



OKLAHOMA TAX COMMISSION

ASSISTANCE GUIDE

(all numbers are within the "405" area code)

Account Maintenance Division

Main Number521-4271

Ad Valorem Division

Main Number319-8200

Communications Division

Main Number521-3637

Compliance Division

Audit - Main Number521-3251

Collections - Main Number521-3281

Legal Division

Main Number319-8550

Motor Vehicle Division

Main Number521-3221

Tax Policy and Research

Tax Analysts521-3133

Taxpayer Assistance

Taxpayer Resource Center521-3160

Other Key Numbers:

Forms Request: Business Forms521-4667

Toll Free (within Oklahoma only) 1 (800) 522-8165

(To be connected to a division other than Taxpayer Assistance, please enter the last five digits of the phone number of the division in which you wish to be connected)

Website: www.tax.ok.gov

E-mail address: **otcmaster@tax.ok.gov**

Changes to 2010 Income Tax From Prior Years' Legislative Sessions

Standard Deduction – The Oklahoma standard deduction is equal to the basic Federal standard deduction. For tax year 2010, the standard deduction for filing statuses married filing joint and qualifying widow is \$11,400, for head of household it is \$8,400 and for single and married filing separate it is \$5,700.

Other Retirement exclusion – The Other Retirement exclusion is no longer subject to the modified Oklahoma Adjusted Gross Income limit. Taxpayer of any income level may now qualify for this exclusion. Last year, modified Oklahoma Adjusted Gross Income could not have exceeded \$100,000 for single & \$200,000 for married filing joint.

Civil Service Retirement in Lieu of Social Security exclusion – The percentage of the taxable portion of civil service retirement received in lieu of social security which may be excluded has increased from 60% to 80%.

Military Pay exclusion – Effective July 1, 2010 through tax year 2014, the military pay exclusion will increase from \$1,500 to 100%. The military member will be entitled to a \$1,500 exclusion for the income earned during the first six months and a 100% exclusion on the income earned during the 2nd six months. There will be a worksheet in the income tax packet to help determine the exclusion.

Payments received as a result of a Military member being killed in a combat zone: Any payment made by the United States Department of Defense as a result of the death of a member of the Armed Forces who has been killed in action in a designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces. 68 O.S. § 2358.1A

Income earned by an individual whose Military spouse was killed in a combat zone: Any income earned by the spouse of a member of the Armed Forces of the United States who has been killed in action in a designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces. 68 O.S. § 2358.1A

Captive real estate investment trust (REIT) –

- Requires the add-back of the dividends-paid deduction otherwise allowed by federal law in computing net income of a captive real estate investment trust (REIT).
- A corporation no longer has to add back rents and interest expenses paid to a captive REIT, if the captive REIT is filing an Oklahoma return and is required to add back the dividends paid deduction.

The measure prevents the misuse of the REIT structure as a means to escape corporate income tax laws, but avoids any unintended consequences.

Nonrefundable Credit – A new credit has been added to Form 511CR and some of the existing credits were amended.

Credit for Wire Transfer Fee – A credit is allowed for the electronic funds transfer fee paid pursuant to the Drug Money Laundering and Wire Transmitter Act (Title 63 O.S. Section 2-503.1j). Taxpayers will claim the credit for all fees paid during tax years 2009 and 2010 on their 2010 tax return. Any credit allowed but not used will have a five year carryover provision. Upon request you must be able to document the amount of fees paid upon which the credit is based. 68 O.S. § 2357.401

Credit for Investment in a Clean-Burning Motor Vehicle Fuel Property & Credit for Investment in Qualified Electric Motor Vehicle Property –

- Extends the expiration date from tax year beginning before January 1, 2010 to tax years beginning before January 1, 2015. (Note: See House Bill 3024)
- Extends the carryover period for any credit allowed but not used from 3 years to 5 years.
- For qualified clean-burn motor vehicles either originally equipped or modified to be propelled by a qualified fuel -
 - Hydrogen fuel cells have been added as a method to propel vehicles. (Note: See House Bill 3024)
 - Methanol and “M-85” are no longer considered qualifying fuels.
 - Equipment used to modify a motor vehicle to be propelled by a qualified fuel must be new and must not have been previously used to modify or retrofit any vehicle propelled by gasoline or diesel fuel.
 - Deletes the phrase “to the extent of the full purchase price of the vehicle” from the definition of “qualified electric motor vehicle property” for a vehicle originally equipped to be propelled only by electricity.
 - To qualify for the credit a “motor vehicle” must be originally designed by the manufacturer to operate lawfully and principally on streets and highways.
 - In order to make the election to take the credit for the lesser of 10% of the cost or \$1,500 the credit for the vehicle, the credit for 50% of the cost of the qualified clean-burning motor vehicle fuel property or qualified electric motor vehicle property may not have been claimed previously by any prior owner.
- For property directly related to the delivery of a qualified fuel into the fuel tank of a motor vehicle propelled by qualified fuel or storage tank for a qualified fuel –
 - Excludes a building and its structural component from the definition of property.
 - Property directly related to the delivery of hydrogen will qualify. (Note: See Senate Bill 3024)
 - Property directly related to the delivery of methanol or “M-85” no longer qualifies.
 - Requires property used for the delivery of compressed natural gas, liquefied natural gas, liquefied petroleum gas, or hydrogen to be for commercial purposes or for a fee or charge.
 - Adds a metered-for-fee, public access recharging system for motor vehicles propelled in whole or in part by electricity to the definition of property.
 - Property must be new, and must not have been previously installed or used to refuel vehicles powered by compressed natural gas, liquefied natural gas or liquefied petroleum gas, hydrogen or electricity.
 - The credit for qualified clean-burning motor vehicle fuel property will increase from 50% to a per-location credit of 75%.

- Adds property which is directly related to the compression and delivery of natural gas from a private home or residence, for noncommercial purposes, into the fuel tank of a motor vehicle propelled by compressed natural gas. The property must be new and must not have been previously installed or used to refuel vehicles powered by natural gas. The credit is a per-location credit of the lesser of 50% of the cost of the property or \$2,500.

