OKLAHOMA TAX COMMISSION

LEGISLATIVE UPDATE

PREPARED BY THE COMMUNICATIONS DIVISION
IN CONJUNCTION WITH TAX POLICY AND RESEARCH

2018

This informational packet is not intended to be a complete listing of tax related laws or law changes. This is an abbreviated listing that highlights those changes effecting a large number of taxpayers.

For further tax information including tax rules, please visit our web site at www.tax.ok.gov or contact the Oklahoma Tax Commission at (405) 521-3160.
Tax Professional Hotline:
The Oklahoma Tax Commission implemented a couple of methods in which tax professionals may by-pass the main telephone line to receive immediate responses to inquiries related to tax issues.

First method:.................Calling 521-6827 or
Second method:.............Emailing questions to: taxprofessionalquestion@tax.ok.gov

Telephone Numbers:

Account Maintenance Division
Main Number .................................................... 521-4271

Ad Valorem Division
Main Number .................................................... 319-8200

Communications Division
Main Number .................................................... 521-3637

Compliance Division
Audit - Main Number ......................................... 521-3251
Collections - Main Number................................. 521-3281

Legal Division
Main Number .................................................... 522-9460

Motor Vehicle Division
Main Number .................................................... 521-3221

Tax Policy and Research
Tax Analysts ...................................................... 521-3133

Taxpayer Assistance
Taxpayer Resource Center ...............................521-3160

Website:  www.tax.ok.gov
E-mail address: otcmaster@tax.ok.gov
Item of Interest

Form OK-W-4 - The Oklahoma Tax Commission has an Oklahoma-specific withholding certificate in response to changes in federal tax law. Historically, the OTC used the IRS form W-4; however, with the implementation of the Federal Tax Cuts and Jobs Act, our agency has determined a state-specific form will best suit the needs of our taxpayers. This new form, the OK-W-4, will allow employees to make changes to their Oklahoma withholding for 2018.

Many taxpayers may find that the new federal tax brackets may impact their Oklahoma Individual Income Tax liabilities. Please take some time to look over the new federal guidelines to determine if you should adjust your Oklahoma withholding. We encourage employers to advise their new and current employees of the new form. Any employees who wish to make changes to their Oklahoma withholding should complete the OK-W-4 and file it with their employer.

The changes to Rule 710:90-1-5 can be found at http://www.ok.gov/tax/documents/CH 90 TEXT.pdf

Facebook/Twitter - Keep up with the latest from the OTC on our social media. We are on Facebook and Twitter where we share helpful tips and attempt to make taxes interesting to the public! We can be found at:

Facebook: facebook.com/oktaxcommission
Twitter: @oktaxcommission

Changes to 2018 Income Tax
From 2017 Legislative Session

The Oklahoma standard deduction for tax year 2018 (and subsequent years) is equal to the tax year 2017 Oklahoma standard deduction. The Oklahoma standard deduction is: $6,350 for single or married filing separately filers; $12,700 for married filing jointly or qualifying widow(er) with dependent child, and $9,350 for head of household filers.

Check-off – The income tax refund check-off for Support the Wildlife Diversity Fund has been added back to corporate and individual tax returns.
Summary of 2017 First and Second Special Session Tax Legislation
-and-
Summary of 2018 Tax Legislation

INCOME TAX

HB 1011xx-Effective January 1, 2018

HB 1011xx amends 68 O.S. §2358 relating to income tax itemized deductions by capping the amount of itemized deductions that may be claimed to calculate Oklahoma taxable income at $17,000\(^1\) for tax year 2018 and subsequent tax years.

HB 1034xx-Effective January 1, 2018

HB 1034xx amends 68 O.S. §2357.11 relating to the Coal Credit by placing a state wide cap of $5 million on the credit beginning with tax year 2018.

HB 1036xx-Effective January 1, 2018

HB 1036xx amends 68 O.S. §2357.104 relating to the Credit for Railroad Modernization by placing a state wide cap of $2 million on the credit beginning with tax year 2018.

HB 2716-Effective November 1, 2018

HB 2716 reauthorizes the income tax checkoff for donations from a tax refund for the Oklahoma Pet Overpopulation Fund effective January 1, 2019\(^2\), pursuant to 68 O.S. §2368.18.

