

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 42

By: Williamson

AS INTRODUCED

An Act relating to revenue and taxation; creating Oklahoma Taxpayer Bill of Rights; specifying purposes; requiring Oklahoma Tax Commission to promulgate certain rules; specifying rights guaranteed to Oklahoma taxpayers; requiring Tax Commission to develop and implement education program for certain employees; providing for codification; and providing an 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 201.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Taxpayer Bill of Rights, for the purposes of ensuring that the rights, privacy and property of Oklahoma taxpayers are adequately safeguarded and protected during tax assessment, collection and enforcement processes administered under the Oklahoma Statutes and that each taxpayer is treated with dignity and respect. The Oklahoma Tax Commission shall promulgate rules as may be necessary to see that the objectives set forth herein are carried out. The rights guaranteed to Oklahoma taxpayers include the following:

1. The right to available information, subject to the provisions of Section 205 of Title 68 of the Oklahoma Statutes, and prompt, courteous, and accurate responses to questions and requests for taxpayer assistance;

2. The right to request assistance from a taxpayers' rights advocate of the Tax Commission, who shall be responsible for facilitating the resolution of taxpayer complaints and problems not

resolved through the normal administrative channels within the Tax Commission;

3. The right to be represented or advised by counsel or other qualified representatives at any time in administrative interactions with the Tax Commission; the right to procedural safeguards with respect to recording of meetings during tax determination or collection processes conducted by the Tax Commission; and the right to have audits, inspections of records, and meetings conducted at a reasonable time and place except in criminal and internal investigations;

4. The right to freedom from penalties and interest attributable to any taxes administered by the Tax Commission, freedom from payment of uncollected sales, use, motor fuel or other transaction-based excise taxes administered by the Tax Commission, and to abatement of penalties and interest attributable to any taxes administered by the Tax Commission, when the taxpayer reasonably relies upon binding written advice furnished to the taxpayer by the Tax Commission through authorized representatives in response to the taxpayer's specific written request which provided adequate and accurate information. The Tax Commission shall not maintain a position against a taxpayer which is inconsistent with a prior written opinion issued to the same taxpayer which has not been rescinded;

5. The right to obtain simple, nontechnical statements which explain the procedures, remedies, and rights available during audit, appeals and collection proceedings, including, but not limited to, the rights pursuant to this section and the right to be provided with an explanation for denials of refunds as well as the basis of the audit, assessments and denials of refunds which identify any amount of tax, interest or penalty due and which explain the consequences of the taxpayer's failure to comply with the notice;

6. The right to be informed of impending collection actions which require sale or seizure of property or freezing of assets, and the right to at least fourteen (14) days' notice in which to pay the liability or seek further review;

7. The right to have the taxpayer's tax information kept confidential unless otherwise specified by law, in accordance with the provisions of Section 205 of Title 68 of the Oklahoma Statutes;

8. The right to procedures for retirement of tax obligations by installment payment agreements, which recognize both the taxpayer's financial condition and the best interests of this state, provided that the taxpayer gives accurate, current information and meets all other tax obligations on schedule;

9. The right to have the Tax Commission begin and complete its audits and other administrative proceedings in a timely and expeditious manner after notification;

10. The right to an action at law within the limitations and subject to the provisions of the Governmental Tort Claims Act relating to sovereign immunity, to recover damages against the state or the Tax Commission for injury caused by the wrongful or negligent act or omission of an officer or employee of the Tax Commission;

11. The right of the taxpayer or the Tax Commission, as the prevailing party in a judicial or administrative action brought or maintained without the support of justifiable issues of fact or law, to recover all costs of the administrative or judicial action, including, but not limited to, reasonable attorney's fees, and of the Tax Commission and the taxpayer to settle such claims through negotiations, and the right of the taxpayer to recover charges imposed by a financial institution incurred due to an erroneous assessment by the Tax Commission;

12. At the time of notice to the taxpayer of an audit or collection proceedings, the right to be provided with a written

explanation of the audit and collection processes and the taxpayer's rights during such processes;

13. The right to have the burden of proof upon the Tax Commission in all actions against taxpayers, unless otherwise specifically provided by law;

14. The right to a three-year statute of limitations on billings, and the right to the same statute of limitations on refunds as on assessments, as provided in Section 223 of Title 68 of the Oklahoma Statutes;

15. The right of a spouse to be relieved of liability for income taxes upon a determination by the Tax Commission that it is inequitable to hold the spouse liable, as provided in Section 2361 of Title 68 of the Oklahoma Statutes;

16. The right to receipt of interest whenever an income tax refund is not paid to the taxpayer within ninety (90) days after the return is filed or due, whichever is later, as provided in subsection H of Section 217 of Title 68 of the Oklahoma Statutes;

17. The right of a vendor who, in good faith, timely accepts from a consumer properly completed documentation of exemption from sales taxes, to relief from liability for any sales tax due and the duty to collect sales tax due on sales to such consumer; and

18. The right to procedures which assure that employees of the Tax Commission are not paid, evaluated or promoted on the bases of the amount of assessments or collections from taxpayers.

B. The Tax Commission shall develop and implement a program for each employee having direct contact with taxpayers to educate each such employee with respect to the provisions of this act and to evaluate the performance of each such employee to ensure that the objectives set forth herein are achieved.

SECTION 2. This act shall become effective November 1, 1999.

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