68 O.S. § 2357.22

Investment / New Jobs Credit - If a C corporation that otherwise qualified for the credits under subsection A of this 2357.4 subsequently changes its operating status to that of a pass-through entity which is being treated as the same entity for federal tax purposes, the credits will continue to be available as if the pass-through entity had originally qualified for the credits subject to the limitations of this section. 68 O.S. § 2357.4

Check-offs – There are two new check-offs:

Folds of Honor Scholarship Program - Corporate and individual taxpayers may donate from a tax refund for the benefit of the Folds of Honor Scholarship Program, a nonprofit charitable organization providing academic and vocational training scholarships to dependents of military servicemen and servicewomen who were either killed or wounded in action due to military service in the war in Iraq or Afghanistan. 68 O.S. § 2368.19

YMCA Youth and Government program - Corporate and individual taxpayers may donate up to \$25 from a tax refund for the benefit of the Oklahoma chapter of the Y.M.C.A. Youth and Government program. Monies donated will be expended by the State Department of Education for the purpose of providing grants to the Program so young people may be educated regarding government and the legislative process. 68 O.S. 2368.17

Items of Interest

Nonresident Spouse of United States Military Servicemember

On November 11, 2009, the President signed into law the Military Spouses Residency Relief Act (hereinafter, the “Act”) (S.475). The Act amends the Servicemember Civil Relief Act to provide protection for a servicemember’s spouse. The Act is effective for Tax Year 2009 and thereafter. It does not affect taxes imposed or paid for Tax Year 2008 and earlier.

Income Tax

Under the Act, a nonresident spouse of a nonresident servicemember may be exempt from Oklahoma income tax on income from services performed in Oklahoma if all of the following facts are true:

- the servicemember is present in Oklahoma in compliance with military orders;
- the spouse is in Oklahoma to be with the servicemember; and
- the spouse maintains the same domicile as the servicemember.

Withholding Tax

A spouse whose wages are exempt from Oklahoma income tax under the SCRA may claim an exemption from Oklahoma withholding tax. Spouses wishing to claim this exemption from income tax may file a Form OW-9-MSE: Annual Withholding Tax Exemption Certification For Military Spouse with their employer. Spouses claiming exemption from Oklahoma income tax should consider the impact on their income tax (and estimated income tax) liability in their domicile state.

Frequently Ask Questions (FAQs) relating to Individual Income Tax Issues for Military can be found on the website at: www.tax.ok.gov.

Summary of 2010 Tax Legislation

Income Tax

Effective for Tax Year 2010

Taxable Income:

Senate Bill 1396

The American Recovery and Reinvestment Act of 2009 provides an election, pursuant to Section 108 (i)(1) of the Internal Revenue Code, for the deferral of certain cancellation of debt income and the inclusion of such income ratably over a five-year period. Taxpayers, who make this election, will be required to add back the amount of income being deferred and then subtract the portion of such income being included in Federal gross income during the five-years. 68 O.S. § 2358

House Bill 2551

Expands the exemption for the \$5,000 death benefit, provided for in Title 63 O.S. § 1-2505.1, to include the death benefit paid to the designated beneficiary of a registered emergency medical responder whose death is a result of their official duties performed in the line of duty. 68 O.S. § 2358

Credits:

Senate Bill 461

Amends the Sales or Income Tax Credit for Tourism Development or Qualified Media Production.

- The definition of “tourism attraction” has been expanded to include a destination hotel whose location and amenities, including but not limited to upscale dining, recreation and entertainment, make the hotel itself a destination for tourists.
- The amount of the credit has been modified to up to 10% or up to 25% of approved costs, but will be limited to the percent of the approved costs that will result in the project being revenue neutral to the State as determined by the Oklahoma Tax Commission. Previously, the amount of such credit was 10% or 25% of approved costs. Revenue neutral means the amount by which increased tax revenues from the tourism attraction project or the film, digital media or music production and development facility will exceed the credit.
- Proof of expenditures will be required prior to the Tax Commission issuing a tax credit memorandum to the approved company which may be satisfied by a report from an independent certified public account.
- Extends for two years the expiration date from no credit shall be granted on or after January 1, 2014 to no credit shall be granted on or after January 1, 2016.

68 O.S. §§ 2357.36, 2357.37 & 2357.40

Senate Bill 1267

Many Oklahoma credits available against corporate and individual income taxes will be subject to a two-year moratorium from July 1, 2010, through June 30, 2012. The credits otherwise authorized may not be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credits would otherwise be allowable. However, beginning July 1, 2012, the credits may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the applicable statutory provisions.

- 27A O.S. § 2-11-303 -Credit for Hazardous Waste Control
- 68 O.S. § 2357 - Gas Used in Manufacturing Credit
- 68 O.S. § 2357.4 - Oklahoma Investment/New Jobs Credit
- 68 O.S. § 2357.6 - Credit for Energy Assistance Fund Contribution
- 68 O.S. § 2357.11 - Coal Credit
- 68 O.S. § 2357.25 – Oklahoma Agricultural Producers Credit
- 68 O.S. § 2357.26 - Credit for Employers Providing Child Care Programs
- 68 O.S. § 2357.27 - Credit for Entities in the Business of Providing Child Care Services
- 68 O.S. § 2357.30 - Small Business Guaranty Fee Credit
- 68 O.S. § 2357.32A - Credit for Electricity Generated by Zero-Emission Facilities
- 68 O.S. § 2357.32B - Credit for Manufacturers of Small Wind Turbines
- 68 O.S. § 2357.33 - Credit for Food Service Establishments that Pay for Hepatitis A Vaccination for their Employees
- 68 O.S. § 2357.41 - Credit for Qualified Rehabilitation Expenditures
- 68 O.S. § 2357.46 - Credit for the Construction of Energy Efficient Homes
- 68 O.S. § 2357.47 - Credit for Modification Expenses Paid for an Injured Employee & Credit for Wages Paid to an Injured Employee
- 68 O.S. § 2357.59 - Credit for Qualified Recycling Facility
- 68 O.S. § 2357.66 - Credit for Qualified Ethanol Facilities
- 68 O.S. § 2357.67 - Credit for Qualified Biodiesel Facilities
- 68 O.S. § 2357.81 - Oklahoma Local Development and Enterprise Zone Incentive Leverage Act Credit
- 68 O.S. § 2357.100 - Poultry Litter Credit
- 68 O.S. § 2357.101 - Film or Music Project Credit
- 68 O.S. § 2357.102 - Dry Fire Hydrant Credit
- 68 O.S. § 2357.104 - Credit for Railroad Modernization
- 68 O.S. § 2357.203 - Credit for Breeders of Specially Trained Canines
- 68 O.S. §§ 2357.302 & 2357.303 - Credits for Employers in the Aerospace Sector
- 68 O.S. § 2357.304 - Credit for Employees in the Aerospace Sector
- 68 O.S. § 2370 - Credit for Financial Institutions Making Loans Under the Rural Economic Development Loan Act
- 68 O.S. § 2370.3 - Credit for Stafford Loan Origination Fee
- 68 O.S. § 54006 - Research and Development New Jobs Credit

