

1 ENGROSSED HOUSE  
2 BILL NO. 2963

By: Wallace and Hilbert of the  
House

3 and

4 Thompson and Hall of the  
5 Senate

6  
7  
8 An Act relating to revenue and taxation; amending  
9 Section 4, Chapter 201, O.S.L. 2019 (68 O.S. Supp.  
10 2020, Section 2355.1P-4), which relates to pass-  
through entity taxation; modifying certain rates; and  
providing an effective date.

11  
12  
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY Section 4, Chapter 201, O.S.L.  
15 2019 (68 O.S. Supp. 2020, Section 2355.1P-4), is amended to read as  
16 follows:

17 Section 2355.1P-4 A. For tax years beginning on or after  
18 January 1, ~~2019~~ 2022, there is hereby levied on each electing pass-  
19 through entity the pass-through entity tax which shall be calculated  
20 as follows:

21 1. With regard to each member of an electing pass-through  
22 entity, the electing pass-through entity shall multiply such  
23 member's Oklahoma distributive share of the electing pass-through  
24 entity's Oklahoma net entity income for the tax year by:

- 1 a. the highest Oklahoma marginal income tax rate levied  
2 on the taxable income of natural persons pursuant to  
3 Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ this  
4 title if the member is an individual, trust, or  
5 estate,
- 6 b. ~~six percent (6%)~~ four percent (4%) if the member is  
7 classified as a corporation pursuant to the Internal  
8 Revenue Code, and is not classified as an S  
9 corporation,
- 10 c. ~~six percent (6%)~~ four percent (4%) if the member is a  
11 pass-through entity,
- 12 d. ~~six percent (6%)~~ four percent (4%) if the member is a  
13 financial institution subject to tax imposed pursuant  
14 to the provisions of Section 2370 of ~~Title 68 of the~~  
15 ~~Oklahoma Statutes~~ this title, and
- 16 e. the highest Oklahoma marginal income tax rate that  
17 would be applicable to any item of the electing pass-  
18 through entity's income or gain without the election  
19 made pursuant to subsection F of this section, if the  
20 member is an organization described in Section 2359 of  
21 ~~Title 68 of the Oklahoma Statutes~~ this title; and

22 2. The electing pass-through entity shall aggregate the amounts  
23 determined with respect to all members pursuant to paragraph 1 of  
24 this subsection and the pass-through entity tax for the applicable

1 tax year shall be equal to such aggregated tax amount for the tax  
2 year with respect to which the election has been made.

3 B. Sections 2385.29, 2385.30 and 2385.31 of ~~Title 68 of the~~  
4 ~~Oklahoma Statutes~~ this title shall not be applicable to an electing  
5 pass-through entity.

6 C. The pass-through entity tax shall be due and payable on the  
7 same date as provided for the filing of the electing pass-through  
8 entity's Oklahoma income tax return, and for tax years beginning on  
9 or after January 1, 2020, estimated tax payments shall be required  
10 as provided in Section 2385.9 of ~~Title 68 of the Oklahoma Statutes~~  
11 this title.

12 D. If the pass-through entity election results in a net entity  
13 loss for Oklahoma income tax purposes in any tax year, the net  
14 entity loss may be carried back and carried forward by the electing  
15 pass-through entity for Oklahoma income tax purposes as set forth in  
16 subparagraph b of paragraph 3 of subsection A of Section 2358 of  
17 this title.

18 E. Notwithstanding paragraph 2 of subsection C of Section 2368  
19 of ~~Title 68 of the Oklahoma Statutes~~ this title, a nonresident  
20 individual who is a member of an electing pass-through entity is not  
21 required to file an Oklahoma income tax return, if, for the taxable  
22 year, the only source of income allocable or apportionable to this  
23 state for the member, or, if a joint income tax return is filed, the  
24 member and his or her spouse, is from one or more electing pass-

1 through entities, and each electing pass-through entity files and  
2 pays the taxes due under this section.

3 F. Any entity required to file an Oklahoma partnership income  
4 tax return or an Oklahoma S corporation income tax return may elect  
5 to become an electing pass-through entity. The election shall be  
6 made on such form and in such manner as the Oklahoma Tax Commission  
7 may prescribe, and any election under this subsection shall have  
8 priority over and revoke any election to file a composite Oklahoma  
9 partnership return or requirement of a Subchapter S corporation to  
10 report and pay tax on behalf of a nonresident shareholder for the  
11 same tax year.

12 G. Pursuant to procedures prescribed by the Tax Commission, if  
13 the amount of tax required to be paid by a pass-through entity  
14 pursuant to the provisions of this section is not paid when due, the  
15 Oklahoma Tax Commission may revoke the pass-through entity's  
16 election under subsection F of this section effective for the first  
17 year for which the tax is not paid.

18 H. The election authorized by the provisions of this section  
19 shall be made pursuant to procedures prescribed by the Tax  
20 Commission and shall be filed (i) within sixty (60) days of  
21 enactment and pursuant to procedures prescribed by the Oklahoma Tax  
22 Commission for any income tax year beginning on or after January 1,  
23 2019, and prior to January 1, 2020, or (ii) for any income tax year  
24 beginning on or after January 1, 2020, at any time during the

1 preceding tax year or two (2) months and fifteen (15) days after the  
2 beginning of the tax year. Any such election shall be binding until  
3 revoked pursuant to procedures prescribed by the Tax Commission.  
4 The effective date of a revocation (i) made within two (2) months  
5 and fifteen (15) days of the electing pass-through entity's taxable  
6 year shall be the first day of such taxable year and (ii) made  
7 during the electing pass-through entity's taxable year but after  
8 such fifteenth day shall be effective on the first day of the  
9 following taxable year. No election made by a pass-through entity  
10 with respect to income tax to be paid by such entity using the  
11 calculations prescribed by this section shall be binding on any  
12 other pass-through entity, and each pass-through entity shall be  
13 able to make an election under the provisions of this act  
14 independently.

15 SECTION 2. This act shall become effective January 1, 2022.

16 Passed the House of Representatives the 18th day of May, 2021.

17

18

19

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

20

21

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2021.

22

23

\_\_\_\_\_  
Presiding Officer of the Senate

24