

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1074

By: Williamson

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 221, as amended by Section 1, Chapter 407, O.S.L. 1999, 225, as last amended by Section 26, Chapter 293, O.S.L. 1999, 227, as amended by Section 11, Chapter 146, O.S.L. 1993, 228, 815, as last amended by Section 5, Chapter 334, O.S.L. 1996 (68 O.S. Supp. 1999, Sections 221, 225, 227 and 815), which relate to the Uniform Tax Procedure Act and estate taxes; modifying requirements and procedures relating to certain hearings before Oklahoma Tax Commission; specifying certain duties of Tax Commission; modifying procedures for appeal from decisions of Tax Commission; specifying circumstances under which decisions of Tax Commission deemed final; requiring availability for public inspection and publication of certain decisions; providing and specifying procedures for appeal from decisions of district court; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 221, as amended by Section 1, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 1999, Section 221), is amended to read as follows:

Section 221. A. If any taxpayer shall fail to make any report or return as required by any state tax law, the Oklahoma Tax Commission, from any information in its possession or obtainable by it, may determine the correct amount of tax for the taxable period. If a report or return has been filed, the Tax Commission shall examine such report or return and make such audit or investigation as it may deem necessary. If, in cases where no report or return has been filed, the Tax Commission determines that there is a tax due for the taxable period, or if, in cases where a report or return has been filed, the Tax Commission shall determine that the tax

disclosed by such report or return is less than the tax disclosed by its examination, it shall in writing propose the assessment of taxes or additional taxes, as the case may be, and shall mail a copy of the proposed assessment to the taxpayer at the taxpayer's last-known address. Proposed assessments made in the name of the "Oklahoma Tax Commission" by its authorized agents shall be considered as the action of the Tax Commission.

B. Any assessment, correction or adjustment made as a result of an office audit shall be presumed to be the result of an audit of the report or return only, and such office audit shall not be deemed a verification of any item in the report or return unless the item shall have been made the subject of a hearing before the Tax Commission, and the correctness and amount of such item determined at such hearing; and such office audit shall not preclude the Tax Commission from subsequently making further adjustment, correction or assessment as a result of a field audit of the books and records of the taxpayer, wherever located, or upon disclosures from any source other than the return. In cases where no report or return has been filed, the assessment of the tax on any information available shall in no event preclude the assessment at any time on subsequently disclosed information.

C. Within thirty (30) days after the mailing of the aforesaid proposed assessment, the taxpayer may file with the Tax Commission a written protest under oath, signed by the taxpayer or the taxpayer's duly authorized agent, setting out therein:

1. A statement of the amount of deficiency as determined by the Tax Commission, the nature of the tax and the amount thereof in controversy;

2. A clear and concise assignment of each error alleged to have been committed by the Tax Commission;

3. The argument and legal authority upon which each assignment of error is made; provided, that the applicant shall not be bound or

restricted in such hearing, or on appeal, to the arguments and legal authorities contained and cited in the application;

4. A statement of relief sought by the taxpayer; and

5. A verification by the taxpayer or the taxpayer's duly authorized agent that the statements and facts contained therein are true.

D. If in such written protest the taxpayer shall request an informal oral hearing, the Tax Commission shall grant such hearing, and shall, by written notice, advise the taxpayer of a date, which shall not be less than ten (10) days from the date of mailing of such written notice, when such taxpayer may appear before the Tax Commission and present arguments and evidence, oral or written, in support of the protest. ~~Hearings~~ Informal hearings on taxpayer protests shall be held by the Tax Commission as soon as practicable. In the event an informal oral hearing is not requested, the Tax Commission shall proceed without further notice to examine into the merits of the protest and enter an order in accordance with its findings. Upon request of any taxpayer and upon proper showing that the principle of law involved in the assessment of any tax is already pending before the courts for judicial determination, the taxpayer, upon agreement to abide by the decision of the court, may pay the tax so assessed under protest and such protest shall be resolved in accordance with the agreement to abide.