Note: See House Bill 3024 for additional amendments to some of the credits listed above.

Senate Bill 1590

A moratorium has been placed on the Small Business Capital Credit and the Rural Small Business Capital Credit. The moratorium shall be in effect for investments made on or after June 1, 2010 through December 31, 2011. 68 O.S. §§ 2357.62, 2357.63, 2357.73, 2357.74, 2361a (new law) & 2372a (new law)

House Bill 2519

Extends for two years the expiration date of the Coal Credit from tax years ending on or before December 31, 2012 to tax years ending on or before December 31, 2014. 68 O.S. § 2357.11

House Bill 3024

Amends the moratorium on the Investment/New Jobs Credit found in Senate Bill 1267. The amendment provides that an Investment/New Jobs Credit can be established during the moratorium period of July 1, 2010 through June 30, 2012. The credits established during this period will accrue and may not be claimed until tax year 2012. 68 O.S. § 2357.4

Establishes a sunset date for the Credit for Investment in Qualified Electric Motor Vehicle Property. No credit will be allowed for investments in qualified electric motor vehicle property placed in service on or after July 1, 2010. 68 O.S. § 2357.22

Amends the Credit for Investment in a Clean-Burning Motor Vehicle Fuel Property. The tax credit for a vehicle originally equipped, or modified, to be propelled by a hydrogen fuel cell is only available for tax year 2010. The credit for property directly related to the delivery of a hydrogen into the fuel tank of a motor vehicle or a storage tank is only available for tax year 2010. 68 O.S. § 2357.22

Amends the moratorium on the Credit for Electricity Generated by Zero-Emission Facilities found in Senate Bill 1267. Reduces the moratorium by one-year, from June 30, 2012 to June 30, 2011. The amendment also provides that the Credit for Electricity Generated by Zero-Emission Facilities can be established during the moratorium period of July 1, 2010 through June 30, 2011; however, any credits established during this period will accrue and may not be claimed until tax year 2012. 68 O.S. § 2357.32A

Amends the moratorium on the Credit for Qualified Rehabilitation Expenditures found in Senate Bill 1267. The amendment provides that Credit for Qualified Rehabilitation Expenditures can be established during the moratorium period of July 1, 2010 through June 30, 2012; however, any credits established during this period will accrue and may not be claimed until tax year 2012. 68 O.S. § 2357.41

Establishes a credit for the manufacturer of low-speed electric motor vehicles, medium-speed electric motor vehicles or electric motor vehicles which are manufactured after June 30, 2010. The manufacturer must have a manufacturer exemption permit pursuant to Title 68 O.S. § 1359.2. The credit will be as follows:

- For low-speed electric motor vehicles the credit is \$500 per vehicle manufactured.
- For medium-speed electric motor vehicles the credit is \$1,000 per vehicle manufactured.
- For electric motor vehicles, which are not low-speed or medium-speed vehicles, the credit is \$2,000 per vehicle manufactured.

Any credit allowed but not used will have a five year carryover provision. 68 O.S. 2357.402 (new law)

Income Tax Check-off:

House Bill 2710

Corporate and individual taxpayers will be provided the opportunity to donate up to \$25 from a tax refund for the benefit of the Multiple Sclerosis Society. Monies donated may be expended by the State Department of Health to provide grants to the Multiple Sclerosis Society for the purpose of mobilizing people and resources to drive research for a cure and to address the challenges of everyone affected by multiple sclerosis. 68 O.S. 2368.20 (new law)

E-File Mandate:

House Bill 3166

Expands the mandate for those tax preparers who must file individual income tax returns electronically from those who prepare more than 50 returns for the prior year to any “specified tax return preparer”. The term specified tax return preparer has the same meaning as provided in Section 6011 of the Internal Revenue Code. The provision which allowed a taxpayer to designate that they did not want their income tax return electronically filed has been deleted. 68 O.S. § 2385

Effective for Tax Year 2011

Credits:

Senate Bill 1919

Establishes an income tax credit for any taxpayer who makes a donation to a qualified cancer research institute. The credit is 50% of the amount donated, but may not exceed \$1,000. Any credit allowed, but not used, will have a four year carryover provision. A “cancer research institute” means an organization which is exempt from taxation under the Internal Revenue Code (IRC) or a not-for-profit supporting organization, as defined by the IRC, affiliated with a tax-exempt organization. The tax-exempt organization must:

- have raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education as its primary focus;
- be either an independent research institute or a program that is part of a state university which is a member of The Oklahoma State System of Higher Education; and
- receive at least \$4 million in National Cancer Institute funding each year.

The total credit claimed by all taxpayers is capped at a maximum of \$1 million annually. In the event that more than \$1 million in credit is claimed in any calendar year; the excess over \$1 million will be factored into the percentage adjustment formula for subsequent years. For tax year 2011, no more than \$50,000 in total tax credits for donations to a cancer research institute will be allowed.