SB 883-Effective November 1, 2018

SB 883 amends 68 O.S. §2370.1 which relates to the Small Business Guaranty Fee Credit by extending the sunset date from December 31, 2018, to December 31, 2021. The Small Business

\(^1\) Charitable contributions and medical expenses deductible for federal income tax purposes will not be subject to the $17,000 cap.

\(^2\) The income tax checkoff for donations to the Oklahoma Pet Overpopulation Fund last appeared on Oklahoma income tax returns for tax year 2013.
Guaranty Fee Credit may only be claimed against the “bank-in-lieu” tax under 68 O.S. §2370 which operates as a corporate income tax on financial institutions.

**SB 893-Effective January 1, 2019**

SB 893 amends 68 O.S. §2357.32A relating to the Credit for Electricity Generated by Zero-Emission Facilities by placing a $500,000 cap on the credit for electricity generated by non-wind sources beginning with tax year 2019, and no longer allowing the credit for electricity generated by non-wind sources for tax years ending not later than December 31, 2021.

**SB 943-Effective November 1, 2018**

SB 943 creates a new income tax checkoff to allow the donation of individual and corporate income tax refunds to benefit the Oklahoma AIDS Care Revolving Fund, effective for tax year 2019 income tax forms. This measure also creates the Oklahoma AIDS Care Revolving Fund in the State Treasurer’s office to be administered by the Oklahoma Department of Human Services.

**SB 1166-Effective November 1, 2018**

SB 1166 reauthorizes the income tax checkoff for donations from a tax refund for the benefit of programs to recruit, train, and supervise volunteers as Court Appointed Special Advocates for abused and neglected children, effective January 1, 2018. This measure further strikes the requirement that all Court Appointed Special Advocate programs in the State of Oklahoma receive a portion of the donations.

**SB 1198-Effective July 1, 2018**

SB 1198 reauthorizes the income tax checkoff for donations from a tax refund for the Public School Classroom Support Revolving Fund effective January 1, 2019.

**SB 1585-Effective November 1, 2018**

SB 1585 enacts three new income tax credits for qualified employers and engineers in the vehicle manufacturing industry:

1. An income tax credit for a qualified employer in the vehicle manufacturing industry for tuition reimbursement to a qualified employee. The amount of the credit is 50% of the tuition reimbursed to a qualified employee for the first through fourth years of employment.

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3 One of the eligibility requirements for this credit is that electricity must be generated by an eligible renewable resource. Eligible renewable resources are defined as: wind, moving water, sun or geothermal energy.

4 SB 1071, enacted during the 2012 legislative session, reauthorized the income tax checkoff for donations from a tax refund for the benefit of programs for Court Appointed Special Advocates for abused and neglected children effective January 1, 2014.

5 The income tax checkoff for donations to the Public School Classroom Support Revolving Fund was last on Oklahoma income tax returns for tax year 2015.
2. An income tax credit for a qualified employer in the vehicle manufacturing industry for compensation paid to a qualified employee. The amount of the credit is 10% of the compensation paid for the first through fifth years of employment in the vehicle manufacturing industry if the qualified employee graduated from an institution located in this state; or 5% if the qualified employee graduated from an institution located outside this state. The credit cannot exceed $12,500 for each qualified employee annually.

3. An income tax credit for a qualified employee in the vehicle manufacturing industry of up to $5,000 per year for a period of time not to exceed five years. Any credit claimed, but not used, may be carried over up to five subsequent taxable years.

The two credits available to employers (based on tuition reimbursement and compensation paid) are subject to an annual cap of $3 million. The credit available to employees is subject to an annual cap of $2 million. The combined credit cap is $5 million annually.

**AD VALOREM**

**SJR 70-Effective upon approval of voters**

The resolution proposes amendment to Section 10, Article 10 of the Oklahoma Constitution to allow ad valorem revenues resulting from the building fund levy imposed pursuant to Section 10 to be used by the school district for operations as deemed necessary by the school district.

**CIGARETTES AND OTHER TOBACCO PRODUCTS TAX**

**HB 1010xx-Effective June 28, 2018**

Section 2 enacts an additional cigarette excise tax levy of 50 mills per cigarette.

Section 3 amends 68 O.S. §402 to tax “little cigars” at the same rate and in the same manner as cigarettes in addition to striking one of the tobacco products excise tax levies that previously applied to little cigars.

Sections 4 and 5 amends 68 O.S. §402.1 and §402.3 by striking the remaining tobacco products tax levies which currently apply to “little cigars”.

