STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 13
By: Sharp

AS INTRODUCED

An Act relating to income tax; declaring certain actions null and void; amending 68 O.S. 2011, Section 2355, as last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355); updating and conforming references; defining term; imposing specified duties on State Board of Equalization related to imposition of certain top marginal income tax rate for specified time period; prescribing method for specified computation and mandating certain action related thereto; repealing Section 5, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355.1G), which relates to top marginal income tax rate change; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Actions taken by the State Board of Equalization with respect to the provisions of Section 2355.1G of Title 68 of the Oklahoma Statutes are hereby declared null and void.
SECTION 2. AMENDATORY 68 O.S. 2011, Section 2355, as last amended by Section 2, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355), is amended to read as follows:

Section 2355. A. Individuals. For all taxable years beginning after December 31, 1998, and before January 1, 2006, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed at the option of the taxpayer under one of the two following methods:

1. METHOD 1.

   a. Single individuals and married individuals filing separately not deducting federal income tax:

      (1) 1/2% tax on first $1,000.00 or part thereof,
      (2) 1% tax on next $1,500.00 or part thereof,
      (3) 2% tax on next $1,250.00 or part thereof,
      (4) 3% tax on next $1,150.00 or part thereof,
      (5) 4% tax on next $1,300.00 or part thereof,
      (6) 5% tax on next $1,500.00 or part thereof,
      (7) 6% tax on next $2,300.00 or part thereof, and
      (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,
            (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
(c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:

(1) 1/2% tax on first $2,000.00 or part thereof,
(2) 1% tax on next $3,000.00 or part thereof,
(3) 2% tax on next $2,500.00 or part thereof,
(4) 3% tax on next $2,300.00 or part thereof,
(5) 4% tax on next $2,400.00 or part thereof,
(6) 5% tax on next $2,800.00 or part thereof,
(7) 6% tax on next $6,000.00 or part thereof, and
(8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,
   (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
   (c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.

2. METHOD 2.
a. Single individuals and married individuals filing separately deducting federal income tax:

(1) 1/2% tax on first $1,000.00 or part thereof,
(2) 1% tax on next $1,500.00 or part thereof,
(3) 2% tax on next $1,250.00 or part thereof,
(4) 3% tax on next $1,150.00 or part thereof,
(5) 4% tax on next $1,200.00 or part thereof,
(6) 5% tax on next $1,400.00 or part thereof,
(7) 6% tax on next $1,500.00 or part thereof,
(8) 7% tax on next $1,500.00 or part thereof,
(9) 8% tax on next $2,000.00 or part thereof,
(10) 9% tax on next $3,500.00 or part thereof, and
(11) 10% tax on the remainder.

b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:

(1) 1/2% tax on the first $2,000.00 or part thereof,
(2) 1% tax on the next $3,000.00 or part thereof,
(3) 2% tax on the next $2,500.00 or part thereof,
(4) 3% tax on the next $1,400.00 or part thereof,
(5) 4% tax on the next $1,500.00 or part thereof,
(6) 5% tax on the next $1,600.00 or part thereof,
(7) 6% tax on the next $1,250.00 or part thereof,
(8) 7% tax on the next $1,750.00 or part thereof,
(9) 8% tax on the next $3,000.00 or part thereof,
(10) 9% tax on the next $6,000.00 or part thereof, and
(11) 10% tax on the remainder.

B. Individuals. For all taxable years beginning on or after January 1, 2008, and ending any tax year which begins after December 31, 2015, for which the determination required pursuant to Sections 4 and 5 of this act is made by the State Board of Equalization, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:
   (a) 1/2% tax on first $1,000.00 or part thereof,
   (b) 1% tax on next $1,500.00 or part thereof,
   (c) 2% tax on next $1,250.00 or part thereof,
   (d) 3% tax on next $1,150.00 or part thereof,
   (e) 4% tax on next $2,300.00 or part thereof,
   (f) 5% tax on next $1,500.00 or part thereof,
   (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.

2. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:

(a) 1/2% tax on first $2,000.00 or part thereof,
(b) 1% tax on next $3,000.00 or part thereof,
(c) 2% tax on next $2,500.00 or part thereof,
(d) 3% tax on next $2,300.00 or part thereof,
(e) 4% tax on next $2,400.00 or part thereof,
(f) 5% tax on next $2,800.00 or part thereof,
(g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
(h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by
this subparagraph shall be contingent upon the
determination required to be made by the State Board
of Equalization pursuant to Section 2355.1A of this
title.

C. Individuals. For all taxable years beginning on or after
January 1, 2016, and for which the determination required pursuant
to Sections 4 and 5 of this act is made by the State Board
of Equalization, a tax is hereby imposed upon the Oklahoma taxable
income of every resident or nonresident individual, which tax shall
be computed as follows:

1. Single individuals and married individuals filing
separately:
   (a) 1/2% tax on first $1,000.00 or part thereof,
   (b) 1% tax on next $1,500.00 or part thereof,
   (c) 2% tax on next $1,250.00 or part thereof,
   (d) 3% tax on next $1,150.00 or part thereof,
   (e) 4% tax on next $2,300.00 or part thereof,
   (f) 5% tax on the remainder if the State Board of
       Equalization makes a determination pursuant to Section
       4 of this act or four and eighty-five hundredths
       (4.85%) tax on the remainder if the State Board of
       Equalization makes a determination pursuant to Section
       5 of this act.
2. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:

   (a) 1/2% tax on first $2,000.00 or part thereof,

   (b) 1% tax on next $3,000.00 or part thereof,

   (c) 2% tax on next $2,500.00 or part thereof,

   (d) 3% tax on next $2,300.00 or part thereof,

   (e) 4% tax on next $2,400.00 or part thereof,

   (f) 5% tax on the remainder if the State Board of Equalization makes a determination pursuant to Section 4 of this act or four and eighty-five hundredths percent (4.85%) tax on the remainder if the State Board of Equalization makes a determination pursuant to Section § 3 of this act.

No deduction for federal income taxes paid shall be allowed to any taxpayer to arrive at taxable income.

D. Nonresident aliens. In lieu of the rates set forth in subsection A above, there shall be imposed on nonresident aliens, as defined in the Internal Revenue Code, a tax of eight percent (8%) instead of thirty percent (30%) as used in the Internal Revenue Code, with respect to the Oklahoma taxable income of such
nonresident aliens as determined under the provision of the Oklahoma

Every payer of amounts covered by this subsection shall deduct
and withhold from such amounts paid each payee an amount equal to
eight percent (8%) thereof. Every payer required to deduct and
withhold taxes under this subsection shall for each quarterly period
on or before the last day of the month following the close of each
such quarterly period, pay over the amount so withheld as taxes to
the Tax Commission, and shall file a return with each such payment.

Such return shall be in such form as the Tax Commission shall
prescribe. Every payer required under this subsection to deduct and
withhold a tax from a payee shall, as to the total amounts paid to
each payee during the calendar year, furnish to such payee, on or
before January 31 of the succeeding year, a written statement
showing the name of the payer, the name of the payee and the payee's
social security account number, if any, the total amount paid
subject to taxation, and the total amount deducted and withheld as
tax and such other information as the Tax Commission may require.

Any payer who fails to withhold or pay to the Tax Commission any
sums herein required to be withheld or paid shall be personally and
individually liable therefor to the State of Oklahoma.

E. Corporations. For all taxable years beginning after
December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable
income of every corporation doing business within this state or
deriving income from sources within this state in an amount equal to six percent (6%) thereof.

There shall be no additional Oklahoma income tax imposed on accumulated taxable income or on undistributed personal holding company income as those terms are defined in the Internal Revenue Code.

F. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection D of this section, for all taxable years beginning after December 31, 1989, there shall be imposed on foreign corporations, as defined in the Internal Revenue Code, a tax of six percent (6%) instead of thirty percent (30%) as used in the Internal Revenue Code, where such income is received from sources within Oklahoma, in accordance with the provisions of the Internal Revenue Code and the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to six percent (6%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to
each payee during the calendar year, furnish to such payee, on or before January 31\textsubscript{r} of the succeeding year, a written statement showing the name of the payer, the name of the payee and the payee's social security account number, if any, the total amounts paid subject to taxation, the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

G. Fiduciaries. A tax is hereby imposed upon the Oklahoma taxable income of every trust and estate at the same rates as are provided in subsection B or C of this section for single individuals. Fiduciaries are not allowed a deduction for any federal income tax paid.

H. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A, B or C of this section, as applicable there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsection A, B or C of this section. For
purposes of this subsection, the term "ceiling amount" means, with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

SECTION 3.     NEW LAW     A new section of law to be codified in the Oklahoma Statutes as Section 2355.1H of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "rate reduction" shall mean the implementation of the four and eighty-five hundredths percent (4.85%) top marginal rate of individual income tax otherwise authorized pursuant to the provisions of subparagraph (f) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes. The provisions of this section shall be applicable with respect to the implementation of the rate reduction, which shall be contingent upon a determination by the State Board of Equalization made by a comparison of the revenue computations described by this section which shall be conducted until the rate reduction is effective.

B. In addition to any other duties prescribed by law, at the meeting required by paragraph 1 of Section 23 of Article X of the Oklahoma Constitution to be held in December of 2017, and for any subsequent December meeting of the State Board of Equalization if the rate reduction has not become effective, the State Board of Equalization shall determine:
1. The amount of estimated revenue growth in the General 
Revenue Fund of the State Treasury for the fiscal year beginning on 
the next ensuing July 1; and 

2. The amount by which the income tax revenue for the tax year 
which will begin on the second January 1 following such December 
meeting is estimated to be reduced by a fifteen hundredths percent 
(0.15%) decrease in the top marginal income tax rate, plus an amount 
equal to Five Hundred Million Dollars ($500,000,000.00) in order for 
the rate reduction to be effective.

If the amount determined pursuant to the provisions of paragraph 
1 of this subsection is equal to or greater than the amount 
determined pursuant to the provisions of paragraph 2 of this 
subsection, the Board shall make a preliminary finding that the 
Board anticipates that a finding will be made at the February 
meeting immediately subsequent to the December meeting that the 
revenue computations required by this section will authorize the 
rate reduction beginning on the second January 1 following the 
December meeting.

If the amount determined pursuant to the provisions of paragraph 
1 of this subsection is less than the amount determined pursuant to 
the provisions of paragraph 2 of this subsection, the Board shall 
make a preliminary finding that the Board anticipates that a finding 
will be made at the February meeting immediately subsequent to the 
December meeting that the revenue computations required by this
section will not authorize the implementation of the rate reduction beginning on the second January 1 following the December meeting.

C. In addition to any other duties prescribed by law, at the meeting required by paragraph 3 of Section 23 of Article X of the Oklahoma Constitution to be held in February of 2018, and for any subsequent February meeting of the State Board of Equalization if the rate reduction has not become effective, the State Board of Equalization shall determine:

1. The amount of estimated revenue growth in the General Revenue Fund of the State Treasury for the fiscal year beginning on the next ensuing July 1; and

2. The amount by which the income tax revenue for the tax year which will begin on the January 1 immediately following the February meeting is estimated to be reduced by a fifteen hundredths percent (.15%) decrease in the top marginal income tax rate, plus an amount equal to Five Hundred Million Dollars ($500,000,000.00) in order for the rate reduction to be effective.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is equal to or greater than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a finding that the revenue computations required by this section will authorize the implementation of the rate reduction beginning on the January 1 immediately following the February meeting.
If the amount determined pursuant to the provisions of paragraph 1 of this subsection is less than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a finding that the revenue computations required by this section do not authorize the implementation of the rate reduction beginning with the January 1 immediately following the February meeting.

D. If the Board makes a finding that the revenue computations required by this section do not authorize the implementation of the rate reduction beginning with calendar year 2019 pursuant to the provisions of subsection C of this section, the procedures prescribed by subsection A, subsection B and subsection C of this section shall be repeated by the State Board of Equalization for each successive two-year comparison. Once the rate reduction has been implemented, such income tax rate shall be in effect for all subsequent tax years.

SECTION 4. REPEALER Section 5, Chapter 195, O.S.L. 2014 (68 O.S. Supp. 2016, Section 2355.1G), is hereby repealed.

SECTION 5. This act shall become effective November 1, 2017.