Amends the Credit for Biomedical Research Contribution by reducing the cap on the total amount of credits allowed to be claimed by all taxpayers from \$2 million to \$1 million. In the event that more than \$1 million in credit is claimed in any calendar year; the excess over \$1 million will be factored into the percentage adjustment formula for subsequent years.

68 O.S. § 2357.45

Income Tax Check-off:

House Bill 2300

Corporate and individual taxpayers will be provided the opportunity to donate for the benefit of Oklahoma Honor Flights. Monies donated may be expended by the Oklahoma Department of Veterans Affairs to provide grants to the Oklahoma Honor Flights for the purpose of transporting Oklahoma veterans to Washington, D.C., to visit those memorials dedicated to honor their service and sacrifices. 68 O.S. § 2368.20 (new law)

House Bill 2686

Individual taxpayers will be provided the opportunity to donate for the benefit of the Eastern Red Cedar Revolving Fund. Monies donated may be expended by the State Board of Agriculture as directed by the Eastern Red Cedar Registry Board for the purposes set forth in the Eastern Red Cedar Registry Board Act. A donation may be made whether the taxpayer is receiving a refund or has tax due. 2 O.S. § 18-408 (new law)

Cigarettes & Tobacco Products

House Bill 2359 - *Effective July 1, 2010*

Provides that nothing in this Section of the Tobacco Tax Code shall be construed to prohibit any person holding a retail tobacco license from also holding a wholesaler tobacco license. 68 O.S. § 415

Estate Tax

Senate Bill 1895 - *Effective July 1, 2010*

Provide that no release of estate tax liability is required for deaths occurring on or after January 1, 2010. 58 O.S. §§ 282.1, 635, 912 & 1104

For deaths occurring on or after January 1, 2010, no lien related to estate tax will attach to any property passing through the estate of a decedent. No estate tax exemption order will be required to authorize the release of property or for the title of real property to be marketable. 68 O.S. § 804.1 (new law)

Gross Production

Senate Bill 1882 - *Effective May 10, 2010*

Extends the sunset provision for the variable rate on Gross Production Tax from June 30, 2010, to June 30, 2013. Upon sunset the Gross Production Tax rate for both crude oil and natural gas will be fixed at 7% of the products value. 68 O.S. § 1001

Extends the Gross Production Tax rebate for economically at-risk oil and gas leases¹ for calendar years 2011, 2012 and 2013. Operators of at-risk leases shall make application to the Tax Commission to certify that they meet the criteria for being at-risk. Upon approval by the Tax Commission, operators may file a claim for refund of 6/7ths of the 7% gross production tax remitted for the qualifying year. 68 O.S. § 1001.3a

House Bill 2432 - *Effective July 1, 2010*

Provides for the deferral of the payment of certain gross production tax rebates by the Tax Commission for the production periods ending June 30, 2010, and June 30, 2011, for horizontally drilled and deep wells completed below 15,000 feet.

The deferred payments will be paid out over a period of three years beginning July 1, 2012, in a monthly amount equaling 1/36th of the total amount of claims filed.

Further provides for a change in the method that such exemptions are perfected. The amendment provides for an adjusted tax rate for approved horizontal and deep wells completed below 15,000 feet. The adjusted tax rate would be levied on the monthly tax report commencing July 1, 2011. Rates equal 4% for approved deep wells and 1% for approved horizontal wells.

Also amended was the rebate period for horizontal wells which eliminates the payback limitation and provides for an incentive period of 48 months.

¹ An economically at-risk lease means any lease operated at a net profit or a net loss, which is less than the gross production tax remitted for such lease in a given calendar year.

Additionally, an annual adjustment to the calendar year price cap based on the consumer price index is provided.

68 O.S. § 1001

Miscellaneous

Beverage Tax & Alcoholic Beverage Tax

House Bill 2348 - *Effective August 27, 2010*

Allows any person possessing a valid personal use permit² to annually produce for personal use, by simple fermentation, less than 200 gallons of low-point beer³. Low-point beer produced pursuant to a personal use permit is not to be sold or offered for sale. 37 O.S. § 163.1

Excludes low-point beer made pursuant to a personal use permit² from the low-point beer excise tax. 37 O.S. § 163.3

Allows any person possessing a valid personal use permit² to annually produce for personal use, by simple fermentation without distillation, less than 200 gallons of beer⁴. The provision further provides that no beer, cider or wine made pursuant to a personal use permit is to be sold or offered for sale. 37 O.S. § 505

Excludes beer made for personal use from the strong beer excise tax. 37 O.S. § 553

Business Activity Tax

Senate Joint Resolution 61 - *Effective August 27, 2010*

Expresses intent of the Legislature to place a moratorium on the levy of the franchise tax and enact a tax “in lieu” of ad valorem taxes on intangible personal property of locally assessed business entities.

Creates the Oklahoma Business Activity Tax Code.

- Sets forth the purpose of the Code to establish a revenue-neutral mechanism for fair and simplified taxation of businesses and individuals while maintaining revenue levels for support of general government functions.
- Defines terms for purposes of the Code.
- For tax years beginning on or after January 1, 2010, Section 1218(A) of Title 68 levies tax of \$25 per year on all non-corporate entities “doing business” in Oklahoma and Section 1218(B) levies an additional tax of 1% of the net revenue derived from business activity allocated to

² Issued by the Alcoholic Beverage Laws Enforcement Commission pursuant to Section 520A of Title 37.

³ As defined in Section 163.2 of Title 37.

⁴ As defined in Section 506 of Title 37.

Oklahoma. For tax years 2010, 2011 and 2012, pursuant to Section 1218(C) of Title 68, corporate entities pay business activity tax equal to the franchise tax paid in 2010. Provides that the tax levied pursuant to Section 1218 is in lieu of ad valorem taxes imposed on intangible personal property of locally assessed business entities.