E. Within a reasonable time after the informal oral hearing herein provided for, the Tax Commission shall make and enter an order in writing in which it shall set forth its decision on the taxpayer's protest and a copy of such order shall forthwith be mailed to the taxpayer. The order and decision shall contain findings of fact and conclusions of law. The taxpayer may, within the time and in the manner provided for by Section 225 of this title, appeal the decision to the district court of Oklahoma County, but in the event the taxpayer fails to so proceed, the decision

shall, within thirty (30) days from the date a certified copy thereof is mailed to the taxpayer, become final. The provisions of Section 226 of this title shall not apply where a proposed assessment or an assessment of taxes has been permitted to become a final decision of the Tax Commission.

F. If the taxpayer fails to file a written protest with the Tax Commission within the thirty-day period herein provided for in subsection C of this section or within the period as extended by the Tax Commission, or if the taxpayer fails to file the notice required by Section 226 of this title within thirty (30) days from the date of mailing of an assessment, then the proposed assessment, ~~without further action of the Tax Commission,~~ shall become ~~final and absolute at the expiration of thirty (30) days from the date same is mailed to the taxpayer or, in cases in which an extension has been granted for filing a protest pursuant to this section, at the expiration of the period as extended by the Tax Commission~~ a decision of the Tax Commission and written notice of the decision shall be promptly mailed to the taxpayer. The taxpayer may, within the time and the manner provided for by Section 225 of this title, appeal the decision to the district court of Oklahoma County, but in the event the taxpayer fails to so proceed, the decision shall, upon the expiration of thirty (30) days from the date the decision is mailed to the taxpayer, become final.

G. After removing the identity of the taxpayer, the Tax Commission shall promptly make its decisions entered under subsection E of this section available for public inspection and shall publish those decisions the Tax Commission deems to be of precedential value.

H. A taxpayer who fails to file a protest to an assessment of taxes within the time period prescribed by this section may, within one (1) year of the date the assessment becomes a final decision of the Tax Commission, request the Tax Commission to adjust or abate

the assessment if the taxpayer can demonstrate, by a preponderance of the evidence, that the assessment or some portion thereof is clearly erroneous. If the Tax Commission determines that the proper showing has been made, the assessment or portion thereof determined to be clearly erroneous shall be deemed not to have become final and absolute. No hearing to adjust or abate a clearly erroneous assessment may be granted after the Tax Commission's denial of such a request. An order of the Tax Commission denying a taxpayer's request to adjust or abate an assessment alleged to be clearly erroneous is not an appealable order under Section 225 of this title. No proceeding instituted by the Tax Commission to collect a tax liability may be stayed because of a request made by a taxpayer to adjust or abate an assessment alleged to be clearly erroneous.

~~F.~~ I. The Tax Commission may in its discretion extend the time for filing a protest for any period of time not to exceed an additional ninety (90) days. Any extension granted shall not extend the period of time within which the notice required by Section 226 of this title may be filed.

~~G.~~ ~~Within a reasonable time after the hearing herein provided for, the Tax Commission shall make and enter an order in writing in which it shall set forth the disposition made of the protest and a copy of such order shall forthwith be mailed to the taxpayer. The order shall contain findings of fact and conclusions of law. After removing the identity of the taxpayer, the Tax Commission shall make the order available for public inspection and shall publish those orders the Tax Commission deems to be of precedential value. The taxpayer may within the time and in the manner provided for by Section 225 of this title, appeal to the Supreme Court, but in the event the taxpayer fails to so proceed, the order shall within thirty (30) days from the date a certified copy thereof is mailed to the taxpayer, become final. The provisions of Section 226 of this~~

~~title shall not apply where a proposed assessment or an assessment of taxes has been permitted to become final.~~

