

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 600

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 5, Chapter 314, O.S.L. 2000, 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, 2830, as amended by Section 1, Chapter 323, O.S.L. 1996, 2881, as last amended by Section 2, Chapter 337, O.S.L. 1997, 2882, 2883, 3024, as last amended by Section 3, Chapter 337, O.S.L. 1997, 3025, 3026, 3027 and 3028 (68 O.S. Supp. 2000, Sections 221, 225, 227, 815, 2830, 2881 and 3024), which relate to appeals of decisions of the Oklahoma Tax Commission; amending 62 O.S. 1991, Sections 365.3, as amended by Section 10, Chapter 277, O.S.L. 1994, 365.4 and 436c (62 O.S. Supp. 2000, Section 365.3), which relate to public finance; re-creating Court of Tax Review; providing for divisions thereof and for jurisdiction, powers, duties and procedures of such divisions; transferring certain duties, responsibilities and cases; providing for appointment, salary, terms, resolution of conflicts of interest and travel expenses of judges to Tax Commission Appeals Division; granting authority to adopt certain rules and procedures; providing for office space and administration of Division; providing procedure for filling of vacancies; prohibiting certain political activity; providing procedures for issuance and transmission of certain decisions; providing procedures for appeals therefrom; modifying procedures for certain hearings before and decisions of Oklahoma Tax Commission; requiring publication of certain decisions; specifying circumstances under which certain decisions deemed final; specifying certain duties of Oklahoma Supreme Court; modifying certain references to Court of Tax Review; 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 119 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby re-created a Court of Tax Review. The Court of Tax Review shall have two divisions, which shall be the Ad Valorem Tax Valuation Division and the Tax Commission Appeals Division. The jurisdiction of and procedures for the Ad Valorem Tax Valuation Division shall be provided in this section, in Sections 3024 through 3033 of Title 68 of the Oklahoma Statutes and pursuant to rules promulgated by the Supreme Court. The jurisdiction of and procedures for the Tax Commission Appeals Division shall be provided in this section, in Sections 2 through 16 of this act and pursuant to rules promulgated by the Supreme Court.

B. The Court of Tax Review as it existed prior to July 1, 2001, shall cease to exist and all duties and responsibilities of such court, except as provided in this section, shall be transferred to the Court of Tax Review as re-created in this section.

C. All cases which have not been submitted for determination in the Court of Tax Review as it existed prior to July 1, 2001, shall be transferred to the Ad Valorem Tax Valuation Division of the Court of Tax Review as it exists after July 1, 2001, for disposition. All cases which have been submitted by the parties for determination in the Court of Tax Review prior to July 1, 2001, shall remain with the panel to which they have been assigned for final determination.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 120 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Tax Commission Appeals Division of the Court of Tax Review shall have the power to determine or otherwise dispose of any cases that are brought before it over which it has jurisdiction. Its decisions, when final, shall be appealable to the Supreme Court of Oklahoma as provided by law. The Division shall have jurisdiction to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition, or any other process when this may be necessary in any case within its jurisdiction.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 121 of Title 68, unless there is created a duplication in numbering, reads as follows:

There shall be two judges of the Tax Commission Appeals Division of the Court of Tax Review, who shall be persons appointed by the Governor with the advice and consent of the Senate. The Governor shall designate one of the judges to be the presiding judge, who shall be responsible for administration of the Division.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 122 of Title 68, unless there is created a duplication in numbering, reads as follows:

Each judge of the Tax Commission Appeals Division of the Court of Tax Review shall receive a salary equal to that paid to a district judge of the state, and shall devote full time to his or her duties and shall not engage in the private practice of law during the term of office.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 123 of Title 68, unless there is created a duplication in numbering, reads as follows:

No judge of the Tax Commission Appeals Division of the Court of Tax Review shall participate in the consideration or decision of any case if the judge has presided at the trial of that case or acted in it as an attorney for one of the litigants. The Supreme Court shall prescribe the procedure to be followed when a judge of the Division is disqualified to hear a case.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 124 of Title 68, unless there is created a duplication in numbering, reads as follows:

