

SHORT TITLE: Revenue and taxation; Tax Commission to return payments or documents received through error of taxpayer or notify taxpayer; allowing payment for loss incurred; liability not incur to member or employee of Tax Commission; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 51

By: Hendrick

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 227, as amended by Section 11, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 1996, Section 227), which relates to the Uniform Tax Procedure Code; requiring Oklahoma Tax Commission to return payments or documents received through error of taxpayer or notify taxpayer; allowing payment for loss incurred; providing that liability not incur to member or employee of Tax Commission; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 227, as amended by Section 11, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 1996, Section 227), is amended to read as follows:

Section 227. ~~(a)~~ A. Any taxpayer who has paid to the State of Oklahoma, through error of fact, or computation, or misinterpretation of law, any tax collected by the Oklahoma Tax Commission may, as hereinafter provided, be refunded the amount of such tax so erroneously paid, without interest.

~~(b)~~ B. Any taxpayer who has so paid any such tax may, within three (3) years from the date of payment thereof file with the Tax Commission a verified claim for refund of such tax so erroneously paid. The Tax Commission may accept an amended sales tax,

withholding tax or other report or return as a verified claim for refund if the amended report or return establishes a liability less than the original report or return previously filed.

~~(c)~~ C. A claim so filed with the Tax Commission, except for an amended report or return, shall specify the name of the taxpayer, the time when and period for which said tax was paid, the nature and kind of tax so paid, the amount of the tax which ~~said~~ the taxpayer claimed was erroneously paid, the grounds upon which a refund is sought, and such other information or data relative to such payment as may be necessary to an adjustment thereof by the Tax Commission. It shall be the duty of the Tax Commission to determine what amount of refund, if any, is due as soon as practicable after such claim has been filed and advise the taxpayer about the correctness of ~~his~~ the claim and the claim for refund shall be approved or denied by written notice to the taxpayer.

~~(d)~~ D. If the claim for refund is denied, the taxpayer may file a demand for hearing with the Tax Commission. The demand for hearing must be filed on or before the thirtieth day after the date the notice of denial was mailed. If the taxpayer fails to file a demand for hearing, the claim for refund shall be barred.

~~(e)~~ E. Upon the taxpayer's timely filing of a demand for hearing, the Tax Commission shall set a date for hearing ~~upon~~ on the claim for refund, which date shall not be later than sixty (60) days from the date the demand for hearing was mailed. The taxpayer shall be notified of the time and place of the hearing. The hearing may be held after the sixty-day period provided by this subsection upon agreement of the taxpayer.

~~(f)~~ F. The provisions of this section shall not apply: ~~(1)~~ to  
1. To refunds of income tax erroneously paid, refunds of which tax shall be payable out of the income tax adjustment fund as provided by law; ~~(2)~~ to

2. To estate tax because the payment of such tax is covered by an order of the Tax Commission and the estate and interested parties are given notice that the Tax Commission's position and computation of the tax will become final unless they protest and resist the payment thereof as provided by statute; ~~nor, (3) in or~~

3. In any case where the tax was paid after an assessment thereof was made by the Tax Commission which assessment became final under the law.

G. The Tax Commission shall return to the taxpayer, as soon as practicable, any payment or document which it has received through an obvious error on the part of the taxpayer, or, if not practicable to return the payment or document to the taxpayer, shall notify the taxpayer by mail that it received the payment or document. The Tax Commission may, in its sole discretion, pay to a taxpayer any loss incurred by the taxpayer due to the Tax Commission's failure to return such a payment. No member or employee of the Tax Commission shall incur any liability for failure to return such a payment or document or to pay any loss occasioned thereby.

SECTION 2. This act shall become effective November 1, 1997.

46-1-0591

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