

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1906

By: Fugate

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6 AS INTRODUCED

7 An Act relating to Oklahoma Tax Commission; requiring  
8 Oklahoma Tax Commission publish certain information  
9 online; amending 68 O.S. 2021, as amended by Section  
10 9, Chapter 354, O.S.L. 2022 (65 O.S. Supp. 2022,  
11 Section 205), which relates to confidentiality;  
12 creating exception for certain information; providing  
13 for codification; and providing an effective date.

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

15 SECTION 1. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 296 of Title 68, unless there is  
17 created a duplication in numbering, reads as follows:

18 A. For tax year 2022 and each tax year thereafter, the Oklahoma  
19 Tax Commission is authorized and directed to make the following data  
20 available on its website:

21 1. An aggregate list of all income tax deductions claimed by  
22 individual taxpayers in the top one percent (1%) as determined by  
23 their gross taxable income;

24 2. The aggregate amounts claimed for each of the deductions  
listed in paragraph 1 of this subsection; and

1           3. The net effective tax percentage paid by individual  
2 taxpayers in the top one percent (1%) as determined by their gross  
3 taxable income.

4           B. The Tax Commission shall make the data available on its  
5 website on or before January 1, 2024. The data shall be made  
6 available in an open-structured data format that may be downloaded  
7 by the public and that allows the user to systematically sort,  
8 search, and access all data without any fee or charge for access.

9           SECTION 2.           AMENDATORY           68 O.S. 2021, Section 205, as  
10 amended by Section 9, Chapter 354, O.S.L. 2022 (68 O.S. Supp. 2022,  
11 Section 205), is amended to read as follows:

12           Section 205. A. The records and files of the Oklahoma Tax  
13 Commission concerning the administration of the Uniform Tax  
14 Procedure Code or of any state tax law shall be considered  
15 confidential and privileged, except as otherwise provided for by  
16 law, and neither the Tax Commission nor any employee engaged in the  
17 administration of the Tax Commission or charged with the custody of  
18 any such records or files nor any person who may have secured  
19 information from the Tax Commission shall disclose any information  
20 obtained from the records or files or from any examination or  
21 inspection of the premises or property of any person.

22           B. Except as provided in paragraph 26 of subsection C of this  
23 section, neither the Tax Commission nor any employee engaged in the  
24 administration of the Tax Commission or charged with the custody of

1 any such records or files shall be required by any court of this  
2 state to produce any of the records or files for the inspection of  
3 any person or for use in any action or proceeding, except when the  
4 records or files or the facts shown thereby are directly involved in  
5 an action or proceeding pursuant to the provisions of the Uniform  
6 Tax Procedure Code or of the state tax law, or when the  
7 determination of the action or proceeding will affect the validity  
8 or the amount of the claim of the state pursuant to any state tax  
9 law, or when the information contained in the records or files  
10 constitutes evidence of violation of the provisions of the Uniform  
11 Tax Procedure Code or of any state tax law.

12 C. The provisions of this section shall not prevent the Tax  
13 Commission, or with respect to the Oklahoma Department of Commerce  
14 in administration of the Oklahoma Rural Jobs Act as provided by  
15 paragraph 22 of this subsection, from disclosing the following  
16 information and no liability whatsoever, civil or criminal, shall  
17 attach to any member of the Tax Commission, or the Oklahoma  
18 Department of Commerce as applicable, or any employee thereof for  
19 any error or omission in the disclosure of such information:

20 1. The delivery to a taxpayer or a duly authorized  
21 representative of the taxpayer of a copy of any report or any other  
22 paper filed by the taxpayer pursuant to the provisions of the  
23 Uniform Tax Procedure Code or of any state tax law;

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1        2. The exchange of information that is not protected by the  
2 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,  
3 pursuant to reciprocal agreements entered into by the Tax Commission  
4 and other state agencies or agencies of the federal government;

5        3. The publication of statistics so classified as to prevent  
6 the identification of a particular report and the items thereof;

7        4. The examination of records and files by the State Auditor  
8 and Inspector or the duly authorized agents of the State Auditor and  
9 Inspector;

10       5. The disclosing of information or evidence to the Oklahoma  
11 State Bureau of Investigation, Attorney General, Oklahoma State  
12 Bureau of Narcotics and Dangerous Drugs Control, any district  
13 attorney or agent of any federal law enforcement agency when the  
14 information or evidence is to be used by such officials to  
15 investigate or prosecute violations of the criminal provisions of  
16 the Uniform Tax Procedure Code or of any state tax law or of any  
17 federal crime committed against this state. Any information  
18 disclosed to the Oklahoma State Bureau of Investigation, Attorney  
19 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs  
20 Control, any district attorney or agent of any federal law  
21 enforcement agency shall be kept confidential by such person and not  
22 be disclosed except when presented to a court in a prosecution for  
23 violation of the tax laws of this state or except as specifically  
24 authorized by law, and a violation by the Oklahoma State Bureau of