Subject to law and the rules of the Supreme Court, the Tax Commission Appeals Division of the Court of Tax Review shall have authority to adopt reasonable rules of procedure and practice before it.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 125 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Tax Commission Appeals Division of the Court of Tax Review shall establish a small claims procedure and administration to be determined by its rules to hear protests and appeals of taxpayers from proposed assessments and decisions of the Oklahoma Tax Commission through an informal and expedited procedure.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 126 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Clerk of the Supreme Court shall serve as Clerk of the Tax Commission Appeals Division of the Court of Tax Review.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 127 of Title 68, unless there is created a duplication in numbering, reads as follows:

The principal office of the Tax Commission Appeals Division of the Court of Tax Review shall be situated in Oklahoma City in quarters assigned by the Department of Central Services. The Division may hold hearings in any municipality of the state. The Department of Central Services shall provide courtrooms and offices for the Division at its permanent location and shall arrange for courtrooms, chambers and offices or other appropriate facilities to be available at other locations throughout the state.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 128 of Title 68, unless there is created a duplication in numbering, reads as follows:

Travel expenses of judges of the Tax Commission Appeals Division of the Court of Tax Review incurred in performing their duties shall be reimbursed pursuant to the State Travel Reimbursement Act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 129 of Title 68, unless there is created a duplication in numbering, reads as follows:

Each judge appointed to the Tax Commission Appeals Division of the Court of Tax Review shall serve for a term of six (6) years.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 130 of Title 68, unless there is created a duplication in numbering, reads as follows:

In case a judge of the Tax Commission Appeals Division of the Court of Tax Review dies, retires, resigns or is removed from office, the Governor shall fill the vacancy by appointment for the unexpired portion of the term with the advice and consent of the Senate.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 131 of Title 68, unless there is created a duplication in numbering, reads as follows:

No judge of the Tax Commission Appeals Division of the Court of Tax Review shall make, directly or indirectly, any contribution to or hold office in a political party.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 132 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Tax Commission Appeals Division of the Court of Tax Review shall have the power, and it shall be its duty to hear and determine all petitions filed with it under Section 221 of Title 68 of the Oklahoma Statutes, and it shall have the power to administer oaths and compel the attendance of witnesses and production of evidence, including any records of the state and any other entity upon the hearing of such petitions. The hearing of a petition from a decision of the Oklahoma Tax Commission shall be de novo as to facts and law. The Division shall proceed to hear and determine all petitions as speedily as practicable; provided, continuances may be

granted as to any petitioner or the Tax Commission upon good cause shown. The Division in all cases within its jurisdiction may grant legal and equitable relief so that all matters in controversy between the parties may be completely determined.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 133 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Tax Commission Appeals Division of the Court of Tax Review shall hear and determine all petitions filed with it and its decision shall be in writing and transmitted to the petitioner or the petitioner's attorney of record and to the Oklahoma Tax Commission.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 134 of Title 68, unless there is created a duplication in numbering, reads as follows:

Either the petitioner or the Oklahoma Tax Commission may appeal from the final decision of the Tax Commission Appeals Division of the Court of Tax Review to the Supreme Court of Oklahoma. Such appeal must be made within thirty (30) days from the date the decision of the Division is mailed to the petitioner, by filing with the Clerk of the Supreme Court a petition in error in accordance with the provisions of Section 225 of Title 68 of the Oklahoma Statutes. If no appeal is taken as provided herein, the decision of the Division shall be final.

SECTION 17. AMENDATORY 68 O.S. 1991, Section 221, as amended by Section 1, Chapter 407, O.S.L. 1999 (68 O.S. Supp. 2000, 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, or if no hearing is requested, upon entering an

order pursuant to subsection D of this section, 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 Tax Commission Appeals Division of the Court of Tax Review, 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 Division, 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 subsections E and F 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 decision 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 or 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 that has become a decision, other than an assessment designated as an "office audit", that has become a final decision of the Tax Commission.

