An Act

(1ST EXTRAORDINARY SESSION)
ENROLLED HOUSE
BILL NO. 1039

By: Wallace, Martinez, Kendrix, Lepak, and Hays of the House

and

Thompson (Roger) and Hall of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2021, Sections 1203, 1204, and 1210, which relate to the franchise tax upon corporations, associations, joint-stock companies, and business trusts, the franchise tax upon foreign corporations, and annual reporting; removing levy of tax after certain year; limiting annual statement requirement to certain years; updating statutory language; providing an effective date; and declaring an emergency.

SUBJECT: Revenue and taxation

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 1203, is amended to read as follows:

Section 1203. ~~There~~ For tax year 2023 and previous tax years, there is hereby levied and assessed a franchise or excise tax upon every corporation, association, joint-stock company and business trust organized under the laws of this state, equal to One Dollar and twenty-five cents ($1.25) for each One Thousand Dollars ($1,000.00) or fraction thereof of the amount of capital used, invested or employed in the exercise of any power, privilege or right inuring to such organization, within this state; it being the purpose of this section to require the payment to ~~the State of Oklahoma~~ this state this tax for the right granted by the laws of this state to exist as such organization and enjoy, under the protection of the laws of this state, the powers, rights, privileges

and immunities derived from the state by reason of the form of such existence.

SECTION 2. AMENDATORY 68 O.S. 2021, Section 1204, is amended to read as follows:

Section 1204. ~~There~~ For tax year 2023 and previous tax years, there is hereby levied and assessed upon every corporation, association, joint-stock company and business trust, organized and existing by virtue of the laws of some other state, territory or country, now or hereafter doing business in this state, as hereinbefore defined, a franchise or excise tax equal to One Dollar and twenty-five cents ($1.25) for each One Thousand Dollars ($1,000.00) or fraction thereof of the amount of capital used, invested or employed within this state; it being the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital, or its equivalent, used, invested or employed in this state for which such organization receives the benefit and protection of the government and laws of the state.

SECTION 3. AMENDATORY 68 O.S. 2021, Section 1210, is amended to read as follows:

Section 1210. A. In addition to any other statement required by law, for tax year 2023 and previous tax years, each and every corporation, association or organization, as enumerated in Sections 1201, 1203, and 1204 of this title, subject to the provisions of Section 1201 et seq. of this title, either during the period of July 1 to August 31, inclusive, of each year, or not later than June 1 for taxpayers that remitted the maximum amount of tax pursuant to Section 1205 of this title for the preceding tax year, or, except for taxpayers that remitted the maximum amount of tax pursuant to Section 1205 of this title for the preceding tax year, on or before the date by which an income tax return is required to be filed pursuant to the provisions of subsection G of Section 2368 of this title or pursuant to the provisions of Section 216 of this title, based upon the election by the taxpayer regarding the due date for payment of tax, shall file with the Oklahoma Tax Commission a statement under oath of its president, secretary or managing officer, or managing agent in this state. The statement shall be in such form as the Tax Commission shall prescribe, including balance sheets as at the close of its last preceding taxable year for which an income tax return was required to be filed, showing the following:

1. The amount of its authorized capital stock, interests, certificates, or other evidence of interest or ownership;

2. The amount thereof then paid up;

3. The number of units into which the same is divided;

4. The par value of each unit and the number of such units issued and outstanding;

5. The location of the office or offices;

6. The value of all property owned or used in its business and wherever located;

7. The value of all property owned or used in its business within this state as it existed on the last day of the tax year;

8. The total amount of all business wherever transacted during the tax year;

9. The total amount of business transacted within ~~the State of Oklahoma~~ this state during such year; and

10. The names of its officers and the residence and post office address of each as the same appear of record on the last day of the tax year, based upon the election by the taxpayer regarding the due date for payment of tax.

B. If any corporation, association or organization making a return under the provisions of Section 1201 et seq. of this title has no authorized capital, or if any of its shares of stock or other evidences of interest or ownership have no par value, then such corporation, association or organization shall so state in its return, and shall, in addition thereto, state the book value of its shares of stock or other evidences of interest or ownership. It shall also, in making its return, make the showing required of all other corporations, associations and organizations, and each foreign corporation shall state the name of its registered agent residing at the capital of the state. The return shall be in such form as the Tax Commission shall prescribe.

C. A corporation or organization subject to the tax levied by Section 1203 or Section 1204 of this title for which the computation

of capital employed in the state equals or exceeds Sixteen Million Dollars ($16,000,000.00), shall file a maximum franchise tax return on such form as may be prescribed by the Oklahoma Tax Commission.

D. The Tax Commission shall prescribe a form for use by corporations or organizations subject to the maximum tax imposed by Section 1205 of this title in order for such corporations or organizations to determine if the value of capital employed in this state requires filing a maximum franchise tax return. The Tax Commission shall also prescribe a form for use by corporations or organizations exempt from the tax imposed by Sections 1203 and 1204 of this title pursuant to Section 1205 of this title. Such form shall include the names of the officers of the corporation or organization and the residence and post office address of each as the same appears of record on the last day of the tax year and a statement attesting that no tax is due for the taxable period. If a corporation or organization is required to file the maximum franchise tax return or is exempt from the tax imposed by Sections 1203 and 1204 of this title pursuant to Section 1205 of this title, such return shall not be subject to the requirements of subsection A of this section and the return shall only contain such information as may be prescribed by the Commission. The return shall be in such form as the Tax Commission shall prescribe.

SECTION 4. This act shall become effective July 1, 2023.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 24th day of May, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of May, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 26th

day of May, 20 23, at 4:14 o'clock p. M.

By: Summer Curry

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 2nd

day of June, 20 23, at 9:48 o'clock A M.

By: Brian Bingman

OFFICE OF

THE GOVERNOR
STATE OF OKLAHOMA

No. HB 1039x

OKLAHOMA CITY, OKLA., June 2, 2023

TIME SIGNED: _____

TO THE HONORABLE SPEAKER OF THE HOUSE
AND MEMBERS OF THE OKLAHOMA HOUSE OF REPRESENTATIVES
FIRST ***EXTRAORDINARY*** SESSION OF THE
FIFTY-NINTH OKLAHOMA LEGISLATURE

ENROLLED HOUSE BILL NO. 1039x:

Free markets and franchise taxes can't coexist, so I applaud the Legislature's decision to eliminate the franchise tax after tax year 2023. I can tell you, as the self-identified torchbearer for tax cuts, that House Bill 1039x is good for business.

That said, the Bill will become law without signature, subject to objections to the unique process by which it made its way to my desk.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

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Delivered to HOUSE by: James Curry

Date/Time: 6/2/23; 11:37am

HOUSE:

By Collette H. Houchen

Date/Time 6/2/23 11:41am

RECEIVED
JUN 02 2023
OKLAHOMA SECRETARY
OF STATE