An Act

ENROLLED SENATE
BILL NO. 602

By: Rader of the Senate

and

Fetgatter of the House

An Act relating to revenue and taxation; amending Section 1, Chapter 343, O.S.L. 2022 (68 O.S. Supp. 2022, Section 2358.6a), which relates to bonus depreciation; clarifying application of depreciation; clarifying procedure for claiming depreciation; authorizing filing of amended tax return under certain conditions; prohibiting Oklahoma Tax Commission from assessing penalties or interest under certain conditions; and providing an effective date.

SUBJECT: Income tax returns

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

SECTION 1. AMENDATORY Section 1, Chapter 343, O.S.L. 2022 (68 O.S. Supp. 2022, Section 2358.6a), is amended to read as follows:

Section 2358.6a. A. As used in this section:

1. "Internal Revenue Code" means Title 26 of the United States Code also known as the federal Internal Revenue Code of 1986, as amended;

2. "Tax Cuts and Jobs Act" means Public Law No. 115-97 (115th Congress Public Law 97);

3. "Qualified property" shall have the same meaning as in Internal Revenue Code Section 168(k) as the Code existed on January 1, 2021, and shall apply to property placed in service after December 31, 2021;

4. "Qualified improvement property" shall have the same meaning as in Internal Revenue Code Section 168(e)(6) as the Code existed on January 1, 2021, and shall apply to property placed in service after December 31, 2021; and

5. "Full expensing" or "one hundred percent (100%) bonus depreciation" means a method for taxpayers to recover costs for certain expenditures in research and experimentation and depreciable business assets by immediately deducting the full cost of such expenditures in the tax year in which the cost is incurred or the property is placed in service.

B. Taxpayers shall have the option for immediate and full expensing for qualified property and qualified improvement property as follows:

1. For purposes of computing income tax for taxable years beginning after December 31, 2021, the cost of expenditures for business assets that are qualified property or qualified improvement property covered under Section 168 of the Internal Revenue Code shall be eligible for one hundred percent (100%) bonus depreciation and may be deducted as an expense incurred by the taxpayer during the taxable year during which the property is placed in service, notwithstanding any changes to federal law related to amortization of cost recovery beginning on or after January 1, 2023, and shall permanently remain fully and immediately deductible as an expense in the tax year in which the property is placed in service for purposes of calculating the taxpayer's income; ~~and~~

2. <u>If a taxpayer elects immediate and full expensing of qualified property or qualified improvement property, any depreciation calculated and claimed pursuant to this section shall in no event be a duplication of any depreciation or bonus depreciation allowed or permitted on the federal income tax return of the taxpayer. For income tax returns filed on or after January 1, 2023, federal taxable income shall be increased by the amount of depreciation received under the Internal Revenue Code for the</u>

qualified property or qualified improvement property for which the election has been made to immediately and fully expense the asset on the Oklahoma income tax return for the year in which the property was placed in service. A taxpayer filing a return for which federal taxable income is not increased as provided for in this section prior to October 1, 2023, shall file an amended return reflecting such increase not later than June 30, 2024. The Tax Commission shall not assess penalties or interest with respect to the failure to reflect such increase if a correct amended return is filed as required herein; and

3. The taxpayer's decision to recover investment costs through immediate expensing in the year the investment cost is incurred, or amortized over an amortization schedule, is irrevocable unless specifically allowed for by the Oklahoma Tax Commission.

C. 1. To conform to Section 179 of the Internal Revenue Code, taxpayers shall be allowed to immediately deduct as an expense the cost of certain depreciable business assets in the tax year in which the property is placed in service.

2. For purposes of computing income tax for taxable years beginning after December 31, 2021, taxpayers may elect to treat the cost of any Section 179 of the Internal Revenue Code property as an expense which is not chargeable to the capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the Section 179 Internal Revenue Code property is placed in service.

D. The Oklahoma Tax Commission shall, within sixty (60) days of the effective date of this act, promulgate rules for implementation of this act which shall conform to the Internal Revenue Code of 1986 and must be consistent with the Internal Revenue Service's rules. The provisions of this section shall supersede to the extent of any inconsistency with any administrative rule.

SECTION 2. This act shall become effective November 1, 2023.

Passed the Senate the 18th day of May, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of April, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 19th

day of May, 20 23, at 10:16 o'clock A. M.

By: Samer Curry

Approved by the Governor of the State of Oklahoma this 25th

day of May, 20 23, at 8:15 o'clock A. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 25th

day of May, 20 23, at 11:24 o'clock A M.

By: Brian Bingman