

SHORT TITLE: Revenue and taxation; authorizing Oklahoma Tax Commission to abate tax liability, interest and penalties upon certain finding pursuant to settlement agreement; codification; conditional effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1271

By: Douglass

AS INTRODUCED

An Act relating to revenue and taxation; authorizing Oklahoma Tax Commission to abate tax liability, interest and penalties upon certain finding pursuant to settlement agreement; allowing Tax Commission to consider certain circumstances; requiring agreements to contain certain provision; requiring unanimous vote of members of Tax Commission to abate tax liability; providing that such decision is final and prohibiting appeal therefrom; requiring certain approval; providing for construction of provisions; requiring Tax Commission to promulgate certain rules; providing for codification; and providing a conditional effective date.

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 219.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In accordance with the provisions of the amendment to Section 5 of Article X of the Oklahoma Constitution as set forth in Senate Joint Resolution No. \_\_\_ of the 2nd Session of the 46th Oklahoma Legislature, the Oklahoma Tax Commission is hereby authorized to abate all or any portion of tax liability and interest

and penalties accruing thereto, pursuant to a settlement agreement entered into with a taxpayer, if the Tax Commission finds, by clear and convincing evidence, that:

1. Collection of the tax liability and interest and penalties accruing thereto would reasonably result in the taxpayer declaring bankruptcy;

2. The tax is uncollectible due to insolvency of the taxpayer resulting from factors beyond the control of the taxpayer or for other similar cause beyond the control of the taxpayer; or

3. The tax liability is attributable to actions of a person other than the taxpayer and it would be inequitable to hold the taxpayer liable for the tax liability.

B. The Tax Commission may consider the following circumstances, in addition to any other aggravating or mitigating circumstances, in determining whether or not to enter into an agreement pursuant to the provisions of this section:

1. Whether the taxpayer has made efforts in good faith to comply with the tax laws of this state;

2. Whether the taxpayer has benefited from nonpayment of the tax; and

3. Involvement of the taxpayer in economic activity from which the tax liability originated.

C. All agreements entered into pursuant to the provisions of this section shall provide for the collection of all or a portion of the tax liability if at all possible, and in all cases collection of the tax liability shall take precedence over collection of interest and penalties.

D. Any abatement of tax liability authorized by this section shall only be granted by a unanimous vote of the members of the Tax Commission. The decision of the members of the Tax Commission in denying the abatement of any tax liability pursuant to this section

shall be final and no right of appeal to any court may be taken from such decision.

E. In any case where the amount of tax liability to be abated pursuant to an agreement entered into pursuant to the provisions of this section exceeds One Thousand Five Hundred Dollars (\$1,500.00), the agreement shall not be effective until it shall have been approved by one of the judges of the district court of Oklahoma County, after a full hearing thereon.

F. The provisions of this section shall not be construed to grant any legal right to any taxpayer for the abatement of any tax liability. A decision to grant abatement of tax liability pursuant to the provisions of this section shall be a discretionary act within the authority of the members of the Tax Commission.

G. The Tax Commission shall promulgate rules to implement the provisions of this section.

SECTION 2. This act shall become effective upon certification of election returns favoring passage of the Constitutional Amendment proposed in Senate Joint Resolution No. \_\_\_ of the 2nd Session of the 46th Oklahoma Legislature.

46-2-2210

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