Section 16 repeals 68 O.S. §402.2, which previously levied a tax of 2.5 mills on each little cigar sold.

**HB 1018xx-Effective April 3, 2018**

HB 1018xx creates a new section of law, not to be codified in the Oklahoma Statutes, to prohibit the Oklahoma Tax Commission from selling cigarette excise tax stamps to any wholesaler in excess of the amount of the monthly average amount of such excise tax stamps sold to such wholesaler during the preceding calendar year unless the wholesaler can document to the
satisfaction of the Tax Commission probable sales greater than those in the preceding calendar year.

GROSS PRODUCTION & PETROLEUM EXCISE TAX

HB 1085x-Effective December 1, 2017

HB 1085x amends 68 O.S. §1001, providing for an increase to the gross production incentive levy currently at 4% for the production of oil and/or natural gas produced from certain wells that were drilled prior to July 1, 2015. The amendment increases the rate to the 7% base rate effective with December 2017 production month and eliminates the original 60 month incentive term period.

HB 1010xx-Effective June 28, 2018

Sections 7 and 8 amend the gross production incentive tax rate levied at 2%. The measure increases this incentive rate to 5%.

Previously, the incentive levy of 2% was applicable to the production of oil and/or natural gas produced from wells that were drilled beginning July 1, 2015. The 2% rate was effective for the first 36 months of production. Thereafter, the rate increased to 7%.

The measure increases the incentive levy to 5% for all new and existing wells that qualified for the reduced incentive rate of 2%. The amendment becomes effective with the production month of July 2018, resulting in increased revenue collections occurring in September 2018. The measure does not change the 36 month term period.

MOTOR FUEL

HB 1010xx-Effective June 28, 2018

Section 6 amends 68 O.S. §500.4 by imposing an additional levy of $0.06 per gallon of diesel fuel and $0.03 per gallon of gasoline.

HB1015xx-Effective June 28, 2018

HB 1015xx amends 68 O.S. §500.10 to provide that current motor fuel tax exemptions would apply to the gas and diesel fuel excise tax levies enacted by Section 6 of House Bill 1010 of the 2nd Extraordinary Session of the 56th Oklahoma Legislature.
MOTOR VEHICLE

HB 2950-Effective November 1, 2018

HB 2950 amends 59 O.S. §11-92 by prohibiting a scrap metal dealer purchasing a vehicle from providing payment until the certificate of ownership has been submitted to the Oklahoma Tax Commission or a motor license agent and the vehicle is determined not to be stolen.6

SB 1339- Effective July 1, 2019

SB 1339 amends the Oklahoma Vehicle License and Registration Act to provide for a system where upon change in vehicle ownership the license plate previously issued for said vehicle stays with the owner and not the vehicle. The measure also requires the Oklahoma Tax Commission to promulgate rules to implement the proposed system under which the license plate is registered to an individual and not a vehicle for all license plates issued on or after July 1, 2019.

SB 1439-Effective November 1, 2018

SB 1439 amends 47 O.S. §1140 which pertains to the qualification requirements and selection process regarding the location of a motor license agency and appointment of persons applying for a motor license agent position. The revision provides that the previous requirement that the operation of the tax agency be the primary source of the agent’s income only applies in counties with a population in excess of 30,000 persons according to the latest Federal Decennial Census.

The measure further makes amendments to the motor license agent selection process. Under previous procedures each motor license agent applicant was required to be interviewed by the Tax Commission. Now the Tax Commission has the discretion to select the applicants to be interviewed. Also, previous statutory language mandates that the Tax Commission take the necessary steps to make a determination whether a person and proposed location meet the statutory requirements for purposes of the agent’s appointment and if so must appoint that person to service as a motor license agent. Now the Tax Commission is authorized to make such a determination and the appointment of the agent would be within the Commission’s discretion. The measure also strikes unnecessary and obsolete language relating to a county or city’s population and the Tax Commission’s mandate to appoint motor license agents as it deems necessary to carry out the provisions of the Motor Vehicle License and Registration Act. It also removes statutory language regarding the ability of motor license agents which were appointed prior to the effective date of the Act to serve as such until the agent vacates the position.