1 Investigation, Attorney General, Oklahoma State Bureau of Narcotics  
2 and Dangerous Drugs Control, district attorney or agent of any  
3 federal law enforcement agency by otherwise releasing the  
4 information shall be a felony;

5 6. The use by any division of the Tax Commission of any  
6 information or evidence in the possession of or contained in any  
7 report or return filed with any other division of the Tax  
8 Commission;

9 7. The furnishing, at the discretion of the Tax Commission, of  
10 any information disclosed by its records or files to any official  
11 person or body of this state, any other state, the United States or  
12 foreign country who is concerned with the administration or  
13 assessment of any similar tax in this state, any other state or the  
14 United States. The provisions of this paragraph shall include the  
15 furnishing of information by the Tax Commission to a county assessor  
16 to determine the amount of gross household income pursuant to the  
17 provisions of Section 8C of Article X of the Oklahoma Constitution  
18 or Section 2890 of this title. The Tax Commission shall promulgate  
19 rules to give guidance to the county assessors regarding the type of  
20 information which may be used by the county assessors in determining  
21 the amount of gross household income pursuant to Section 8C of  
22 Article X of the Oklahoma Constitution or Section 2890 of this  
23 title. The provisions of this paragraph shall also include the

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1 furnishing of information to the State Treasurer for the purpose of  
2 administration of the Uniform Unclaimed Property Act;

3 8. The furnishing of information to other state agencies for  
4 the limited purpose of aiding in the collection of debts owed by  
5 individuals to such requesting agencies;

6 9. The furnishing of information requested by any member of the  
7 general public and stated in the sworn lists or schedules of taxable  
8 property of public service corporations organized, existing, or  
9 doing business in this state which are submitted to and certified by  
10 the State Board of Equalization pursuant to the provisions of  
11 Section 2858 of this title and Section 21 of Article X of the  
12 Oklahoma Constitution, provided such information would be a public  
13 record if filed pursuant to Sections 2838 and 2839 of this title on  
14 behalf of a corporation other than a public service corporation;

15 10. The furnishing of information requested by any member of  
16 the general public and stated in the findings of the Tax Commission  
17 as to the adjustment and equalization of the valuation of real and  
18 personal property of the counties of the state, which are submitted  
19 to and certified by the State Board of Equalization pursuant to the  
20 provisions of Section 2865 of this title and Section 21 of Article X  
21 of the Oklahoma Constitution;

22 11. The furnishing of information as to the issuance or  
23 revocation of any tax permit, license or exemption by the Tax  
24 Commission as provided for by law. Such information shall be

1 limited to the name of the person issued the permit, license or  
2 exemption, the name of the business entity authorized to engage in  
3 business pursuant to the permit, license or exemption, the address  
4 of the business entity and the grounds for revocation;

5 12. The posting of notice of revocation of any tax permit or  
6 license upon the premises of the place of business of any business  
7 entity which has had any tax permit or license revoked by the Tax  
8 Commission as provided for by law. Such notice shall be limited to  
9 the name of the person issued the permit or license, the name of the  
10 business entity authorized to engage in business pursuant to the  
11 permit or license, the address of the business entity and the  
12 grounds for revocation;

13 13. The furnishing of information upon written request by any  
14 member of the general public as to the outstanding and unpaid amount  
15 due and owing by any taxpayer of this state for any delinquent tax,  
16 together with penalty and interest, for which a tax warrant or a  
17 certificate of indebtedness has been filed pursuant to law;

18 14. After the filing of a tax warrant pursuant to law, the  
19 furnishing of information upon written request by any member of the  
20 general public as to any agreement entered into by the Tax  
21 Commission concerning a compromise of tax liability for an amount  
22 less than the amount of tax liability stated on such warrant;

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1 15. The disclosure of information necessary to complete the  
2 performance of any contract authorized by this title to any person  
3 with whom the Tax Commission has contracted;

4 16. The disclosure of information to any person for a purpose  
5 as authorized by the taxpayer pursuant to a waiver of  
6 confidentiality. The waiver shall be in writing and shall be made  
7 upon such form as the Tax Commission may prescribe;

8 17. The disclosure of information required in order to comply  
9 with the provisions of Section 2369 of this title;

10 18. The disclosure to an employer, as defined in Sections  
11 2385.1 and 2385.3 of this title, of information required in order to  
12 collect the tax imposed by Section 2385.2 of this title;