- Provides for a nonrefundable income tax credit equal to the \$25.00 business activity tax paid.
- Provides for payment dates for the tax levied pursuant to Section 1218 of Title 68.
- Provides for filing of report and the information to be contained therein.
- Beginning January 1, 2013, provides for discounts in varying amounts against the 1% tax levied by Section 1218(B) of Title 68 based on the net revenue derived from business activity.
- Provides that the tax is not due in the first year that the taxable entity begins doing business in the state but such entity must file a “no tax” report.
- Provides for penalties for nonreporting and nonpayment of the tax.
- Provides for consolidated and combined reporting beginning in tax year 2013.
- Provides methodology—three factor formula based on total revenue, property and payroll—to determine net revenue apportioned to Oklahoma.
- Extends the statutory period to assess the business activity tax pursuant to a final determination of taxable income by the IRS.
- Creates a 21 member Task Force on Comprehensive Tax Reform.
- Provides a sunset for the Business Activity Tax Code beginning tax year 2013.

68 O.S. §§ 1215 – 1228 (new laws)

Establishes a moratorium on franchise tax due for July 1, 2010, through July 1, 2013. 68 O.S. § 1212.1 (new law)

Provides that persons not subject to franchise tax receive a \$25 credit against the taxes paid to the Secretary of State for certification or registration fees. 68 O.S. § 1142.2 (new law)

Amends Section 2370 of Title 68 regarding the bank privilege tax for consistency and clarification. 68 O.S. § 2370

Provides that certain fees and taxes paid by insurance companies are in lieu of ad valorem taxes on intangible personal property. 36 O.S. § 624

Coin Operated Vending Device Fees

House Bill 2359 - *Effective July 1, 2010*

Increases the annual fee for each coin operated music device, coin operated amusement device and any coin operated vending device requiring a coin or thing valued at \$0.25 cents or more from \$50 to \$150. 68 O.S. § 1503

Fireworks Licensing

Senate Bill 2253 - Effective June 8, 2010

Presently, the licenses provided for in this Section and the fees therefore are due and payable on or before March 1 of each and every year to the Oklahoma Tax Commission. The measure provides, for a period of 60 days after the passage of this act, for any licensed manufacturer, distributor, and wholesaler permitted to sell fireworks at wholesale or retail⁵ to apply for a license. 68 O.S. § 1625

Additionally, the measure allows licensed manufacturers, distributors, and wholesalers to sell fireworks at retail and wholesale from January 1 until December 31, and licensed retailers to sell from June 15 until July 6 and from December 15 until January 2. 68 O.S. § 1623

Prepaid wireless 911 fee

House Bill 2556 - Effective January 1, 2011

Excludes prepaid wireless telecommunication services from imposition of the nine-one-one emergency wireless telephone fee levied by 63 O.S. § 2843.1 and imposes a new \$.50 cent prepaid wireless 911 fee pursuant to 63 O.S. 2843.2. The \$.50 cent fee is per retail transaction and is to be collected by the seller of prepaid wireless telecommunication services from its customers and remitted to the Tax Commission in substantially the same manner as sales tax. 63 O.S. §§ 2843.1 & 2843.2 (new law)

Waste Tire Recycling Fee

Senate Bill 441 - Effective July 1, 2010

Beginning July 1, 2010, places on tires used on implements of husbandry and agricultural equipment that are not more than fourteen inches wide and forty-four inches in diameter a waste tire recycling fee of \$.05 cents per pound of the weight of the tire, with a minimum fee of \$2.50 per tire. Beginning July 1, 2013, the fee will apply to all tires used on agricultural equipment and implements of husbandry. Also requires the Department of Environmental Quality (“DEQ”) to maintain and make available to tire dealers, upon request, a list of agricultural tire weights for the described tires, excludes from fee imposition used agricultural tires retained by the owner for farm or ranch use, and allows a tire vendor to pay the fee for any waste agricultural tires currently in inventory and include the tires in the waste tire recycling program. Additionally, beginning July 1, 2010, a waste tire or TDF facility will be required to collect and transport tires used on implements of husbandry and agricultural equipment that are not more than 14 inches wide and 44 inches in diameter. Beginning July 1, 2013, a waste tire or TDF facility will be required to collect and transport all agricultural tires. 27A O.S. § 2-11-401.2

⁵ In accordance with Section 1623 of Title 68 of the Oklahoma Statutes.

Motor Vehicle

Senate Bill 1397 - *Effective June 8, 2010*

Relates to annual motor vehicle registration renewal notices. Previously, the Tax Commission was required to mail such a notice to all persons within the state who have a previous registration on record. The amendments in this measure still provide for a mandatory requirement to notify. However, taxpayers may choose to be notified by means of an electronic mail type renewal notice. 47 O.S. § 1131

Senate Bill 1398 - *Effective June 8, 2010*

Relates to annual motor vessel and motor registration renewal notices. Previously, the Tax Commission was required to mail such a notice to all persons within the state who have a previous registration on record. The amendments in this measure still provide for a mandatory requirement to notify. However, those taxpayers who choose to continue receiving the notification via a mailed postcard will be charged an annual fee of \$0.50. Taxpayers who wish to be notified by an electronic mail type renewal notice will receive such notifications with no corresponding fee charges. Taxpayers will also have the option of opting out of the notification system.

Members of the Armed Forces eligible to receive the annual reduced rate military registration fee, as provided in 63 O.S. § 4021, will continue to receive an annual postcard renewal notification through the mail free of charge.

