

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2071

By: Steidley

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 205, as last amended by Section 12, Chapter 3, O.S.L. 1996 (68 O.S. Supp. 1996, Section 205), which relates to the Uniform Tax Procedure Code; modifying information which may be disclosed by member or employee of Oklahoma Tax Commission; deleting obsolete language; providing procedure for application for limit on fair cash value of certain homestead property; providing for form thereof; defining term; specifying certain duty of Oklahoma Tax Commission; specifying circumstances under which annual application is not required; requiring certain notification to county assessor; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 205, as last amended by Section 12, Chapter 3, O.S.L. 1996 (68 O.S. Supp. 1996, Section 205), is amended to read as follows:

Section 205. A. The records and files of the Tax Commission concerning the administration of the Uniform Tax Procedure Code, Section 201 et seq. of this title, or of any state tax law shall be considered confidential and privileged, except as otherwise provided for by law, and neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files nor any person who may have secured information from the Tax Commission shall disclose any information obtained from ~~said~~ the records or files or from any examination or inspection of the premises or property of any person.

B. Neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody

of any such records or files shall be required by any court of this state to produce any of the records or files for the inspection of any person or for use in any action or proceeding, except when the records or files or the facts shown thereby are directly involved in an action or proceeding pursuant to the provisions of this article or of the state tax law, or when the determination of the action or proceeding will affect the validity or the amount of the claim of the state pursuant to any state tax law, or when the information contained in the records or files constitutes evidence of violation of the provisions of this article or of any state tax law.

C. The provisions of this section shall not prevent the Tax Commission from disclosing the following information and no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to a taxpayer or his or her duly authorized representative of a copy of any report or any other paper filed by ~~him or her~~ the taxpayer pursuant to the provisions of the Uniform Tax Procedure Code, Section 201 et seq. of this title, or of any state tax law;

2. The Oklahoma Tax Commission from entering into reciprocal agreements with other state agencies or agencies of the federal government to exchange any information that is not protected by the federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.;

3. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

4. The examination of ~~said~~ records and files by the State Auditor and Inspector or his or her duly authorized agents;

5. The disclosing of information or evidence to the Attorney General or any district attorney when ~~said~~ the information or evidence is to be used by ~~said~~ such officials to prosecute violations of the criminal provisions of this article or of any state tax law. ~~Said~~ Any information disclosed to the Attorney General or any district attorney shall be kept confidential by

them and not be disclosed except when presented to a court in a prosecution for violation of the tax laws of this state, and a violation by the Attorney General or district attorney by otherwise releasing the information shall be a felony;

6. The use by any division of the Tax Commission of any information or evidence in the possession of or contained in any report or return filed with any other division of the Tax Commission;

7. The furnishing, at the discretion of the Tax Commission, of any information disclosed by ~~said~~ its records or files to any official person or body of this state, any other state or of the United States who is concerned with the administration or assessment of any similar tax in this state, any other state or the United States. The provisions of this paragraph shall include the furnishing of information by the Tax Commission to a county assessor to determine the amount of gross household income pursuant to the provisions of Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title;

8. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to ~~said~~ such requesting agencies;

9. The furnishing of information requested by any member of the general public and stated in the sworn lists or schedules of taxable property of public service corporations organized, existing, or doing business in this state which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2858 of this title and Section 21 of Article X of the Oklahoma Constitution, provided such information would be a public record if filed pursuant to Sections 2838 and 2839 of this title on behalf of a corporation other than a public service corporation;

10. The furnishing of information requested by any member of the general public and stated in the findings of the Oklahoma Tax Commission as to the adjustment and equalization of the valuation of real and personal property of the counties of the state, which are submitted to and certified by the State Board of Equalization

pursuant to the provisions of Section 2865 of this title and Section 21 of Article X of the Oklahoma Constitution;