13 19. The disclosure to a plaintiff of a corporation's last-known  
14 address shown on the records of the Franchise Tax Division of the  
15 Tax Commission in order for such plaintiff to comply with the  
16 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

17 20. The disclosure of information directly involved in the  
18 resolution of the protest by a taxpayer to an assessment of tax or  
19 additional tax or the resolution of a claim for refund filed by a  
20 taxpayer, including the disclosure of the pendency of an  
21 administrative proceeding involving such protest or claim, to a  
22 person called by the Tax Commission as an expert witness or as a  
23 witness whose area of knowledge or expertise specifically addresses  
24 the issue addressed in the protest or claim for refund. Such

1 disclosure to a witness shall be limited to information pertaining  
2 to the specific knowledge of that witness as to the transaction or  
3 relationship between taxpayer and witness;

4 21. The disclosure of information necessary to implement an  
5 agreement authorized by Section 2702 of this title when such  
6 information is directly involved in the resolution of issues arising  
7 out of the enforcement of a municipal sales tax ordinance. Such  
8 disclosure shall be to the governing body or to the municipal  
9 attorney, if so designated by the governing body;

10 22. The furnishing of information regarding incentive payments  
11 made pursuant to the provisions of Sections 3601 through 3609 of  
12 this title, incentive payments made pursuant to the provisions of  
13 Sections 3501 through 3508 of this title, or tax credits claimed  
14 pursuant to the provisions of Sections 1 through 8 of this act;

15 23. The furnishing to a prospective purchaser of any business,  
16 or his or her authorized representative, of information relating to  
17 any liabilities, delinquencies, assessments or warrants of the  
18 prospective seller of the business which have not been filed of  
19 record, established or become final and which relate solely to the  
20 seller's business. Any disclosure under this paragraph shall only  
21 be allowed upon the presentment by the prospective buyer, or the  
22 buyer's authorized representative, of the purchase contract and a  
23 written authorization between the parties;

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1        24. The furnishing of information as to the amount of state  
2 revenue affected by the issuance or granting of any tax permit,  
3 license, exemption, deduction, credit or other tax preference by the  
4 Tax Commission as provided for by law. Such information shall be  
5 limited to the type of permit, license, exemption, deduction, credit  
6 or other tax preference issued or granted, the date and duration of  
7 such permit, license, exemption, deduction, credit or other tax  
8 preference and the amount of such revenue. The provisions of this  
9 paragraph shall not authorize the disclosure of the name of the  
10 person issued such permit, license, exemption, deduction, credit or  
11 other tax preference, or the name of the business entity authorized  
12 to engage in business pursuant to the permit, license, exemption,  
13 deduction, credit or other tax preference;

14        25. The examination of records and files of a person or entity  
15 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
16 Control pursuant to a court order by a magistrate in whose  
17 territorial jurisdiction the person or entity resides, or where the  
18 Tax Commission records and files are physically located. Such an  
19 order may only be issued upon a sworn application by an agent of the  
20 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
21 certifying that the person or entity whose records and files are to  
22 be examined is the target of an ongoing investigation of a felony  
23 violation of the Uniform Controlled Dangerous Substances Act and  
24 that information resulting from such an examination would likely be

1 relevant to that investigation. Any records or information obtained  
2 pursuant to such an order may only be used by the Oklahoma State  
3 Bureau of Narcotics and Dangerous Drugs Control in the investigation  
4 and prosecution of a felony violation of the Uniform Controlled  
5 Dangerous Substances Act. Any such order issued pursuant to this  
6 paragraph, along with the underlying application, shall be sealed  
7 and not disclosed to the person or entity whose records were  
8 examined, for a period of ninety (90) days. The issuing magistrate  
9 may grant extensions of such period upon a showing of good cause in  
10 furtherance of the investigation. Upon the expiration of ninety  
11 (90) days and any extensions granted by the magistrate, a copy of  
12 the application and order shall be served upon the person or entity  
13 whose records were examined, along with a copy of the records or  
14 information actually provided by the Tax Commission;

15       26. The disclosure of information, as prescribed by this  
16 paragraph, which is related to the proposed or actual usage of tax  
17 credits pursuant to Section 2357.7 of this title, the Small Business  
18 Capital Formation Incentive Act or the Rural Venture Capital  
19 Formation Incentive Act. Unless the context clearly requires  
20 otherwise, the terms used in this paragraph shall have the same  
21 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this  
22 title. The disclosure of information authorized by this paragraph  
23 shall include:

