

An Act

ENROLLED HOUSE
BILL NO. 2962

By: McCall, Wallace, Hilbert,
Russ and Lepak of the House

and

Treat, Thompson and Hall of
the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 2355, as last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2020, Section 2355), which relates to individual income tax; modifying tax rates; amending 68 O.S. 2011, Section 2357.43, as amended by Section 1, Chapter 341, O.S.L. 2016 (68 O.S. Supp. 2020, Section 2357.43), which relates to the earned income tax credit; modifying provisions related to refundability; providing method for computation of tax credit using designated tax year; and providing an effective date.

SUBJECT: Revenue and taxation

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2355, as last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2020, Section 2355), is amended to read as follows:

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

1. METHOD 1.

- a. Single individuals and married individuals filing separately not deducting federal income tax:
- (1) 1/2% tax on first \$1,000.00 or part thereof,
 - (2) 1% tax on next \$1,500.00 or part thereof,
 - (3) 2% tax on next \$1,250.00 or part thereof,
 - (4) 3% tax on next \$1,150.00 or part thereof,
 - (5) 4% tax on next \$1,300.00 or part thereof,
 - (6) 5% tax on next \$1,500.00 or part thereof,
 - (7) 6% tax on next \$2,300.00 or part thereof, and
 - (8)
 - (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,
 - (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
 - (c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.
- b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:
- (1) 1/2% tax on first \$2,000.00 or part thereof,
 - (2) 1% tax on next \$3,000.00 or part thereof,
 - (3) 2% tax on next \$2,500.00 or part thereof,
 - (4) 3% tax on next \$2,300.00 or part thereof,
 - (5) 4% tax on next \$2,400.00 or part thereof,

- (6) 5% tax on next \$2,800.00 or part thereof,
- (7) 6% tax on next \$6,000.00 or part thereof, and
- (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,

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

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

2. METHOD 2.

- a. Single individuals and married individuals filing separately deducting federal income tax:
 - (1) 1/2% tax on first \$1,000.00 or part thereof,
 - (2) 1% tax on next \$1,500.00 or part thereof,
 - (3) 2% tax on next \$1,250.00 or part thereof,
 - (4) 3% tax on next \$1,150.00 or part thereof,
 - (5) 4% tax on next \$1,200.00 or part thereof,
 - (6) 5% tax on next \$1,400.00 or part thereof,
 - (7) 6% tax on next \$1,500.00 or part thereof,
 - (8) 7% tax on next \$1,500.00 or part thereof,
 - (9) 8% tax on next \$2,000.00 or part thereof,
 - (10) 9% tax on next \$3,500.00 or part thereof, and
 - (11) 10% tax on the remainder.
- b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a

surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:

- (1) 1/2% tax on the first \$2,000.00 or part thereof,
- (2) 1% tax on the next \$3,000.00 or part thereof,
- (3) 2% tax on the next \$2,500.00 or part thereof,
- (4) 3% tax on the next \$1,400.00 or part thereof,
- (5) 4% tax on the next \$1,500.00 or part thereof,
- (6) 5% tax on the next \$1,600.00 or part thereof,
- (7) 6% tax on the next \$1,250.00 or part thereof,
- (8) 7% tax on the next \$1,750.00 or part thereof,
- (9) 8% tax on the next \$3,000.00 or part thereof,
- (10) 9% tax on the next \$6,000.00 or part thereof, and
- (11) 10% tax on the remainder.

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

1. Single individuals and married individuals filing separately:

- (a) 1/2% tax on first \$1,000.00 or part thereof,
- (b) 1% tax on next \$1,500.00 or part thereof,
- (c) 2% tax on next \$1,250.00 or part thereof,
- (d) 3% tax on next \$1,150.00 or part thereof,

- (e) 4% tax on next \$2,300.00 or part thereof,
- (f) 5% tax on next \$1,500.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.