H. J. In all instances where the proposed assessment or the assessment of taxes or additional taxes has been permitted to become a final decision of the Tax Commission, a certified copy of the ~~assessment~~ decision may be filed in the office of the county clerk of any county in this state, and upon being so filed, the county clerk shall enter same upon the judgment docket in the same manner as provided for in connection with judgments of district courts. When ~~an assessment~~ a decision is so filed and docketed, it shall have the same force and be subject to the same law as a judgment of the district court, and accordingly ~~it~~ the amount of the assessment shall constitute a lien on any real estate of the taxpayer located in the county wherein filed; and execution may issue and proceedings in aid of execution may be had the same as on judgments of district courts. Such lien is hereby released and extinguished upon the payment of such assessment, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which the ~~assessment~~ decision was filed in the office of the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, refile the ~~assessment~~ decision one time in the office of the county clerk. ~~An assessment~~ A decision so refiled shall continue the lien until payment of the assessment, or upon the expiration of ten (10) years after the date upon which the ~~assessment~~ decision was refiled in the office of the county clerk. The remedies provided in this subsection shall be in addition to other remedies provided by law. All active liens evidenced by an assessment filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the ~~assessment~~ decision associated therewith is not refiled prior to November 1, 2001.

I. K. In order to make more definite the intention of the Legislature in connection with the applicability or lack of

applicability of the refund provisions of the tax statutes to those treating with proposed assessments and assessments that have become final decisions of the Tax Commission, the Legislature being cognizant of the fact that such intent has been questioned, it is declared to be the intent of the Legislature that the refund provisions shall be without application to taxes where the amount thereof has been determined by an assessment, other than an assessment designated as an "office audit", that has become final.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 225, as last amended by Section 26, Chapter 293, O.S.L. 1999 (68 O.S. Supp. 1999, Section 225), is amended to read as follows:

Section 225. A. Any taxpayer aggrieved by any order, ruling, ~~or~~ finding or decision of the Oklahoma Tax Commission directly affecting the taxpayer or aggrieved by a final ~~order~~ decision of the Tax Commission issued pursuant to subsection ~~(g)~~ E or F of Section 221 of this title may appeal therefrom directly to the ~~Supreme Court of Oklahoma~~ District Court of Oklahoma County, hereinafter also sometimes referred to as "district court".

B. Within thirty (30) days after the date of mailing to the taxpayer of ~~the order, ruling, or finding complained of~~ a decision of the Tax Commission, the taxpayer desiring to appeal such decision shall file a petition for review thereof in the District Court of Oklahoma County. Upon filing of such petition within such thirty-day period, the district court shall hear the appeal thereof de novo as to facts and law, and then enter its written decision and cause the decision to be mailed to the taxpayer and the Tax Commission.

C. Within thirty (30) days after the date of mailing to the taxpayer of the decision of the district court, the taxpayer desiring to appeal such decision shall:

1. File a petition in error in the office of the Clerk of the Supreme Court;

2. Make cash payment of any tax, additional tax, penalty, and interest involved to the Tax Commission, or in lieu of this payment, file a bond for payment with the Tax Commission or a performance bond, if applicable, as and to the extent required in the case and as specified in subsections ~~C, F~~ D, G, and E H of this section; and

3. Request that the ~~Tax Commission~~ district court prepare for filing with the Supreme Court, within thirty (30) days, the record of the appeal, ~~certified by the Secretary of the Tax Commission, and~~ consisting of any citations, findings, judgments, motions, orders, pleadings and rulings, together with a transcript of all evidence introduced at any hearing relative thereto, or such portion of such citations, findings, judgments, motions, orders, pleadings, rulings, and evidence as the appealing parties and the Tax Commission may agree to be sufficient to present fully to the Supreme Court the questions involved.

~~C. Upon request of the taxpayer, the Tax Commission shall furnish the taxpayer a copy of the proceedings had in connection with the matter complained of.~~

D. If the appeal is from an order of the Tax Commission assessing a tax or an additional tax, a penalty, or interest, then within thirty (30) days from the date of mailing to the taxpayer of the order, ruling, or finding complained of, the taxpayer filing the appeal shall pay to the Tax Commission the amounts of tax, additional tax, any penalty assessed, and interest accrued through the date of the payment, and the payment by the taxpayer to the Tax Commission within that thirty-day period is a condition precedent to the right of the taxpayer to make and prosecute an appeal, and a jurisdictional prerequisite to the Supreme Court having jurisdiction to hear and determine the appeal. If, upon a final determination of the appeal the order assessing a tax, penalty, or interest is reversed or modified and it is determined that the tax or part thereof was erroneously or illegally assessed, the amounts paid by

the taxpayer, together with the interest thereon at the rate of three percent (3%) per annum, shall be refunded to the taxpayer by the Tax Commission.