11. The furnishing of information to an Oklahoma wholesaler of low-point beer, licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma Statutes, of the licensed retailers authorized by law to purchase low-point beer in this state or the furnishing of information to a licensed Oklahoma wholesaler of shipments by licensed manufacturers into this state;

12. The furnishing of information as to the issuance or revocation of any tax permit, license or exemption by the Tax Commission as provided for by law. Such information shall be limited to the name of the person issued ~~said~~ the permit, license or exemption, the name of the business entity authorized to engage in business pursuant to ~~said~~ the permit, license or exemption, the address of ~~said~~ the business entity, and the grounds for ~~said~~ revocation;

13. The posting of notice of revocation of any tax permit or license upon the premises of the place of business of any business entity which has had any tax permit or license revoked by the Tax Commission as provided for by law. Such notice shall be limited to the name of the person issued ~~said~~ the permit or license, the name of the business entity authorized to engage in business pursuant to ~~said~~ the permit or license, the address of ~~said~~ the business entity, and the grounds for ~~said~~ revocation;

14. The furnishing of information upon written request by any member of the general public as to the outstanding and unpaid amount due and owing by any taxpayer of this state for any delinquent tax, together with penalty and interest, for which a tax warrant or a certificate of indebtedness has been filed pursuant to law;

15. After the filing of a tax warrant pursuant to law, the furnishing of information upon written request by any member of the general public as to any agreement entered into by the Tax Commission concerning a compromise of tax liability for an amount less than the amount of tax liability stated on such warrant;

16. The disclosure of information necessary to complete the performance of any contract authorized by Sections 255 and 262 of this title to any person with whom the Oklahoma Tax Commission has contracted;

17. The disclosure of information to any person for a purpose as authorized by the taxpayer pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be made upon such form as the Commission may prescribe;

18. The disclosure of information required in order to comply with the provisions of Section 2369 of this title;

19. The disclosure to an employer, as defined in Sections 2385.1 and 2385.3 of this title, of information required in order to collect the tax imposed by Section 2385.2 of this title;

20. The disclosure to a plaintiff of a corporation's last-known address shown on the records of the Franchise Tax Division of the Commission in order for such plaintiff to comply with the requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

~~21. The disclosure to any person as determined by the Commission to be necessary if, pursuant to the provisions of Section 510 of this title, a distributor of motor fuel and diesel fuel is required to sell such fuel on a tax-paid basis;~~

~~22.~~ The disclosure of information directly involved in the resolution of the protest by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for refund filed by a taxpayer, including the disclosure of the pendency of an administrative proceeding involving such protest or claim, to a person called by the Tax Commission as an expert witness or as a witness whose area of knowledge or expertise specifically addresses the issue addressed in the protest or claim for refund. ~~Said~~ Such disclosure to a witness shall be limited to information pertaining to the specific knowledge of that witness as to the transaction or relationship between taxpayer and witness;

~~23.~~ 22. The disclosure of information necessary to implement an agreement authorized by Section 2702 of this title when such information is directly involved in the resolution of issues arising out of the enforcement of a municipal sales tax ordinance.

~~Said~~ Such disclosure shall be to the governing body or to the municipal attorney, if so designated by the governing body;

~~24.~~ 23. The furnishing of information regarding incentive payments made pursuant to the provisions of Sections 3601 through 3609 of this title or incentive payments made pursuant to the provisions of Sections 3501 through 3508 of this title;

~~25.~~ 24. The furnishing to a prospective purchaser of any business, or his or her authorized representative, of information relating to any liabilities, delinquencies, assessments or warrants of the prospective seller of the business which have not been filed of record, established, or become final and which relate solely to the seller's business. Any disclosure under this paragraph shall only be allowed upon the presentment by the prospective buyer, or ~~his~~ the buyer's authorized representative, of the purchase contract and a written authorization between the parties;

~~26. The notification to the suppliers of a motor fuel distributor who has been required by the Tax Commission to sell motor fuel or diesel fuel on a tax-paid basis pursuant to the provisions of subsection (c) of Section 510 of this title; or~~