63 O.S. § 4020

Senate Bill 1816 - *Effective November 1, 2010*

Clarifies language related to penalties for delinquent vehicle registration fees. The bill exempts from delinquent vehicle registration penalties Oklahoma residents who are members of the Armed Forces, Armed Forces Reserve or the Oklahoma National Guard stationed outside the state on official assignment and their spouses for the duration of the assignment and a period of 60 days after the assignment ends. The qualifying registrant must provide a statement containing a description of the vehicle, address information, confirmation of active duty status with orders requiring deployment outside the state, and certification by a proper officer of the organization to which the applicant is assigned for duty. 47 O.S. § 1127

House Bill 2264 - *Effective November 1, 2010*

Levies an additional \$3.00 fee upon every motorcycle registration. Revenue from the additional \$3.00 fee shall be transferred to DPS for deposit into the Motorcycle Safety and Education Program Revolving Fund created in this measure. Collection and payment of such additional \$3.00 fee shall be a prerequisite to the licensing or registration of any motorcycle. 47 O.S. 1132.6 (new law)

House Bill 2730 - *Effective November 1, 2010*

Requires that any law enforcement agency in this state that seizes a vehicle in which a controlled dangerous substance has been manufactured and is eligible for forfeiture pursuant to 63 O.S. § 2-503 may request that the OTC brand the certificate of title with the notation "Drug Manufacture Vehicle." 68 O.S. § 2-503A (new law)

House Bill 2959 - *Effective November 1, 2010*

Addresses abandoned vehicles and the possible removal of such vehicles by licensed wrecker or towing services. The amendment states that the Tax Commission shall render assistance to provide wrecker and towing services assistance in ascertaining ownership if needed. 47 O.S. § 954A

House Bill 3213 - *Effective November 1, 2010*

Amendment relates to insurance carriers and motor vehicles by providing that an insurer shall not offer a cash settlement for the purchase of a vehicle comparable to one determined to be a total loss and then subsequently sell such motor vehicle back to the claimant, unless the claimant specifies in writing or via electronic signature that he/she understands that the vehicle will be titled as a "junked vehicle." 36 O.S. § 1250.8

Provides that no certificate of title shall be issued on a junked vehicle unless reissued pursuant to certification provided by the insurance company paying the loss. Such certification shall document that the cost of repairing the vehicle for safe operation on the highway does not exceed 60% of the fair market value. 47 O.S. § 1111

Sales & Use Tax

Senate Bill 461 - *Effective May 10, 2010*

Amends the Oklahoma Tourism Development Act as follows:

- The definition of "tourism attraction" has been expanded to include a destination hotel whose location and amenities, including but not limited to upscale dining, recreation and entertainment, make the hotel itself a destination for tourists.
- The amount of the credit has been modified to up to 10% or up to 25% of approved costs, but will be limited to the percent of the approved costs that will result in the project being revenue neutral to the State as determined by the Oklahoma Tax Commission. Previously, the amount of such credit was 10% or 25% of approved costs. Revenue neutral means the amount by which increased tax revenues from the tourism attraction project or the film, digital media or music production and development facility will exceed the credit.

- Proof of expenditures will be required prior to the Tax Commission issuing a tax credit memorandum to the approved company which may be satisfied by a report from an independent certified public account.
 - Extends the sunset date from no credit shall be granted on or after January 1, 2014 to no credit shall be granted on or after January 1, 2016.
- 68 O.S. §§ 2357.36, 2357.37 & 2357.40

Senate Bill 1321 - *Effective July 1, 2010*

In addition to the administrative fine of \$500 presently imposed for vendors⁶ who willfully and intentionally refuse to honor the sales tax exemption afforded 100% disabled veterans pursuant to Section 1357(34) of Title 68, a second or subsequent violation constitutes a misdemeanor punishable by a fine not to exceed \$500 per offense. The Tax Commission shall refer any vendor who has more than once willfully or intentionally refused to honor the exemption, whether fined or not, to the district attorney where the vendor is located for prosecution. The measure further makes public any written communication between the Tax Commission and any holder of a sales tax permit that is an attempt by the Commission to enforce the provisions of this Section and notwithstanding any other provision of law, no presumption of confidentiality shall exist for such communications. Additionally, the Tax Commission must, upon request of any consumer entitled to the exemption, transmit to such consumer copies of the described communications. 68 O.S. § 1361.1

Senate Bill 1900 - *Effective November 1, 2010*

Directs municipal clerks and county clerks or any designated employee or official authorized to issue building permits to provide building permit applicants a list, to be developed by the Tax Commission, of state taxes which may be assessed against any Oklahoma or out-of-state taxpayer who applies for a building permit in this State. The referenced list must set forth in bold and conspicuous type the requirement for certain building permit applicants to register with the Oklahoma Business Registration System of the Tax Commission. The measure further directs, upon request for issuance of an occupancy permit, municipal clerks and county clerks or other designated employees or officials to request proof of the applicant's business registration with the Tax Commission. If the applicant does not provide proof of registration, the clerk must immediately issue the occupancy permit and advise the Tax Commission that the entity may not be registered under the Oklahoma Business Registration System.

Additionally, allows the Tax Commission to maintain, as part of its online Business Registration System, the capability for an applicant to obtain a document electronically which will serve as proof of registration under the system.

The referenced provisions do not apply to building permits for new construction or remodel projects less than \$50,000.00 in value.

11 O.S. § 43-101.2 (new law) and 19 O.S. § 241.1 (new law)

⁶ For purposes of this provision vendor is defined to mean "any individual most responsible for supervising, and the conduct of, any employee who intentionally refuses to honor the exemption including, but not limited to, a manager, owner, partner, or corporate officer."

House Bill 2359 - *Effective July 1, 2010*

Expands the definition of retailer for purposes of Oklahoma use tax collection and remittance to include certain out-of-state retailers with Oklahoma affiliates. The amendments also provide that retailers within a part of a controlled group of corporations that contain Oklahoma retailers shall be presumed to be making sales and have nexus with this state. Further, nexus is attributed to out-of-state retailers that sell merchandise to customers in Oklahoma via mail, telephone, Internet or other media and have a relationship with a third party service provider performing installation and maintenance service for the out-of-state retailers' customers within the state. Attributing nexus imposes the legal requirement on these vendors to invoice, collect and remit use taxes. 68 O.S. § 1401

Requires out-of-state vendors not presently responsible for the collection of Oklahoma use tax to notify on their retail Internet website or retail catalog and customer invoices, that use tax is imposed and must be paid by the purchaser, unless otherwise exempt, on items brought into Oklahoma for use or consumption. The measure further prohibits retailers from advertising on their retail Internet website or retail catalog that there is no tax due on purchases made from the retailer for use in this State. With the exception of the invoice notification requirement, the provisions of this Section shall apply to online auction websites⁷ and none of the provisions of this Section will become effective until an Administrative rule has been fully promulgated pursuant to the Oklahoma Administrative Procedures Act. 68 O.S. § 1406.1 (new)

