STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
HOUSE BILL NO. 1702 By: Lindley of the House

and

Monson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 2361, as last amended by Section 8, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 2000, Section 2361), which relates to certain income tax liabilities; providing for determinations regarding income tax liability based upon certain joint returns; providing standard for determination; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 2361, as last amended by Section 8, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 2000, Section 2361), is amended to read as follows:

Section 2361. Married taxpayers shall file joint or separate returns in accordance with the manner in which they file returns to the federal government, or in the event of an adjustment thereto by the federal government, as finally ascertained to be proper under the Internal Revenue Code; except that: where either is a resident and the other is a nonresident, they shall not be entitled to file joint Oklahoma income tax returns, but if a joint return was filed with the federal government, then the adjusted gross income as returned to the federal government, or in the event of an adjustment thereto by the federal government as finally ascertained under the Internal Revenue Code, shall be allocated between the husband and

wife. The foregoing exception shall not apply if the nonresident is an active duty service member whose income is not subject to Oklahoma income tax by virtue of the Soldier's and Sailor's Civil Relief Act or if both have net income and they desire to file a joint Oklahoma return and elect to have their Oklahoma income determined and taxed on the basis of a joint Oklahoma return as if both were residents.

If a joint return has been made under this section for a tax year and taking into account all the facts and circumstances, the Tax Commission determines that it is inequitable to hold one of the spouses liable for the deficiency in tax for such tax year, then such spouse shall be relieved of liability for tax, including interest and penalties, for such tax year to the extent that such deficiency is determined to be the liability of the other spouse. For purposes of this section, the determination made by the Tax Commission shall be the same as the determination made by the Internal Revenue Service provided the tax year and circumstances surrounding the liability are the same. If there has been no determination made by the Internal Revenue Service, the Tax Commission shall apply the factors that would have been applied by the Internal Revenue Service had a determination been requested.

SECTION 2. 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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