Revisions have also been made regarding the situation when a motor license agent has been charged with a felony and the mandate that the agency be closed immediately. The requirement that the State Auditor and Inspector conduct an audit of the agency and forward the report to the Tax Commission for its review is stricken. Also removed is the language regarding the Tax Commission’s determination whether an agency closed under the stated circumstances should be reopened and operated by the Tax Commission.

6 The provisions proposed herein will not apply to sales, purchases or other transfer of vehicles between scrap metal dealers and licensed automotive dismantlers and parts recyclers.
SALES & USE TAX

HB 1019xx-Effective April 10, 2018

HB 1019xx creates the FY 18 Budget Amendments Act which imposes on certain persons designated by the Act as marketplace facilitators, remote sellers, and referrers the option to either collect and remit Oklahoma tax, or elect to notify their customers purchasing products for Oklahoma delivery that use tax may be due, and report to the Oklahoma Tax Commission customer names, addresses, and aggregate dollar amounts of each customer’s purchases.

MISCELLANEOUS

Aircraft

HB 2253-Effective May 10, 2018

Section 1 amends 68 O.S. §6001 by requiring that charter aircraft be used in that capacity for at least 50% of its annual operation and such operations may not include those chartered by the aircraft owner as an individual or as a business entity in which the aircraft owner owns a majority interest to fall within the definition of commercial airline for purposes of the aircraft excise tax exemption in 68 O.S. §6003.

Section 2 amends 68 O.S. §6003 by modifying the aircraft excise tax exemption afforded aircraft purchased or used by commercial airlines providing that aircraft in order to qualify for this exemption cannot operate under Part 91 of Title 14 of the Code of Federal Regulations for more than fifty percent of its annual operations.

Quality Jobs & Quality Events

SB 923-Effective November 1, 2018

SB 923 amends 68 O.S. §3904 relating to the Small Employer Quality Jobs Incentive Act by increasing the initial employment threshold from 90 to 500 full-time employees and modifying the minimum new employment level requirements based on the population of the municipality where the establishment applying is located.

SB1252-Effective July 1, 2018

SB 1252 extends the sunset date for the Oklahoma Quality Events Incentive Act until June 30, 2021. The measure also eliminates the economic impact study currently required for quality events. The Oklahoma Tax Commission will instead make quality event determinations based on actual documentation. Additionally, the Oklahoma Tax Commission shall designate a single employee or division responsible for processing information, making determinations and any other duties related to the Oklahoma Quality Events Incentive Act.
HB 3156-Effective July 1, 2018

HB 3156 amends 11 O.S. §16-103.1 related to monies distributed to an incorporated city or town, by removing the requirement that a city or town send the Tax Commission, by service of process, a copy of the municipality’s notice of biennial town meeting or resolution calling for its regular municipal elections. HB 3156 also amends the filing date of annual reconciliation reports required by 68 O.S. §2385.3. Additionally, the bill amends 68 O.S. §§305(E)(2), 360.7(C)(3) and 417(C) in regards to cigarette stamps or tobacco products tax compliance. HB 3156 increases the effective minimum amounts necessary for district court approval of an agreement entered into between a taxpayer and the Commission to settle or compromise any controversy relating to taxes collectible by the Commission.

HB 3225-Effective November 1, 2018

HB 3225 creates a new section of law in 68 O.S. §295 which provides that the Oklahoma Tax Commission is authorized and directed to make tax credit data available on its website. The Tax Commission shall make the data available on its website on or before January 1, 2020.

Such website shall include, but is not limited to, a brief explanation of the credit, including the year the credit was first allowed to taxpayers. In addition, the website should include, for tax year 2013 and each tax year thereafter, the following:

- The amount of credits claimed;
- The amount of credits used to reduce tax liability or refunded to taxpayers;
- The amount of credits carried over to a future tax year, if available;
- The number of taxpayers claiming the credit; and
- The annual growth rate in the number and amount of credits claimed.

SB 1383-Effective November 1, 2018

SB 1383 amends 59 O.S. §161.11 by providing that a license of a chiropractic physician who is not in compliance with Oklahoma income tax law pursuant to 68 O.S. §238.1, will not be renewed. It states that the license shall be automatically suspended at the date of renewal and shall remain suspended until the Board of Chiropractic Examiners receives notice from the Tax Commission that the licensee has come into compliance with Oklahoma income tax law. It further provides that the physician whose license is suspended pursuant to these provisions shall pay a reinstatement fee in an amount fixed by the Board not to exceed $400.