Directs the Tax Commission to establish the Retailer Compliance Initiative to encourage voluntary disclosure of tax liabilities by out-of-state retailers. Pursuant to the Initiative the Tax Commission will not seek payment of uncollected use taxes from an out-of-state retailer who registers to collect and remit applicable use taxes on sales made prior to such registration provided the retailer was not registered in this state from July 1, 2009, to June 30, 2010. Provided a retailer's use tax registration occurs prior to July 1, 2011, the Commission is precluded from making an assessment for uncollected use taxes and interest and penalties for sales made during the period the retailer was not registered in the state. The measure further provides the circumstances under which 1) the relief provided by the Initiative is unavailable, 2) the provisions of the Initiative are effective and 3) the application of the Initiative to retailer/vendor use tax and not consumer use tax. Additionally, retailers registering under the Initiative shall receive 1) assurance from the Tax Commission that such registration will not be used as a factor in determining whether the retailer has nexus with this state for any other taxes, including income taxes, 2) a timely reporting and payment discount as provided for in 68 O.S. § 1354.31 and 3) waiver of the fee to register to collect and remit use tax. 68 O.S. § 1407.2 (new)

Directs the Tax Commission, in order to improve use tax compliance by Internet retailers, to implement an outreach program to include contacting internet retailers for a review of their business activities to determine if such activities require registration and collection of Oklahoma use taxes and the provision of information to out-of-state retailers regarding the Retailer Compliance Initiative. 68 O.S. § 1407.3 (new)

⁷ The Tax Commission pursuant to Section 2 is directed to define the term online auction websites and provide for an exception for websites with sales below a set threshold.

Directs the Tax Commission to establish the Consumer Compliance Initiative for consumers liable for the payment of Oklahoma use taxes. During the Initiative a taxpayer will be entitled to a waiver of penalty, interest and collection fees due if the taxpayer voluntarily files delinquent tax returns and pays the taxes due and no use tax assessment will be made for more than one year prior to the date the consumer registers to pay applicable use tax under the Initiative. Sets forth the circumstances when relief under the Initiative is unavailable. Directs the Tax Commission to promulgate rules detailing the terms of the Initiative and to develop and distribute a fact sheet to be made available on its website explaining responsibilities regarding the reporting and payment of use taxes and the manner in which businesses can examine their records to establish the use tax due on purchases from out-of-state sellers. 68 O.S. § 1407.4 (new)

Requires tax preparers when preparing individual income tax returns to advise their clients of their responsibility to remit use taxes utilizing the use tax remittance line provided on the Oklahoma Individual Income Tax return or by filing an Oklahoma Consumer Use Tax report. 68 O.S. § 249

Expresses the legislative finding that the sales and use tax system established under Oklahoma law does not pose an undue burden on out-of-state retailers and provides sufficient simplification to warrant the collection and remittance of use taxes by out-of-state retailers that are due and owing to the State of Oklahoma and its local jurisdictions and sets forth its support of said finding. 68 O.S. § 1407.5 (new)

Directs the Tax Commission, upon request, to make available as part of the report required to be made to the governing body of each municipality levying a sales tax, a complete list of: 1) sales and use tax collections for persons who reported doing business during the preceding calendar year within the municipal boundary of the city or town, 2) taxpayers who were issued a sales tax permit for a location in the city or town during the preceding calendar month and 3) taxpayers who have advised that business at a location in the city or town ceased during the previous calendar month. 68 O.S. § 205.1

Provides for referral to collection agencies of vendor accounts with two or more consecutive delinquent sales tax returns prior to the establishment of the tax liability, but only after the Commission has notified the taxpayer as required by Section 255 of Title 68. 68 O.S. § 255

Directs the Tax Commission to coordinate with city and county governments to increase state and local sales and use tax collections through joint enforcement efforts. The Tax Commission is required to maintain central administration and no tax remitters are to be subjected to duplicate audits, reports, or other collection efforts. 68 O.S. § 281 (new)

Allows a remote seller⁸ that initially contracts with a certified service provider for the collection and remittance of Oklahoma sales and use taxes on or after October 1, 2010, and before July 1, 2011, to retain 20% of their collections for a period of 6 months, not to exceed \$500. Any remote seller retaining said amount must continue to collect and remit applicable Oklahoma sales and use tax for a period of at least 36 months or refund the incentive. Further, provides eligibility for additional compensation to certain remote sellers that collect and remit sales and use tax to this State. 68 O.S. § 1354.1

⁸ The term “remote seller” shall mean a seller that would not register to collect remit sales and use taxes in this state but for the ability of this state to require such remote seller to collect sales or use tax under federal authority.

Modifies the vendor sales and use tax discount/remuneration from the current rates of 2 1/4% for vendors that participate in the OTC's electronic funds transfer and data interchange program and 1 1/4% for all other vendors to a rate of 1% for all vendors. In addition, the proposal modifies the monthly maximum discount which is currently capped at \$3,300 per month, reducing it to \$2,500 per month. 68 O.S. § 1367.1 & 1410.1

Additionally, the measure provides that in the event that a federal authority authorizes this state to require remote sellers to collect and remit sales and use taxes, the OTC is authorized and directed to promulgate rules providing for deductions in the amounts and subject to the limitations provided in the Streamlined Sales and Use Tax Agreement. All sellers or vendors shall be eligible for such deduction beginning on the date this state acquires such collection authority pursuant to federal authorization. 68 O.S. § 1367.1

Mandates that counties enter into a contract with the Tax Commission for assessment, collection and enforcement of their sale tax levies. 68 O.S. § 1371