SECTION 18. AMENDATORY 68 O.S. 1991, Section 225, as last amended by Section 5, Chapter 314, O.S.L. 2000 (68 O.S. Supp. 2000, 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~~ Tax Commission Appeals Division of the Court of Tax Review.

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 the decision shall file a petition in the office of the Clerk of the Supreme

Court petitioning for review thereof by the Division. Upon filing of such petition within such thirty-day period, the Division 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 Division, 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 D, G, and H of this section;
3. Request that the ~~Tax Commission~~ Division 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~~ involves a decision 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~~ decision

of the Division, 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~~ a decision of the Division or a 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 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 Division 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 is~~ is from an ~~order, judgment, finding, or ruling of the Tax Commission~~ a decision of the Division other than one assessing a tax and from which a right of appeal is not otherwise specifically provided for in Section 201 et seq. of this article title, 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~~ the decision by filing with the ~~Tax Commission~~ Division a bond in an amount fixed by the ~~Tax Commission~~ Division 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 Division 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 or decision of the Division 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 Division. Within thirty (30) days from the date of mailing to the Tax Commission of the decision of the Division, 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 Division 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 19. AMENDATORY 68 O.S. 1991, Section 227, as amended by Section 11, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 2000, 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 a final decision under the law.

SECTION 20. 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~~ Tax Commission Appeals Division of the Court of Tax Review 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 21. AMENDATORY 68 O.S. 1991, Section 815, as last amended by Section 5, Chapter 334, O.S.L. 1996 (68 O.S. Supp. 2000, 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 appraisal 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 22. AMENDATORY 68 O.S. 1991, Section 3024, as last amended by Section 3, Chapter 337, O.S.L. 1997 (68 O.S. Supp. 2000, Section 3024), is amended to read as follows:

Section 3024. A. ~~There is hereby re-created a Court of Tax Review.~~ For each case brought before the Ad Valorem Tax Valuation Division of the Court of Tax Review, the Chief Justice of the ~~Oklahoma~~ Supreme Court shall assign the case to a judicial

administrative district. The presiding judge of the judicial administrative district to which the case is assigned shall appoint a panel of three judges of the district court, who shall determine in what county the case will be heard. A majority of the three-judge panel shall be required to render a decision in each case. The ~~Oklahoma~~ Supreme Court shall establish court rules for the ~~Court of Tax Review~~ Division and the Clerk of the ~~Oklahoma~~ Supreme Court shall serve as Clerk of the ~~Court of Tax Review~~ Division.

B. The ~~Court of Tax Review~~ Division is hereby vested with jurisdiction over and shall hear:

1. Complaints regarding valuation of public service corporation property by the State Board of Equalization as authorized by Section 2881 of this title, for which a scheduling conference shall be required within twenty (20) days of the answer filed by the State Board of Equalization;

2. Complaints regarding actions of the State Board of Equalization regarding either intracounty or intercounty property value equalization as authorized by Section 2882 of this title; and

3. Appeals as authorized by Section 2830 of this title concerning Category 2 or Category 3 noncompliance as determined by the Oklahoma Tax Commission. The Court of Tax Review shall determine if a county deemed to be in Category 3 noncompliance is required to reimburse the ~~Oklahoma~~ Tax Commission from the county assessor's budget for all costs incurred as a result of the assumption of the valuation function by the Tax Commission.

C. The ~~Court of Tax Review~~ Division shall prescribe procedures for the purpose of hearing properly filed protests against alleged illegal levies, as shown on the annual budgets filed with the State Auditor and Inspector. The ~~Court~~ Division shall reconvene as often as ~~deemed it deems~~ it deems necessary ~~by the Court~~ until final determination has been made as to all protested levies. The judges shall be paid their traveling and living expenses while acting as members of the

Court, out of the funds now provided by law for payment of district judges' expenses when holding court outside the counties of their residence. Decisions of the ~~Court of Tax Review~~ Division concerning alleged illegal levies shall be subject to the provisions of Sections 3025, 3026, 3027, 3028 and 3029 of this title.

