

1 **SENATE FLOOR VERSION**

2 February 25, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1790

5 By: Leewright

6 [income tax - legislative intent - equity investment
7 - confidentiality - maximum annual deductions -
8 codification - effective date]
9

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

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2358.8 of Title 68, unless there
13 is created a duplication in numbering, reads as follows:

14 A. It is the intent of the Legislature that:

15 1. The state support the growth of technology-based industries
16 to further diversify the state's economy;

17 2. In order to support and encourage these technology-based
18 industries and to further diversify the state's economy, Oklahoma
19 taxpayers should receive an incentive for investing in the growth of
20 these industries in this state;

21 3. The Oklahoma Department of Commerce and the Oklahoma Tax
22 Commission implement the provisions of this act and exercise all
23 powers as authorized in this act. The exercise of powers conferred
24

1 by this act shall be deemed and held to be the performance of
2 essential public purposes; and

3 4. Nothing herein shall be construed to constitute a guarantee
4 or assumption by this state of any debt of any individual, company,
5 corporation or association nor to authorize the credit of the State
6 of Oklahoma to be given, pledged or loaned to any individual,
7 company, corporation or association.

8 B. As used in this section:

9 1. "Eligible business" means a business establishment of any
10 legal form including, but not limited to, a sole proprietorship,
11 partnership, limited liability company, corporation or any other
12 legal form that meets at least one of the following requirements:

- 13 a. operates in a technology-based industry in this state,
- 14 b. is supported by federal small business innovation
15 research grants in this state, or
- 16 c. is supported by technology development or seed capital
17 investments made by the Oklahoma Center for the
18 Advancement of Science and Technology;

19 2. "Equity investment" means an investment in common stock or
20 preferred stock or its equivalent in a corporation, limited
21 liability company or partnership. Equity investment shall not
22 include:

- 23 a. new equity investments in business establishments
24 owned, or partially owned, by an investor or an

1 investor's family members. For the purposes of this
2 section, family members mean parents, grandparents,
3 children, grandchildren or siblings of the investor,
4 or

5 b. any fees or commissions paid by the investor or the
6 eligible business; and

7 3. "Technology-based industry" means:

8 a. those manufacturing activities that are defined or
9 classified in the NAICS Manual under Industry Sector
10 Nos. 31, 32 and 33 and for which the applicable
11 industry is included among the top one-third of
12 manufacturing industries in at least two (2) of the
13 following categories:

14 (1) the amount of capital expenditures in computers
15 and technology equipment, as identified by the
16 Oklahoma Department of Commerce utilizing
17 information from the United States Census Bureau,

18 (2) the proportion of highly-paid production
19 occupations defined as Standard Occupational
20 Classification SOC-51, as identified by the
21 Oklahoma Department of Commerce utilizing
22 information derived from the United States Bureau
23 of Labor Statistics, or

24

1 (3) the proportion of engineers relative to
2 production occupations, as identified by the
3 Oklahoma Department of Commerce utilizing
4 information derived from the Bureau of Labor
5 Statistics,

6 b. those information technology and other computer-
7 related service activities defined or classified in
8 the NAICS Manual under Industry Group Nos. 5112, 5182,
9 5191 and 5415,

10 c. those sound recording and film production activities
11 defined or classified in the NAICS Manual under
12 Industry Group Nos. **512110** and 5122,

13 d. those scientific, research and development services
14 defined or classified in the NAICS Manual under
15 Industry Group No. 5417,

16 e. those professional scientific, consulting, laboratory
17 and technical services defined or classified in the
18 NAICS Manual under Industry Group Nos. 5416, 5419 and
19 6215,

20 f. those engineering and design services defined or
21 classified in the NAICS Manual under Industry Group
22 Nos. 5413 and 5414, or

23 g. those entertainment districts defined pursuant to
24 Section 2393 of Title 68 of the Oklahoma Statutes.

1 C. 1. For taxable years beginning on or after January 1, 2021,
2 and ending on December 31, 2029, there shall be allowed a deduction
3 for up to sixty percent (60%) of an equity investment in an eligible
4 business by an investor.

5 2. The deduction provided by paragraph 1 of this subsection
6 shall be subject to the following:

7 a. the deduction allowed in any taxable tax year shall
8 not exceed fifty percent (50%) of the net Oklahoma
9 income tax liability of the investor after all other
10 credits and deductions have been calculated, and

11 c. any deduction not used in any taxable year may be
12 carried forward for a total of five (5) additional
13 years.

14 D. 1. A business that seeks eligibility for the purposes of an
15 equity investment incentive tax deduction for an investor shall
16 submit an application to the Oklahoma Department of Commerce. The
17 application shall include:

18 a. a business plan describing the proposed business for
19 which eligibility is sought,

20 b. a projection of the amount of capital being sought for
21 the proposed business, and

22 c. other information requested by the Oklahoma Department
23 of Commerce.

24

1 2. The Oklahoma Department of Commerce shall gather information
2 necessary to determine if the business is eligible pursuant to the
3 definition in subsection B of this section and if the tax deduction
4 is revenue neutral to the State of Oklahoma based on information
5 submitted in the application.

6 3. The Oklahoma Department of Commerce shall decide if an
7 equity investment incentive shall be offered to the business.

8 4. If a business is notified of approval of an application as
9 an eligible business, the business shall sign an equity investment
10 incentive agreement with the Oklahoma Department of Commerce.

11 5. The Oklahoma Department of Commerce shall send the signed
12 agreement to the Oklahoma Tax Commission and the investor shall
13 attach the signed agreement to their tax return.

14 6. Information received during the application process by the
15 Oklahoma Department of Commerce shall be considered confidential
16 information and shall not be subject to the provisions of the
17 Oklahoma Open Records Act.

18 E. The Oklahoma Department of Commerce shall promulgate rules
19 for the purpose of administering the provisions of this act.

20 F. The total cumulative amount of tax deductions available in
21 any calendar year shall not exceed Seven Million Five Hundred
22 Thousand Dollars (\$7,500,000.00). In the event the total reduction
23 in tax liability authorized by this paragraph exceeds Seven Million
24 Five Hundred Thousand Dollars (\$7,500,000.00) in any calendar year,

1 the Tax Commission shall permit any excess over Seven Million Five
2 Hundred Thousand Dollars (\$7,500,000.00) but shall factor such
3 excess into the percentage for the following year.

4 SECTION 2. This act shall become effective November 1, 2020.

5 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
6 February 25, 2020 - DO PASS AS AMENDED
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