Mandates that cities enter into a contract with the Tax Commission for assessment, collection and enforcement of their sale tax levies. Also, the measure allows municipalities under the stated conditions to augment the enforcement, directly or through contract with private auditing firms, of the municipal sales tax. Further, the audit findings and supporting documentation resulting from an audit performed pursuant to subsection D of Section 2701 shall be provided to the Oklahoma Tax Commission. Private auditors are to be paid by deducting from the tax assessment resulting from the audit conducted thereby unless a municipality contracts with the auditors for another method of payment. Any municipal sales tax funds recovered as a result of the services provided pursuant to subsection D will not be included in calculating the retention fee retained by the Oklahoma Tax Commission. The authorized contracts must provide that the Oklahoma Tax Commission shall not have any obligations thereunder to any municipality that does not participate in an audit conducted under subsection D. 68 O.S. § 2702

House Bill 3166 - *Effective November 1, 2010*

Removes the January 1, 2011, application of destination sourcing to florist sales. All sales by a florist must be sourced to its business location. 68 O.S. § 1354.27

Exempts from the sales tax levy, sales of gold, silver, platinum, palladium or other bullion items stored within a recognized depository facility which means an institution that accepts delivery of precious metals on behalf of the purchaser and provides storage of such precious metals, but shall not include financial institutions as defined in subsection E of Section 71 of Title 62 of the Oklahoma Statutes.⁹ 68 O.S. § 1357

⁹ The exemption authorized by this paragraph shall not apply to fabricated metals that have been processed or manufactured for artistic use or as jewelry.

Quality Jobs

Senate Bill 1966 - *Effective January 1, 2011*

Amends the Oklahoma Small Employer Quality Jobs incentive by extending the time period for meeting the minimum employment levels and out-of-state sales required under the incentive program. Further amends the average wage requirement and changes the data source for the wage information.

Under current law, establishments receiving incentive payments pursuant to the Oklahoma Small Employer Quality Jobs Incentive Act have 12 months to reach the projected new direct jobs and the percentage of out-of-state sales. This measure extends the time period to 24 months effective July 1, 2011.

The bill also amends the average wage requirement to the average county wage of small employers located in the county and changes the data source for the wage information from the Oklahoma Department of Commerce Data Center to wage and employment data from the Oklahoma Employment Security Commission.

68 O.S. §§ 3904 & 3905

Senate Bill 2124 - *Effective November 1, 2010*

Modifies the Oklahoma Quality Jobs incentive by adding five industry classifications as basic industries eligible for the Quality Jobs Incentive.

The following establishments are added as basic industries eligible for the Quality Jobs Incentive:

- Establishments that are classified or defined in the North American Industrial Classification System (NAICS) Manual as U.S. Industry Nos. 4882 (support activities for rail transportation) and 4883 (support activities for water transportation).
- Establishments that are classified in the North American Industrial Classification System (NAICS) Manual under Industry Group Number 237130 - solar power structure construction or wind power structure construction; Industry Group Number 238160 - solar reflective coating application; and Industry Group Number 238220 - solar heating equipment installation.

68 O.S. § 3603

Senate Bill 2128 - *Effective July 1, 2010*

Modifies the Oklahoma Quality Jobs Program Act by amending language relating to qualified federal contracts.

Modifying Definitions and Requiring the Offering of Health Benefits for Federal Contractors

- Relates to federal contracts, by modifying the definition of a “qualified federal contract” to add language relating to an Oklahoma workforce. The amendment also specifies that in order for a federal contract to qualify for the Quality Jobs Incentive, the federal contractor and subcontractor must verify they will offer basic health benefits to their employees. This offer of basic health benefits must occur within 180 days of employment.

68 O.S. § 3603

Application Requirements for Federal Contractors to Claim Quality Jobs Incentive Payments

- The average wage ceiling is increased from \$25,000 to \$29,409.
- The minimum average qualified labor rate for subcontractors is increased from \$26 to \$31 per hour.
- A new subsection is added which specifies that the qualified federal contractor must have actual annual verified gross labor hours equal to or exceeding \$2.5 million in order to continue to receive the incentive. There is also language that specifies if the \$2.5 million threshold is not met, then the incentive payments will not be made.
- There are further requirements on the Department of Commerce to verify that the federal contractor is not receiving incentive payments from more than one Quality Jobs Program for the same services in the federal contract.

68 O.S. § 3604.1

Administrative & Uniform Procedure Act

House Bill 2359 - Effective July 1, 2010

When assisting taxpayers in preparing an individual income tax return, tax preparers are required to advise clients of their responsibility to remit use taxes through the use tax remittance line on the individual income tax return or by filing a consumer use tax return. 68 O.S. § 249

House Bill 2698 - Effective November 1, 2010

Creates the Oklahoma Government Website Information Act, which requires public bodies to make available on their website: adopted administrative rules; proposed administrative rules; statutes affecting the public body and its operations; and statutes the public may find useful in interacting with the public body. 74 O.S. § 3106.4 (new law)

House Bill 3422 – Effective July 1, 2010

Beginning with tax year 2011, the Tax Commission will make available information about every taxpayer who claims a tax credit administered by the Tax Commission, excluding the following income tax credits:

- Credit for Taxes Paid to Another State (68 O.S. § 2357(B)(1));
- Oklahoma Child Care / Child Tax Credit (68 O.S. § 2357(B)(2));
- Tornado Tax Credit (68 O.S. § 2357.29);
- Oklahoma Investment / New Jobs Credit (68 O.S. § 2357.4); and
- Oklahoma Earned Income Credit (68 O.S. § 2357.43)

The information will include the identity of all taxpayers or organizations having any part in the chain of custody or claim to the credit at any time during the credit's existence.

In addition to the disclosure required above, the Tax Commission shall maintain a list of any person or entity that may be able to claim the Small Business Capital Credit (68 O.S. §§ 2357.62 & 2357.63) or

the Rural Small Business Capital Credit (68 O.S. §§ 2357.73 & 2357.74) as a result of the allocation of tax credits from a pass-through entity that makes a qualified investment in either a qualified small business capital company or a qualified rural small business capital company. The Tax Commission will determine the identity of such persons and legal entities as of the December 31 of the year during which the qualified investment is made.

68 O.S. 205.6 (new law)