

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2562

By: Webb

AS INTRODUCED

An Act relating to revenue and taxation; providing procedure for the withholding of income taxes for certain seized or forfeited money; requiring certain notification to the Oklahoma Tax Commission; providing for certain proof that income taxes have already been paid; providing for the return of the withheld amount or a portion thereof under certain circumstances; providing for deposit of monies; defining terms; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2385.25 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any law enforcement agency in this state which obtains possession of any money or property from any person, whether a resident or nonresident of this state, through any lawful seizure or criminal forfeiture procedure shall deduct and withhold from such money a tax in the amount equal to twenty-five percent (25%) of the amount of such money. Any law enforcement agency in this state

which obtains possession of any money pursuant to this subsection shall immediately withhold twenty-five percent (25%) of the value of such money and shall notify the Oklahoma Tax Commission of such action within twenty-four (24) hours of the seizure or forfeiture.

B. Any money obtained by a law enforcement agency in the manner provided for in subsection A of this section shall be deemed to be income derived from sources within the State of Oklahoma unless the person from whom the money was obtained can furnish documented proof, satisfactory to the Oklahoma Tax Commission, that the person has already paid income taxes on the money in this state or any other state. The person shall have sixty (60) days from the date of the forfeiture or seizure to furnish the documented proof.

C. If the Oklahoma Tax Commission determines that there is sufficient proof evidencing that the person paid income taxes on the seized or forfeited money in this state or any other state, the Commission, within sixty (60) days of the determination, shall return the amount withheld pursuant to subsection A of this section to the law enforcement agency in possession of the money. If the Tax Commission determines that any portion of the amount withheld from a person pursuant to subsection A of this section is in excess of the total amount of tax due under the Oklahoma Income Tax Act from such person, the Commission, within sixty (60) days of the determination, shall return the excess amount to the law enforcement agency in possession of the money.

D. If the Tax Commission determines that there is not sufficient proof of the payment of income taxes to this state or any other state on the seized or forfeited money or the person fails to respond within thirty (30) days as provided in subsection B of this section, the total amount withheld from the person pursuant to subsection A of this section shall be distributed as follows:

1. Forty-seven and one-half percent (47 1/2%) of the amount shall be deposited in the Crime Victims Compensation Fund of this state;

2. Forty-seven and one-half percent (47 1/2%) of the amount shall be deposited in the Department of Corrections Revolving Fund to be used for controlled dangerous substance and alcohol abuse rehabilitation programs; and

3. Five percent (5%) of the amount shall be retained by the Oklahoma Tax Commission as costs of maintaining and administering this act.

E. For purposes of this section:

1. "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency;

2. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission and the Oklahoma State Bureau of Investigation; and

3. "Person" means any individual, corporation, association or other entity capable of holding an interest in money.

SECTION 2. This act shall become effective July 1, 1994.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and 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.

44-2-8610

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