

1 ENGROSSED HOUSE  
2 BILL NO. 3559

By: Kendrix and May of the  
House

3 and

4 Howard of the Senate  
5

6  
7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2021, Section 2355.1P-4, which relates to  
9 computation of the pass-through entity tax and  
10 elections; modifying permissible methods for making  
11 election; and authorizing election pursuant to timely  
12 filed income tax return.

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

14 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2355.1P-4,  
15 is amended to read as follows:

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

20 1. With regard to each member of an electing pass-through  
21 entity, the electing pass-through entity shall multiply such  
22 member's Oklahoma distributive share of the electing pass-through  
23 entity's Oklahoma net entity income for the tax year by:

- 24 a. the highest Oklahoma marginal income tax rate levied  
on the taxable income of natural persons pursuant to

1 Section 2355 of this title if the member is an  
2 individual, trust, or estate,

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

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

8 d. four percent (4%) if the member is a financial  
9 institution subject to tax imposed pursuant to the  
10 provisions of Section 2370 of this title, and

11 e. the highest Oklahoma marginal income tax rate that  
12 would be applicable to any item of the electing pass-  
13 through entity's income or gain without the election  
14 made pursuant to subsection F of this section, if the  
15 member is an organization described in Section 2359 of  
16 this title; and

17 2. The electing pass-through entity shall aggregate the amounts  
18 determined with respect to all members pursuant to paragraph 1 of  
19 this subsection and the pass-through entity tax for the applicable  
20 tax year shall be equal to such aggregated tax amount for the tax  
21 year with respect to which the election has been made.

22 B. Sections 2385.29, 2385.30 and 2385.31 of this title shall  
23 not be applicable to an electing pass-through entity.  
24

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

6 D. If the pass-through entity election results in a net entity  
7 loss for Oklahoma income tax purposes in any tax year, the net  
8 entity loss may be carried back and carried forward by the electing  
9 pass-through entity for Oklahoma income tax purposes as set forth in  
10 subparagraph b of paragraph 3 of subsection A of Section 2358 of  
11 this title.

12 E. Notwithstanding paragraph 2 of subsection C of Section 2368  
13 of this title, a nonresident individual who is a member of an  
14 electing pass-through entity is not required to file an Oklahoma  
15 income tax return, if, for the taxable year, the only source of  
16 income allocable or apportionable to this state for the member, or,  
17 if a joint income tax return is filed, the member and his or her  
18 spouse, is from one or more electing pass-through entities, and each  
19 electing pass-through entity files and pays the taxes due under this  
20 section.

21 F. Any entity required to file an Oklahoma partnership income  
22 tax return or an Oklahoma S corporation income tax return may elect  
23 to become an electing pass-through entity. The election shall be  
24 made on such form and in such manner as the Oklahoma Tax Commission

1 may prescribe, and any election under this subsection shall have  
2 priority over and revoke any election to file a composite Oklahoma  
3 partnership return or requirement of a Subchapter S corporation to  
4 report and pay tax on behalf of a nonresident shareholder for the  
5 same tax year. An election may also be made by filing an income tax  
6 return prior to but not later than the due date of the applicable  
7 income tax return, including any extension.

8 G. Pursuant to procedures prescribed by the Tax Commission, if  
9 the amount of tax required to be paid by a pass-through entity  
10 pursuant to the provisions of this section is not paid when due, the  
11 Oklahoma Tax Commission may revoke the pass-through entity's  
12 election under subsection F of this section effective for the first  
13 year for which the tax is not paid.

14 H. The election authorized by the provisions of this section  
15 shall be made pursuant to procedures prescribed by the Tax  
16 Commission and shall be filed (i) within sixty (60) days of  
17 enactment and pursuant to procedures prescribed by the Oklahoma Tax  
18 Commission for any income tax year beginning on or after January 1,  
19 2019, and prior to January 1, 2020, or (ii) for any income tax year  
20 beginning on or after January 1, 2020, at any time during the  
21 preceding tax year or two (2) months and fifteen (15) days after the  
22 beginning of the tax year or by filing a timely income tax return as  
23 authorized pursuant to subsection F of this section. Any such  
24 election shall be binding until revoked pursuant to procedures

1 prescribed by the Tax Commission. The effective date of a  
2 revocation (i) made within two (2) months and fifteen (15) days of  
3 the electing pass-through entity's taxable year shall be the first  
4 day of such taxable year and (ii) made during the electing pass-  
5 through entity's taxable year but after such fifteenth day shall be  
6 effective on the first day of the following taxable year. No  
7 election made by a pass-through entity with respect to income tax to  
8 be paid by such entity using the calculations prescribed by this  
9 section shall be binding on any other pass-through entity, and each  
10 pass-through entity shall be able to make an election under the  
11 provisions of this act independently.

12 Passed the House of Representatives the 6th day of March, 2024.

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14 \_\_\_\_\_  
15 Presiding Officer of the House  
of Representatives

16 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2024.

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19 Presiding Officer of the Senate