E. If the appeal is from ~~an order of the Tax Commission or a~~ a decision of the district court denying a refund of taxes previously paid and if upon final determination of the appeal, the order denying the refund is reversed or modified, the taxes previously paid, together with interest thereon from the date of the filing of the petition in error at the rate of three percent (3%) per annum, shall be refunded to the taxpayer by the Tax Commission.

F. Such refunds and interest thereon shall be paid by the Tax Commission out of monies in the Tax Commission clearing account from subsequent collections from the same source as the original tax assessment, provided that in the event there are insufficient funds for refunds from subsequent collections from the same source, the refund shall be paid by the Tax Commission from monies appropriated by the Legislature to the special refund reserve account for such purposes as hereinafter provided. There is hereby created within the official depository of the State Treasury an agency special account for the Tax Commission for the purpose of making such refunds as may be required under this section, not otherwise provided. This account shall consist of monies appropriated by the Legislature for the purpose of making refunds under this section.

G. In lieu of the cash payment provided for in subsection ~~E~~ D of this section, the taxpayer may file with the Tax Commission, pursuant to Section 210 of this title, a bond in double the amount of the tax, additional tax, penalties and interest so assessed, conditioned that the taxpayer will faithfully and diligently prosecute such appeal to a final determination, and in the event the order of the ~~Tax Commission~~ be district court is affirmed on appeal, will pay such tax, additional tax, penalties and interest, and costs so assessed against the taxpayer. Any bond submitted pursuant to

this subsection must be approved by the Tax Commission as to form and amount and accepted within the time prescribed for filing an appeal.

H. If the appeal be from ~~an order, judgment, finding, or ruling of the Tax Commission~~ a decision of the district court other than one assessing a tax and from which a right of appeal is not otherwise specifically provided for in this article, any aggrieved taxpayer may appeal from that ~~order, judgment, finding, or ruling decision~~ as provided in this section and may supersede the effect of such ~~order, judgment, ruling, or finding decision~~ by filing with the ~~Tax Commission~~ district court a bond in an amount fixed by the ~~Tax Commission~~ district court payable to the State of Oklahoma conditioned that the appeal will faithfully and diligently be prosecuted to a final determination, and in the event the ~~order, judgment, ruling, or finding of the Tax Commission~~ be decision of the district court is affirmed on appeal, that such person will immediately conform thereto.

I. This section shall be construed to provide to the taxpayer a legal remedy by action at law in any case where a tax, or the method of collection or enforcement thereof, or any order, ruling, finding, or judgment of the Tax Commission is complained of, or is sought to be enjoined in any action in any court of this state or the United States of America.

J. This section shall provide the Tax Commission the right to appeal from any decision of the district court. Within thirty (30) days from the date of mailing to the Tax Commission of the decision of the district court, the Tax Commission, if it desires to appeal, shall file in the office of the Clerk of the Supreme Court a petition in error. The Tax Commission shall also request that the district court prepare for filing with the Supreme Court the record of the appeal consisting of any citations, findings, judgments, motions, orders, pleadings and rulings, together with a transcript

of all evidence introduced at any hearing relative thereto, or such portion of such citations, findings, judgments, motions, orders, pleadings, rulings and evidence as the Tax Commission and other parties may agree to be sufficient to present fully to the Supreme Court the questions involved.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 227, as amended by Section 11, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 1999, 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)~~ ~~Said~~ C. The 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~~ the 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 an informal hearing with the Tax Commission. The demand for an informal 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 an informal hearing, the claim for refund shall be barred.

