

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1416

By: Monson of the Senate

and

Pope (Clay) of the House

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 2368, which relates to income taxes; modifying list of individuals required to file tax return; clarifying language; 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. 2001, Section 2368, is amended to read as follows:

Section 2368. A. The following individuals shall each make a return stating specifically the taxable income and, where necessary, the adjusted gross income and the adjustments provided in this article to arrive at Oklahoma taxable income and, where necessary, Oklahoma adjusted gross income:

1. Every resident individual having a gross income, or gross receipts, for the taxable year in an amount sufficient to require the filing of a federal income tax return, if single, or if married and not living with husband or wife;

2. Every resident individual having a gross income, or gross receipts, for the taxable year in an amount sufficient to require the filing of a federal income tax return, if married and living with husband or wife; and

~~3. Provided however, every resident individual who does not meet the requirements sufficient to file a federal return, but has Oklahoma withholding, may file a claim for refund for all Oklahoma~~

~~income taxes withheld and shall not be subject to the provisions of Section 2358 of this title.~~

4. Every nonresident individual having Oklahoma gross income for the taxable year of One Thousand Dollars (\$1,000.00), or over.

Provided, however, every resident individual who does not meet the requirements sufficient to file a federal return, but has Oklahoma withholding, may file a claim for refund for all Oklahoma income taxes withheld and shall not be subject to the provisions of Section 2358 of this title.

B. If a husband and wife, living together, have an aggregate gross income or gross receipts, for such year, in an amount sufficient to require the filing of a federal income tax return:

1. Each shall make a return; or

2. The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate net income.

C. If the individual is unable to make his or her own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such individual.

D. Every partnership shall make a return for each taxable year, stating the taxable income and the adjustments to arrive at Oklahoma income. The Oklahoma return shall include a schedule showing the distribution to partners of the various items of income as per the federal return and the adjustments required by this article for Oklahoma. The return shall be signed by one of the partners. If a partnership has elected pursuant to the provisions of Section 761 of the Internal Revenue Code ~~Section 761~~, or any provision comparable thereto, not to file partnership income tax returns, that partnership shall not be required to file an Oklahoma partnership return. The Oklahoma Tax Commission shall promulgate rules ~~and regulations~~ for purposes of partnership returns when multiple

partners would otherwise be required to file a nonresident return. The rules ~~and regulations~~ shall provide a specific number of partners in a partnership above which a composite return may be filed. The return shall be in such form as prescribed by the Tax Commission.

E. Every corporation shall make a return for each taxable year stating the taxable income and the adjustments provided in this article to arrive at Oklahoma taxable income. In addition, corporations electing subchapter S treatment pursuant to the Internal Revenue Code and ~~this article~~, Section 2351 et seq. of this title shall include a schedule showing the distribution to shareholders of the various items of income as per the federal return and the adjustments for Oklahoma. All corporation returns shall be signed by the president, vice president, or other principal officer and the corporate seal impressed. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make a return for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

F. Every resident estate and trust shall make a return for each taxable year stating the taxable income and the adjustments to arrive at Oklahoma taxable income. Every nonresident estate or trust having Oklahoma taxable income as provided in Section 2362 of ~~the Oklahoma Income Tax Act, Section 2351 et seq. of this title~~, shall make a return for each taxable year stating the taxable income and the adjustments to arrive at Oklahoma taxable income. The Oklahoma return shall include a schedule showing the distribution to beneficiaries, if any, of the various items of income as per the

federal return and the adjustments for Oklahoma. The fiduciary shall be responsible for making the return and the return shall be signed by the fiduciary, or by one fiduciary if there is more than one. The ~~Oklahoma~~ Tax Commission shall promulgate rules ~~and regulations~~ for purposes of estate and trust returns when multiple returns would otherwise be required of nonresident beneficiaries of estates or trusts. The return shall be in such form as prescribed by the Tax Commission.

G. All returns, except corporate returns, made on the basis of the calendar year shall be made on or before the ~~15th~~ fifteenth day of April following the close of the taxable year. Calendar year corporation returns shall be due on or before the ~~15th~~ fifteenth day of March following the close of the taxable year. All returns, except corporation returns, made on the basis of a fiscal year shall be made on or before the ~~15th~~ fifteenth day of the fourth month following the close of the fiscal year. Fiscal year corporation returns shall be made on or before the ~~15th~~ fifteenth day of the third month following the close of the fiscal year. In the case of complete liquidation, or the dissolution, of a corporation the return of such corporation shall be made on or before the ~~15th~~ fifteenth day of the fourth month following the month in which the corporation is completely liquidated. A corporation which has terminated its business activities, satisfied or made provision for all of its liabilities or has distributed all of its assets, even though not formally dissolved under state law, is deemed to have completely liquidated for purposes of this subsection.

H. Returns by individuals, fiduciaries, partnerships, corporations or any other person or entity required, or that may hereafter be required to file a return, shall contain or be verified by a written declaration that such return is made under the penalties of perjury and the fact that any individual's name is signed to a filed return shall be prima facie evidence for all

purposes that the return was actually signed by ~~him~~. ~~Provided that~~ individual; provided, the ~~Oklahoma~~ Tax Commission shall promulgate rules ~~and regulations~~ to provide procedures for verification of signatures on returns which are filed electronically.

I. Every return required by ~~this article~~ Section 2351 et seq. of this title shall be in such form as the Tax Commission may, from time to time, prescribe. Each return shall be filed with the Tax Commission and forms shall be furnished by the Tax Commission on application therefor, but failure to secure or receive the form of a return prescribed shall not relieve any taxpayer from the obligation of making and filing any return herein required.

SECTION 2. This act shall become effective July 1, 2002.

SECTION 3. 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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