



Oklahoma  
State  
Senate

# Legislative Brief

June 2004

## Tobacco taxes and other tax changes

### Issue Background

Over 40 measures amended the state's tax laws during the 2004 Legislative Session. They included: increases in the tobacco tax to provide additional revenue for health care; tax preferences to assist senior citizens, veterans and investors; and changes in the fee structure for special license tags. While most will become effective as the result of legislative action, several will require passage by a vote of the people during November's general election.

### Summary of Actions

#### **Tobacco Tax, Capital Gains and Retirement Income**

In November, Oklahoma voters will decide whether or not to approve proposed changes which would increase cigarette and tobacco taxes, permanently reduce income taxes, increase the amount of tax-exempt retirement income and provide an income tax deduction for certain capital gains. House Bill 2660 increases the excise tax on cigarettes by 80¢ per pack, resulting in a total state tax of \$1.03 per 20 cigarette pack. The tax on tobacco products was also increased, with amounts dependent upon the type of product. Because the measure also exempts cigarettes and tobacco products from sales tax, the net revenue increase from cigarette taxes will be approximately 55¢ per pack. The new revenue will be spread across various health-related funding needs, as follows:

- ◆ employee health insurance (22.06%),
- ◆ cancer treatment (0.44%) and construction of a cancer treatment center (3.09%),
- ◆ trauma care (7.5%),
- ◆ medical education (3.09%),
- ◆ Medicaid services (26.38%),
- ◆ mental health and substance abuse services (2.65%), and
- ◆ tobacco cessation programs (0.66%).

The remaining revenue will provide funding to reimburse local governments for the loss in sales tax. The agreement for a sales tax exemption was part of an effort to minimize the pricing disparities between tribal and non-tribal retailers. Under current statutes and tribal compacts, tribal retailers have a pricing advantage of 42¢ per pack - tribes remit 6¢ in excise tax compared to non-tribal retailers who remit 23¢ in excise tax and 25¢ in sales tax. Under the proposal in HB 2660 and new tribal compacts, all retailers would remit 100% of the additional excise tax and no sales tax would be applied. This would reduce the price disparity between tribal and non-tribal retailer pricing to 17¢. Fifty percent of any new excise tax remitted by tribal retailers would be rebated to tribal governments specifically for health, welfare, education and other governmental purposes.

HB 2660 also addressed aspects of Oklahoma's income tax structure. By deleting an income tax trigger mechanism, the top marginal income tax rate is permanently set at 6.65%, down from 7%. It also provides

a deduction for individuals with capital gains which are included in the individual's federal return, earned on real or tangible property located in Oklahoma and held for at least five years or earned on the sale of stock in an Oklahoma company and owned for at least three years. The exemption for retirement income rose, from \$5,500 to \$7,500, as did the income threshold for exemptions for private sector retirement benefits. The age limitation was also eliminated.

### **Senior Citizen Tax Relief**

Another measure on the ballot in November, Senate Joint Resolution 30 (SJR 30), would change the income threshold for one type of property tax relief for senior citizens. SJR 30 calls for a vote of the people on a constitutional amendment to Article X, Section 8C. Beginning in 1997, that section of the constitution provided for a freeze on the fair cash value of an individual's homestead for purposes of property tax. The freeze applies to those individuals 65 or older who actually occupy the property and have a gross household income of \$25,000 or less for the preceding year. Any time a head of household meets the criteria by change in age or income, the freeze may be applied. The law also provides for the freeze to be removed if an individual's circumstances change and he or she no longer qualifies.

The constitutional change proposed in SJR 30 would remove the \$25,000 income threshold. It would replace that single amount with a county-specific median income level, as determined by the U.S. Department of Housing and Urban Development (HUD) each year. HUD calculates a median income for each county unless that county is part of a metropolitan statistical area (MSA). For counties which are part of an MSA, the median income is calculated for the entire MSA. For example, the Tulsa MSA includes Osage, Tulsa, Creek, Wagoner and Rogers Counties. Under the proposal, median incomes would be determined for 63 counties and 5 separate MSAs.

### **Veteran Tax Relief**

Several measures provide assistance to Oklahoma veterans. House Bill 1889 exempts from the charity games tax any bingo face, U-PIK-EM game set, breakopen ticket game and other equipment if purchased by certain veterans' organizations. House Bill 1890 creates a license plate which combines the disabled veterans plate with the regular plate for disabled persons, providing parking access and privileges while still showing classification as a disabled veteran. House Joint Resolution 1044 (HJR 1044) proposes another constitutional amendment providing property tax relief for the November ballot. Under the proposal, after January 1, 2006, any head of household or surviving spouse of a head of household who was honorably discharged with 100% military permanent disability may exempt the full fair cash value of a homestead.

### **Finance and Investment Tax Changes**

Four measures focus on improving the finance and investment climate in Oklahoma. Senate Bill 865 establishes the Local Development Financing Act, enabling certain public entities to issue pooled obligations of local tax increment finance bonds and authorizing a broad range of persons and entities to invest in them. This was intended to provide better marketability for small and/or rural bond issues. Senate Bill 1176 creates a mechanism for providing additional funding to local governments for use in certain tax increment districts through "state local government matching payments". The bill sets out specific criteria which a local government must meet in order to qualify for payments, including a requirement that new sales or investment come from outside the state borders. Under House Bill 2124, two acts structured to encourage capital formation were expanded. Definitions contained in the Small Business Venture Capital Formation Incentive Act and the Rural Venture Capital Formation Act were expanded to qualify new types of investment for tax credits and the authority for the tax credits themselves was extended until 2012. The Oklahoma Quality Investment Act, created under House Bill 2373, provides for a qualified tire manufacturing firm to receive payments from the state for up to five years in the amount of 10% of eligible costs for capital investment for modernization and retooling.

### Special License Tag Fees

House Bill 1994 contains provisions intended to bring uniformity to the issuance of special license plates. Under current law, 84 special plates with fees of either \$5 or \$25 and a variety of purposes are contained in one section of law. This measure creates a tiered system, with existing and new plates categorized into five sections of law: reduced fee plates (\$0 to \$8), recognition of service plates (\$8), demonstration of support plates (\$15), personalized plates (\$20) and fund-raising plates (\$35). While the cost of plates has increased, most by \$3, the new fee structure will more nearly reimburse the Oklahoma Tax Commission for the actual cost of producing the plates. After November 1, 2004, special plates will be obtained by prepaid application. If a specified number of each plate is not ordered before a certain period of time has elapsed, the authority to issue the plate expires. Included are a number of new tags, including a \$40 NASCAR plate.

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