~~(e)~~ E. Upon the taxpayer's timely filing of a demand for an informal hearing, the Tax Commission shall set a date for such hearing upon the claim for refund which date shall not be later than sixty (60) days from the date the demand for such hearing was mailed. The taxpayer shall be notified of the time and place of the informal hearing. The informal 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.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 228, is amended to read as follows:

Section 228. ~~(a)~~ A. If, upon the informal hearing as required by Section 227 of this title, the Oklahoma Tax Commission finds that such tax was erroneously paid through mistake of fact, or computation or misinterpretation of law, it shall enter its written

order allowing ~~said~~ the claim for refund, which refund may be paid to the taxpayer as provided by law, or credited against any taxes due or to become due by the taxpayer as the case may be; otherwise, the Tax Commission shall deny ~~said~~ the claim. The taxpayer shall have the right of appeal to the ~~Supreme Court~~ District Court of Oklahoma County from a decision of the Tax Commission denying ~~said~~ the claim for refund as provided in Section 225 of this ~~article~~ title.

~~(b)~~ B. Any order entered by the Tax Commission, disallowing a claim for refund, shall become final within thirty-one (31) days from the date it is entered, unless an appeal is prosecuted therefrom, in which event ~~said~~ the order shall not become final until the appeal shall have been determined. In the event the Tax Commission allows ~~said~~ the claim for refund, it shall pay the claimant the amount of the refund, so allowed out of funds in the official depository clearing account of the Tax Commission, derived from collections in ~~said~~ the fund from the same source from which the overpayment occurred; and an appropriation of so much of ~~said~~ the fund as is necessary to pay ~~said~~ the claims for refund erroneously paid or collected is hereby made; provided, that in the case of refunds due hereunder to taxpayers who are required to remit taxes to the Tax Commission on a monthly or quarterly basis, the Tax Commission may, in lieu of a refund of the tax erroneously paid, credit the account of the taxpayer for such amount.

SECTION 5. AMENDATORY 68 O.S. 1991, Section 815, as last amended by Section 5, Chapter 334, O.S.L. 1996 (68 O.S. Supp. 1999, Section 815), is amended to read as follows:

Section 815. A. 1. The executor, administrator, trustee, devisee, heir or transferee shall within nine (9) months after the date of death of the decedent, unless the time has been extended by the Oklahoma Tax Commission, make a detailed return, verified by affidavit, to the Tax Commission upon forms furnished by it, giving

all the information called for or that may be necessary to determine the value of the net estate. The provisions of this subsection shall not apply to estates exempt from filing such return by the provisions of subsections D and E of this section.

2. For estate tax returns filed pursuant to this section, an extension of time to file the return may be granted for a period not to exceed six (6) months. The request for the extension shall be made to the Tax Commission before the expiration of the normal filing period as allowed pursuant to paragraph 1 of this subsection.

B. Upon receipt of such return the Tax Commission shall proceed to audit the same and may, for the purpose of determining the value of the estate or any transfer, audit the books of account and records of any executor, administrator, trustee, devisee, heir, corporation, bank, trust company or transferee, and may appraise the property transferred or returned and investigate and include any property or transfers which may have been omitted from the return and shall thereupon compute, and by order assess, the tax, together with any interest or penalty which it may find to be due, and shall forthwith notify the administrator, executor, trustee or transferee and ~~their~~ such person's attorney of record of such assessment by furnishing a detailed statement of the values of ~~said~~ the estate or transfers, as fixed by the Tax Commission, and the amount of tax assessed. Such notice may be delivered in person or may be by mail addressed to such administrator, executor, trustee, transferee and ~~their~~ such person's attorney of record at their last-known post office addresses, with the postage thereon prepaid, and upon receipt of such notice of assessment, the administrator, executor, trustee, devisee, heir or transferee liable for such tax shall pay the tax to the Tax Commission as provided herein. Provided, however, that if upon receipt of such notice the administrator, executor, or trustee or any party interested is dissatisfied with such findings or assessment or any appraisement made by the Tax Commission, ~~he~~ such