~~27.~~ 25. The furnishing of information as to the amount of state revenue affected by the issuance or granting of any tax permit, license, exemption, deduction, credit or other tax preference by the Tax Commission as provided for by law. Such information shall be limited to the type of permit, license, exemption, deduction, credit or other tax preference issued or granted, the date and duration of such permit, license, exemption, deduction, credit or other tax preference and the amount of such revenue. The provisions of this paragraph shall not authorize the disclosure of the name of the person issued such permit, license, exemption, deduction, credit or other tax preference, or the name of the business entity authorized to engage in business pursuant to ~~said~~ the permit, license, exemption, deduction, credit or other tax preference.

D. The Tax Commission shall cause to be prepared and made available for public inspection in the office of the Tax

Commission in such manner as it may determine an annual list containing the name and post office address of each person, whether individual, corporate, or otherwise, making and filing an income tax return with the Tax Commission.

It is specifically provided that no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission of any name or address in the preparation and publication of ~~said~~ the list.

E. The Tax Commission shall prepare or cause to be prepared an annual report on all provisions of state tax law that reduce state revenue through exclusions, deductions, credits, exemptions, deferrals or other preferential tax treatments. The report shall be prepared not later than November 1 of each year and shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Tax Commission may prepare and submit supplements to the report at other times of the year if additional or updated information relevant to the report becomes available. The report shall include, for the previous fiscal year, the Tax Commission's best estimate of the amount of state revenue that would have been collected but for the existence of each such exclusion, deduction, credit, exemption, deferral or other preferential tax treatment allowed by law. The Tax Commission may request the assistance of other state agencies as may be needed to prepare the report.

F. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to income tax or to any other taxes.

G. Unless otherwise provided for in this section, any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term not exceeding one (1) year, or by

both ~~said~~ such fine and imprisonment, and the offender shall be removed or dismissed from office.

H. Offenses described in Section 2376 of this title shall be reported to the appropriate district attorney of this state by the Tax Commission as soon as ~~said~~ the offenses are discovered by the Tax Commission or its agents or employees. The Tax Commission shall make available to the appropriate district attorney or to the authorized agent of ~~said~~ the district attorney its records and files pertinent to ~~said~~ prosecutions, and ~~said~~ such records and files shall be fully admissible as evidence for the purpose of ~~said~~ such prosecutions.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2890.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The application for a limit on the fair cash value of homestead property as provided for in Section 8C of Article X of the Oklahoma Constitution shall be made before March 15 or within thirty (30) days from and after receipt by the taxpayer of notice of valuation increase, whichever is later. Such application shall be made upon a form prescribed by the Oklahoma Tax Commission, which shall require the taxpayer to certify as to the amount of gross household income. As used in Section 8C of Article X of the Oklahoma Constitution, "gross household income" shall be as defined in Section 2890 of Title 68 of the Oklahoma Statutes. Upon request of the county assessor, the Oklahoma Tax Commission shall assist in verifying the correctness of the amount of the gross income.

B. For persons who have previously qualified for the limitation on the fair cash value of homestead property as provided for in Section 8C of Article X of the Oklahoma Constitution, no annual application shall be required in order to be subject to the limitation; provided:

1. Any such person whose gross household income in any calendar year exceeds Twenty-five Thousand Dollars (\$25,000.00) shall notify the county assessor and the limitation shall not be allowed for the applicable year; and

2. Any such person who makes improvements to the property shall notify the county assessor and the improvements shall be assessed in accordance with law by the county assessor and added to the assessed value of the property as provided in Section 8C of Article X of the Oklahoma Constitution.

C. Any executor or administrator of an estate within which is included a homestead property subject to the limitation of the fair cash value of homestead property as provided for in Section 8C of Article X of the Oklahoma Constitution shall notify the county assessor of the change in status of the homestead property if such property is not the homestead of a person who would be eligible for the limitation of the fair cash value of homestead property.

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.

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