

BILL SUMMARY
2nd Session of the 58th Legislature

Bill No.:	HB 3085
Version:	INT
Request Number:	8850
Author:	Rep. Hilbert
Date:	2/22/2022
Impact:	Tax Commission:

Income Tax Decrease:
Unknown
Potential for Amended Returns

Research Analysis

HB3085 exempts gambling losses deductible for federal income tax purposes from the \$17,000 cap on itemized deductions effective tax year 2018 and thereafter.

Any taxpayer eligible for a refund due to the change may file an amended state income tax return within 4 years from the date of payment to incorporate gambling losses from previous tax years.

Under current law, charitable contributions and medical expenses deductible for federal income tax purposes are already exempt from the \$17,000 cap. The bill would add gambling losses to the list of eligible deductions excluded from the cap.

Prepared By: Quyen Do

Fiscal Analysis

Analysis provided by the Tax Commission:

HB 3085 proposes to amend 68 O.S. § 2358 (E) (3)(b) relating to itemized deductions allowable on an Oklahoma income tax return by exempting gambling losses deductible for federal income tax purposes from the current Oklahoma itemized deduction cap of \$17,000, effective for tax year 2018 and subsequent tax years. This measure also amends 68 O.S. §227 relating to the time period to claim an income tax refund.

Under current law, charitable contributions and medical expenses deductible for federal income tax purposes are not subject to the \$17,000 cap¹. This measure would allow full deductibility as an itemized deduction of gambling losses deductible for federal income tax purposes.² This measure as proposed would be effective retroactively to tax year 2018³.

The amendment to 68 O.S. §227 would allow for a 4 year statute of limitations for taxpayers who are eligible for a refund as a result of the amendment to Section 2358(E)(3)(b). This limited 4 year statute of limitations is effective for tax year 2018 and all subsequent tax years.

The estimated impact for allowing full deductibility of gambling losses as an itemized deduction is a projected revenue loss as outlined in the chart below for tax years 2018 through 2021.⁴

Tax Year	Decrease in Collections
2018	-\$7,197,000
2019	-\$7,538,000
2020	-\$7,992,000
2021	-\$7,713,000

The due dates for 2018, 2019 and 2020 income tax returns have passed; amended returns would be required to claim the itemized deductions as outlined in this proposal. Depending upon the date of enactment of HB 3085, tax year 2021 returns may also have to be amended if already filed. The decline in income tax collections for tax years 2018-2021 is expected to be \$30.44 million. Depending upon the timing of the filing of amended returns for tax years 2018 through 2021, an unknown decrease in revenue should occur beginning in FY22 and subsequent FYs. No changes to withholding or estimated tax payments is expected.

¹ The cap on itemized deductions was enacted for tax year 2018 and subsequent tax years by HB1011XX during the Second Extraordinary Session, Fifty-Sixth Oklahoma Legislature.

² For federal income tax purposes gambling winnings are included in federal adjusted gross income and gambling losses are allowed as an itemized deduction; however, the gambling losses allowed as an itemized deduction cannot be in excess of the reported gambling winnings.

³ 68 O.S. § 227 generally provides for a 3 year statute of limitations for income tax refunds. Under current law tax year 2018 returns were due April 15, 2019; therefore tax year 2018 refund claims must be filed by April 15, 2022.

⁴ Oklahoma Tax Commission - *Revenue Impact Statement for Introduced version of SB 357 First Regular Session, Fifty-Eighth Oklahoma Legislature*; January 12, 2021 [SB357 INT FI.PDF \(state.ok.us\)](#) The estimate of this measure was derived using the Oklahoma Individual Income Tax Micro Simulation Model.

Prepared By: Mark Tygret

Other Considerations

None.