

# MEMORANDUM

## OKLAHOMA TAX COMMISSION TAX POLICY AND RESEARCH

DATE: February 26, 2014

SUBJECT: SB 1246 – Floor Amendment (Req. No. 3456)

TO: Rick Miller, Director  
Joe Gappa, Deputy Director

FROM: Michael C. Kaufmann, Tax Policy Analyst

The Floor Amendment (Req. No. 3456) for SB 1246 proposes to maintain the top marginal individual income tax rate of 5.25% through 2015 and potentially reduce the top marginal individual income tax rate to 5.0% beginning with tax year 2016 and to 4.85% for subsequent tax years (no earlier than two tax years after the 5% rate is in effect), contingent upon certain revenue growth. Further proposes to enact new laws, 68 O.S. § 2355.1F and 68 O.S. § 2355.1G, which provides trigger mechanism to reduce the top marginal individual income tax rate to 5% and 4.85%.

**Section 1** (68 O.S. § 2355) strikes language that was codified in HB 2032<sup>1</sup>, language that the Oklahoma Supreme Court ruled unconstitutional in *Fent v. Fallin* (2013 OK 107, \_\_ P.3d \_\_).

**Section 2** - Amends 68 O.S. § 2355 by maintaining the top marginal individual income tax rate of 5.25% through tax year 2015 and potentially reducing the top marginal individual income tax rate to 5.0% beginning with tax year 2016, and to 4.85% for subsequent tax years (no earlier than two tax years after the 5% rate is in effect), contingent upon certain revenue growth.

**Section 3** (68 O.S. § 2355.1E) repeals language that was codified in HB 2032<sup>1</sup>, language that the Oklahoma Supreme Court ruled unconstitutional in *Fent v. Fallin* (2013 OK 107, \_\_ P.3d \_\_).

**Section 4** – Proposes to enact a new law, 68 O.S. § 2355.1F, which provides a trigger mechanism<sup>2</sup> to reduce the top marginal individual income tax rate to 5% beginning with tax year 2016.

- To trigger the lower top marginal individual income tax rate of 5% for tax year 2016, the State Board of Equalization will have to make a finding at the December 2014 meeting that the total General Revenue Fund estimate for FY16 is **equal to or greater than** the total General Revenue Fund estimate for FY14 as was certified in February of 2013.
- If the State Board of Equalization makes a finding at the December 2014 meeting that the total General Revenue Fund estimate for FY16 is **less than** the total General Revenue Fund estimate for FY14 as was certified in February of 2013, the income tax rate will remain at 5.25% for tax year 2016. These procedures will be repeated at every December State Board of Equalization meeting until the top marginal individual income tax rate is 5%. Once that rate is achieved, the State Board of Equalization will no longer have to make the findings as outlined above.

<sup>1</sup> Oklahoma Session Laws - 2013 Section 253 - [HB 2032]

<sup>2</sup> There is an apparent scrivener error on page 23, lines 22 and 23. The paragraph numbers referenced appear to be reversed and make the trigger mechanism unattainable. The fiscal impact for this measure was based on the trigger mechanism being correct.

**Section 5** – Proposes to enact a new law, 68 O.S. § 2355.1G, which provides a trigger mechanism to reduce the top marginal individual income tax rate to 4.85%.

- To trigger the lower top marginal individual income tax rate of 4.85%, the top marginal individual income tax rate of 5% has to be in effect. At the first December meeting of the tax year that the 5% rate is in effect, the State Board of Equalization will have to make a preliminary finding that the estimated growth in General Revenue Collections for the next FY is **equal to or greater than** the estimated cost of decreasing the top marginal individual income tax rate to 4.85% for the tax year beginning the second subsequent January following the December meeting. The State Board of Equalization will then certify at the next February meeting that the estimated growth in General Revenue Collections for the next FY will be equal to or greater than the estimated cost of decreasing the top marginal individual income tax rate to 4.85% for the tax year beginning the next January.
- If the State Board of Equalization makes a finding at the December meeting that the estimated growth in General Revenue Collections for the next FY is **less than** the estimated cost of decreasing the top marginal individual income tax rate to 4.85% for the tax year beginning the second subsequent January following the December meeting, the income tax rate will remain at 5%. These procedures will be repeated at every December and February State Board of Equalization meeting until the top marginal individual income tax rate is 4.85%. Once that rate is achieved, the State Board of Equalization will no longer have to make the findings as outlined above.

**REVENUE IMPACT:**

**Sections 1 and 3** will not change revenue collections.

**Sections 2, 4, and 5** - Under current law, Oklahoma has a progressive individual income tax rate structure with the top marginal tax rate at 5.25%. This proposal could potentially reduce the top marginal individual income tax rate to 5.0% for tax years 2016 and 2017, then to 4.85% for subsequent tax years (no earlier than two tax years after the 5% rate is in effect), contingent upon certain revenue growth.

The table below shows the estimated effect of the top rate decreasing to 5.0% for tax years 2016 and 2017, and 4.85% for tax year 2018. This assumes the State Board of Equalization will make a finding at their December 2014 meeting authorizing a top marginal income tax rate of 5% for tax year 2016 and then a finding in their December 2016 meeting authorizing a top marginal income tax rate of 4.85% for tax year 2018<sup>3</sup>.

<b>FY EFFECT INCOME TAX ASSUMING TRIGGERS FOR 5% IN 2016 and 2017, and 4.85% IN 2018</b>				
	<b>Fiscal Impact</b>			
Tax year 2016	-\$142,620,000			
Tax year 2017	-\$153,557,000			
Tax year 2018	-\$266,589,000			
<b>FY CONVERSION</b>		<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Tax year 2016	-\$142,620,000	-\$57,048,000	-\$85,572,000	
Tax year 2017	-\$153,557,000		-\$61,423,000	-\$92,134,000
Tax year 2018	-\$266,589,000			-\$106,636,000
	<b>FY TOTAL</b>	<b>-\$57,048,000</b>	<b>-\$146,995,000</b>	<b>-\$198,770,000</b>
Source: Oklahoma Individual Income Tax Micro-Simulation Model.				

<sup>3</sup> Due to limitations in the Oklahoma Individual Income Tax Micro-Simulation Model tax year 2018 is the latest year that can be estimated. The full impact of this measure could occur in FY19 and if the proposed rates are in effect would be in excess of \$267.0 million.