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

- (a) 1/2% tax on first \$2,000.00 or part thereof,
- (b) 1% tax on next \$3,000.00 or part thereof,
- (c) 2% tax on next \$2,500.00 or part thereof,
- (d) 3% tax on next \$2,300.00 or part thereof,
- (e) 4% tax on next \$2,400.00 or part thereof,
- (f) 5% tax on next \$2,800.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board

of Equalization pursuant to Section 2355.1A of this title.

C. Individuals. For all taxable years beginning on or after January 1, 2016 2022, and ~~for which the determination required pursuant to Sections 4 and 5 of this act is made by the State Board of Equalization,~~ a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:

- (a) ~~1/2%~~ 0.25% tax on first \$1,000.00 or part thereof,
- (b) ~~1%~~ 0.75% tax on next \$1,500.00 or part thereof,
- (c) ~~2%~~ 1.75% tax on next \$1,250.00 or part thereof,
- (d) ~~3%~~ 2.75% tax on next \$1,150.00 or part thereof,
- (e) ~~4%~~ 3.75% tax on next \$2,300.00 or part thereof,
- (f) ~~5%~~ 4.75% tax on the remainder ~~if the State Board of Equalization makes a determination pursuant to Section 4 of this act or four and eighty-five hundredths (4.85%) tax on the remainder if the State Board of Equalization makes a determination pursuant to Section 5 of this act.~~

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

- (a) ~~1/2%~~ 0.25% tax on first \$2,000.00 or part thereof,
- (b) ~~1%~~ 0.75% tax on next \$3,000.00 or part thereof,
- (c) ~~2%~~ 1.75% tax on next \$2,500.00 or part thereof,
- (d) ~~3%~~ 2.75% tax on next \$2,300.00 or part thereof,
- (e) ~~4%~~ 3.75% tax on next \$2,400.00 or part thereof,

- (f) ~~5% 4.75% tax on the remainder if the State Board of Equalization makes a determination pursuant to Section 4 of this act or four and eighty-five hundredths percent (4.85%) tax on the remainder if the State Board of Equalization makes a determination pursuant to Section 5 of this act.~~

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

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

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

E. Corporations. For all taxable years beginning after December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable income of every corporation doing business within this state or deriving income from sources within this state in an amount equal to six percent (6%) thereof.

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

F. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection D of this section, for all taxable years beginning after December 31, 1989, there shall be imposed on foreign corporations, as defined in the Internal Revenue Code, a tax of six percent (6%) instead of thirty percent (30%) as used in the Internal Revenue Code, where such income is received from sources within Oklahoma, in accordance with the provisions of the Internal Revenue Code and the Oklahoma Income Tax Act.

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

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

H. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A, B or C of this section, as applicable there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling

amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsection A, B or C of this section. For purposes of this subsection, the term "ceiling amount" means, with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

SECTION 2. AMENDATORY 68 O.S. 2011, Section 2357.43, as amended by Section 1, Chapter 341, O.S.L. 2016 (68 O.S. Supp. 2020, Section 2357.43), is amended to read as follows:

Section 2357.43 For tax years beginning on or after December 31, 2001 January 1, 2022, there shall be allowed to a resident individual or a part-year resident individual as a credit against the tax imposed by Section 2355 of this title five percent (5%) of the earned income tax credit allowed under Section 32 of the Internal Revenue Code of the United States, 26 U.S.C., Section 32, which for the taxable year beginning January 1, 2022, and the taxable year beginning each January 1 thereafter shall be computed using the same requirements, other than the five percent (5%) amount to compute the credit as prescribed by this section which shall remain constant, in effect for computation of the earned income tax credit for federal income tax purposes for the 2020 income tax year. However, this credit shall not be paid in advance pursuant to the provisions of Section 3507 of the Internal Revenue Code. For tax years which begin ~~before~~ on or after January 1, ~~2016~~ 2022, if the credit exceeds the tax imposed by Section 2355 of this title, the excess amount shall be refunded to the taxpayer. The maximum earned income tax credit allowable on the Oklahoma income tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the federal adjusted gross income.

SECTION 3. This act shall become effective January 1, 2022.

Passed the House of Representatives the 18th day of May, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of May, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____