  
18 have completely liquidated for purposes of this subsection.

19 I. Returns by individuals, fiduciaries, partnerships,  
20 corporations or any other person or entity required, or that may  
21 hereafter be required to file a return, shall contain or be verified  
22 by a written declaration that such return is made under the  
23 penalties of perjury and the fact that any individual's name is  
24 signed to a filed return shall be prima facie evidence for all

1 purposes that the return was actually signed by that individual.  
2 Provided, the Tax Commission shall promulgate rules to provide  
3 procedures for verification of signatures on returns which are filed  
4 electronically.

5 J. Every return required by Section 2351 et seq. of this title  
6 shall be in such form as the Tax Commission may, from time to time,  
7 prescribe. Each return shall be filed with the Tax Commission and  
8 forms shall be furnished by the Tax Commission on application  
9 therefor, but failure to secure or receive the form of a return  
10 prescribed shall not relieve any taxpayer from the obligation of  
11 making and filing any return herein required.

12 K. For tax years ending after January 1, 2017, if a taxpayer  
13 elects to make installment payments of tax due pursuant to the  
14 provisions of subsection (h) of Section 965 of the Internal Revenue  
15 Code, 26 U.S.C., Section 965, such election may also apply to the  
16 payment of Oklahoma income tax, attributable to the income upon  
17 which such installment payments are based.

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19 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS  
20 AND BUDGET, dated 04/23/2018 - DO PASS, As Amended and Coauthored.

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