person shall, within thirty (30) days from the date of mailing of such notice, file with the Tax Commission ~~his~~ the objection, in writing, specifically setting forth the grounds of ~~his~~ the objections, and thereupon the Tax Commission may grant a an informal hearing, and upon such hearing may adjust the matters in controversy and correct the assessment as justice may require. Provided further, the administrator, executor, trustee or any interested party who finds, within one (1) year from the date of mailing of the notice, an error of omission or inclusion of property on return, may file in writing, an objection with the Tax Commission specifically setting forth the grounds of ~~his~~ the objection, and thereupon the Tax Commission shall grant a an informal hearing, and upon such hearing shall adjust the matters in controversy and add to or delete from the return such property as justice may require.

An administrator, executor, trustee or any interested party who fails to file ~~his~~ an objection within the thirty-day time period prescribed by this section may, within one (1) year from the date of mailing of the notice, request the ~~Oklahoma~~ Tax Commission to adjust or abate the assessment for reasons other than an error of omission or inclusion of property on return, if the administrator, executor, trustee or any interested party can demonstrate, by a preponderance of the evidence, that the assessment or some portion thereof is clearly erroneous. If the Tax Commission determines that the proper showing has been made, the assessment or portion thereof determined to be clearly erroneous shall be deemed not to have become final and absolute. No hearing to adjust or abate a clearly erroneous assessment may be granted after the denial by the Tax Commission of such a request. An order of the Tax Commission denying a request of an administrator, executor, trustee or any interested party to adjust or abate an assessment alleged to be clearly erroneous is not an appealable order under Section 225 of this title. No proceeding instituted by the ~~Oklahoma~~ Tax Commission to collect a tax liability

may be stayed because of a request made by a taxpayer to adjust or abate an assessment alleged to be clearly erroneous.

C. No assessment of inheritance, estate or transfer tax shall be made hereunder subsequent to the lapse of ten (10) years after the date of the death of any decedent, except that this time limitation on the making of assessments and the beginning of proceedings for collection shall not affect or apply to assessments of inheritance, estate, transfer or gift taxes upon the estates of restricted Indians. If an estate tax return is filed as required by law, additional assessment may be made based upon unreported assets of the estate if such assessment is made not later than ten (10) years from the date of death of the decedent; provided, however, such additional assessment shall be made and any lien applicable thereto shall attach only against such unreported assets.

D. When all the property, both real and personal, of a decedent passes to the surviving spouse, no estate tax return shall be required and no order from the Tax Commission exempting such estate, the executor, administrator or beneficiary from payment of estate tax shall be necessary for any purpose, unless there are taxes due under the provisions of Section 804 of this title. However, an estate tax return or affidavit in a form provided by the ~~Oklahoma~~ Tax Commission may be filed which indicates that all the property of the decedent passes to the surviving spouse, and the Tax Commission, upon being satisfied from an examination of ~~said~~ the return or affidavit and any other information available to it that all of the property of the decedent passes to the surviving spouse, shall issue an order exempting as nontaxable all property included in such decedent's estate.

E. When an order releasing estate tax liability is obtained from the district court, as provided in Section 801 et seq. of this act title, no estate tax return shall be required and no order from the Tax Commission exempting such estate, the executor,

administrator or beneficiaries from the payment of estate tax shall be necessary for any purpose for any property described in such order of the district court.

F. The provisions of this section or Section 205 of this title shall not prevent the Tax Commission from delivering, upon written request, to a duly authorized representative of the taxpayer, or any individual who has judicially been determined to be an heir, devisee, or legatee of the taxpayer by a court of competent jurisdiction, or any individual named as a beneficiary of a trust of the taxpayer, a copy of any return exclusive of distribution schedule, any order assessing tax or any other paper or report filed or issued pursuant to the provisions of ~~Sections~~ Section 801 et seq. of this title.

SECTION 6. This act shall become effective July 1, 2000.

SECTION 7. 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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