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- 1 a. the legal name of any qualified venture capital  
2 company, qualified small business capital company or  
3 qualified rural small business capital company,  
4 b. the identity or legal name of any person or entity  
5 that is a shareholder or partner of a qualified  
6 venture capital company, qualified small business  
7 capital company or qualified rural small business  
8 capital company,  
9 c. the identity or legal name of any Oklahoma business  
10 venture, Oklahoma small business venture or Oklahoma  
11 rural small business venture in which a qualified  
12 investment has been made by a capital company, or  
13 d. the amount of funds invested in a qualified venture  
14 capital company, the amount of qualified investments  
15 in a qualified small business capital company or  
16 qualified rural small business capital company and the  
17 amount of investments made by a qualified venture  
18 capital company, qualified small business capital  
19 company, or qualified rural small business capital  
20 company;

21 27. The disclosure of specific information as required by  
22 Section 46 of Title 62 of the Oklahoma Statutes;

23 28. The disclosure of specific information as required by  
24 Section 205.5 of this title;

1        29. The disclosure of specific information as required by  
2 Section 205.6 of this title;

3        30. The disclosure of information to the State Treasurer  
4 necessary to implement Section 2368.27 of this title;

5        31. The disclosure of specific information to the Oklahoma  
6 Health Care Authority for purposes of determining eligibility for  
7 current or potential recipients of assistance from the Oklahoma  
8 Medicaid Program; ~~or~~

9        32. The disclosure of information to the Oklahoma Department of  
10 Veterans Affairs including but not limited to the name and basis for  
11 eligibility of each individual who qualifies for the sales tax  
12 exemption authorized in paragraph 34 of Section 1357 of this title;  
13 or

14        33. The disclosure of specific information as required by  
15 Section 1 of this act.

16        D. The Tax Commission shall cause to be prepared and made  
17 available for public inspection in the office of the Tax Commission  
18 in such manner as it may determine an annual list containing the  
19 name and post office address of each person, whether individual,  
20 corporate or otherwise, making and filing an income tax return with  
21 the Tax Commission.

22        It is specifically provided that no liability whatsoever, civil  
23 or criminal, shall attach to any member of the Tax Commission or any  
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1 employee thereof for any error or omission of any name or address in  
2 the preparation and publication of the list.

3 E. The Tax Commission shall prepare or cause to be prepared a  
4 report on all provisions of state tax law that reduce state revenue  
5 through exclusions, deductions, credits, exemptions, deferrals or  
6 other preferential tax treatments. The report shall be prepared not  
7 later than October 1 of each even-numbered year and shall be  
8 submitted to the Governor, the President Pro Tempore of the Senate  
9 and the Speaker of the House of Representatives. The Tax Commission  
10 may prepare and submit supplements to the report at other times of  
11 the year if additional or updated information relevant to the report  
12 becomes available. The report shall include, for the previous  
13 fiscal year, the Tax Commission's best estimate of the amount of  
14 state revenue that would have been collected but for the existence  
15 of each such exclusion, deduction, credit, exemption, deferral or  
16 other preferential tax treatment allowed by law. The Tax Commission  
17 may request the assistance of other state agencies as may be needed  
18 to prepare the report. The Tax Commission is authorized to require  
19 any recipient of a tax incentive or tax expenditure to report to the  
20 Tax Commission such information as requested so that the Tax  
21 Commission may fulfill its obligations as required by this  
22 subsection. The Tax Commission may require this information to be  
23 submitted in an electronic format. The Tax Commission may disallow  
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1 any claim of a person for a tax incentive due to its failure to file  
2 a report as required under the authority of this subsection.

3 F. It is further provided that the provisions of this section  
4 shall be strictly interpreted and shall not be construed as  
5 permitting the disclosure of any other information contained in the  
6 records and files of the Tax Commission relating to income tax or to  
7 any other taxes.

8 G. Unless otherwise provided for in this section, any violation  
9 of the provisions of this section shall constitute a misdemeanor and  
10 shall be punishable by the imposition of a fine not exceeding One  
11 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail  
12 for a term not exceeding one (1) year, or by both such fine and  
13 imprisonment, and the offender shall be removed or dismissed from  
14 office.

15 H. Offenses described in Section 2376 of this title shall be  
16 reported to the appropriate district attorney of this state by the  
17 Tax Commission as soon as the offenses are discovered by the Tax  
18 Commission or its agents or employees. The Tax Commission shall  
19 make available to the appropriate district attorney or to the  
20 authorized agent of the district attorney its records and files  
21 pertinent to prosecutions, and such records and files shall be fully  
22 admissible as evidence for the purpose of such prosecutions.

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SECTION 3. This act shall become effective November 1, 2023

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