

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2643

By: Balkman

AS INTRODUCED

An Act relating to revenue and taxation; providing for tax amnesty program; limiting amnesty; providing for advertisement of tax amnesty program; exempting Tax Commission from certain bidding requirements; amending 68 O.S. 2001, Section 217, which relates to interest and penalties; lowering interest rate for delinquent tax; lowering interest rate for deficiency in tax payment; amending 68 O.S. 2001, Section 219, which relates to compromise of controversies with Tax Commission; providing for compromise of controversy in certain circumstances; providing for codification; providing an effective date; and declaring an emergency.

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

A. For the purpose of encouraging the voluntary disclosure and payment of taxes owed to this state, the Tax Commission may establish a tax amnesty program during which penalties imposed pursuant to the provisions of Title 68 of the Oklahoma Statutes, the Oklahoma Alcoholic Beverage Control Act and the Oklahoma Vehicle License and Registration Act shall be waived if any taxpayer voluntarily files delinquent returns and pays the taxes and the remaining interest due during the amnesty period. The tax amnesty period shall be from July 1, 2002, through December 31, 2002. The waiver of penalties shall apply to:

1. The underreporting of tax liabilities;
2. The nonpayment of taxes which are delinquent prior to July 1, 2002; and

3. The nonreporting of taxes.

B. The terms and other conditions of the tax amnesty program shall be determined by the Tax Commission through the promulgation of rules.

C. The Tax Commission may expend necessary available funds to publicly advertise the tax amnesty program. The advertisements shall correctly state the purposes and conditions of the program.

D. The Tax Commission shall be exempt from the provisions of Section 85.7 of Title 74 of the Oklahoma Statutes for the purpose of implementing this section.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 217, is amended to read as follows:

Section 217. A. If any amount of tax imposed or levied by any state tax law, or any part of such amount, is not paid before such tax becomes delinquent, there shall be collected on the total delinquent tax interest at the rate of ~~one and one-quarter percent (1 1/4%)~~ three-fourths of one percent (3/4 of 1%) per month from the date of the delinquency until paid.

B. Interest upon any amount of state tax determined as a deficiency, under the provisions of Section 221 of this title, shall be assessed at the same time as the deficiency and shall be paid upon notice and demand of the Tax Commission at the rate of ~~one and one-quarter percent (1 1/4%)~~ three-fourths of one percent (3/4 of 1%) per month from the date prescribed in the state tax law levying such tax for the payment thereof to the date the deficiency is assessed.

C. If any tax due under state sales, use, tourism, mixed beverage gross receipts, or motor fuel tax laws, or any part thereof, is not paid within fifteen (15) days after such tax becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and delinquent shall be added thereto, collected and paid. However, the Tax Commission shall not collect the penalty assessed

if the taxpayer remits the tax within thirty (30) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

D. If any tax due under any state tax law other than those specified in subsection C of this section, or any part thereof, is not paid within thirty (30) days after such tax becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and delinquent shall be added thereto, collected and paid. However, the Tax Commission shall not collect the penalty assessed if the taxpayer remits the tax within thirty (30) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

E. If any part of any deficiency, arbitrary or jeopardy assessment made by the Tax Commission, is based upon or occasioned by the taxpayer's negligence or by the failure or refusal of any taxpayer to file with the Tax Commission any report or return, as required by this title, or by any state tax law, within ten (10) days after a written demand for such report or return has been served upon any taxpayer by the Tax Commission by letter, the Commission may assess and collect, as a penalty, twenty-five percent (25%) of the amount of the assessment. For purposes of this subsection, "negligence" shall mean the consistent understatement of income, consistent understatement of receipts or a system of recordkeeping by the taxpayer that consistently results in an inaccurate reporting of tax liability.

F. If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency, in addition to such deficiency, including interest as herein provided, shall be added, collected and paid.

G. All penalties or interest imposed by this title, or any state tax law, shall be recoverable by the Tax Commission as a part of the tax with respect to which they are imposed, the penalties

bearing interest as provided in this section for the tax, and all penalties and interest shall be apportioned as provided for the apportionment of the tax on which such penalties or interest are collected.

H. 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, with all documents as required by the Commission, entitling the taxpayer to a refund, then the Tax Commission shall pay interest on the refund, at the same rate specified for interest on delinquent tax payments. The payment of interest on refunds provided for by this section shall apply to tax year 1987 and subsequent tax years. The Tax Commission shall not be required to pay interest on an income tax refund which is applied, in whole or in part, to a prior year tax liability pursuant to Section 2385.17 of this title or upon an income tax refund applied, in whole or in part, to satisfy a debt owed to the Internal Revenue Service of the United States or to a state agency, including the Oklahoma Tax Commission, as provided by Section 205.2 of this title.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 219, is amended to read as follows:

Section 219. ~~The Oklahoma Tax Commission is authorized to~~ shall enter into an agreement to compound, settle or compromise any controversy ~~relating to taxes collectible by the Oklahoma Tax Commission, or any admitted or established tax liability as to any tax collectible under any State Law in the following cases:~~

~~(1) In cases of controversy arising over the amount of tax due,~~
~~or,~~

~~(2) In case of inability to pay, resulting from insolvency of the taxpayer~~ wherein the Internal Revenue Service has compromised the same controversy pursuant to the provisions of Section 7122 of the Internal Revenue Code, 26 U.S.C., Section 7122.

~~In any case where the amount of any tax liability which has been admitted or established exceeds Fifteen Hundred Dollars (\$1,500.00), no agreement to compound, settle or compromise such tax liability shall be effective until the settlement thereof shall have been approved by judgment of one of the judges of the district court of Oklahoma County, after a full hearing thereon.~~

SECTION 4. This act shall become effective July 1, 2002.

SECTION 5. 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.

48-2-8415 DLW 6/12/15