~~D. The Court of Tax Review as it existed prior to July 1, 1997, shall cease to exist and all duties and responsibilities of such court, except as provided in this section, shall be transferred to the Court of Tax Review as re-created in this section.~~

~~E. All cases which have not been submitted for determination in the Court of Tax Review as it existed prior to July 1, 1997, shall be transferred to the Court of Tax Review as it exists after July 1, 1997, for disposition. All cases which have been submitted by the parties for determination in the Court of Tax Review prior to July 1, 1997, shall remain with the panel to which they have been assigned for final determination.~~

SECTION 23. AMENDATORY 68 O.S. 1991, Section 3025, is amended to read as follows:

Section 3025. ~~Said~~ The Ad Valorem Tax Valuation Division of the Court of Tax Review shall have the power and it shall be its duty to hear and determine all protests filed under Section ~~24103~~ 3023 of this ~~Code~~ title, and it shall have the power to administer oaths, compel the attendance of witnesses and production of evidence, including any public record from any county in the state upon the hearing of such protests. ~~Said Court~~ The Division shall proceed to hear and determine all ~~said~~ protests as speedily as practicable, and, so far as practicable, shall hear all protests for any county on the same date; provided ~~that~~, that, continuances may be granted as to any protestant or any county upon good cause shown.

SECTION 24. AMENDATORY 68 O.S. 1991, Section 3026, is amended to read as follows:

Section 3026. The Ad Valorem Tax Valuation Division of the Court of Tax Review shall hear and determine all protests submitted to it and its decision shall be in writing and filed with the State Auditor and Inspector whose duty it shall be, if no appeal be taken as hereinafter provided, to transmit a copy of such decision to the county clerk, county assessor, and county treasurer, and to the protestant or ~~his~~ the protestant's attorney of record, and it shall thereupon be the duty of the county clerk to correct the appropriations accordingly, and the duty of the county assessor to so correct the tax rolls if the same have not been turned over to the county treasurer. The district attorney, assisted by the Attorney General at the request of the district attorney, shall represent ~~his~~ the county and the municipal subdivisions thereof at the hearing of any protest before ~~said Court of Tax Review~~ the Division, and each county shall pay all necessary expenses of its district attorney in attending any such hearings. No pleadings by the county shall be required and the cause shall be deemed at issue upon the filing of such protest.

SECTION 25. AMENDATORY 68 O.S. 1991, Section 3027, is amended to read as follows:

Section 3027. Either the protestant or the county may appeal from the final decision of the Ad Valorem Tax Valuation Division of the Court of Tax Review to the Supreme Court of the state, and it shall be sufficient to perfect such appeal if the appellant shall, within thirty (30) days from the date of such decision of the ~~Court~~ Division, file with the Clerk of the Supreme Court a petition in error with a copy of the order or decision being appealed ~~from~~. If no appeal ~~be~~ is taken as provided herein, the decision of the ~~Court~~ Division shall be final.

SECTION 26. AMENDATORY 68 O.S. 1991, Section 3028, is amended to read as follows:

Section 3028. The Ad Valorem Tax Valuation Division of the Court of Tax Review shall cause the evidence adduced at any time and all hearings to be taken and preserved, and upon an appeal being taken in any case, the record, consisting of protest and the transcript of the proceedings sought to be reviewed, shall be perfected within the time and in the manner prescribed by rule of the Supreme Court. The time limit prescribed herein for filing the petition in error may not be extended. The appeal shall be docketed and determined without cost to either party and the Supreme Court shall, as soon as practicable, set the case for hearing after briefs have been filed under the rules and orders of the Court.

SECTION 27. AMENDATORY 68 O.S. 1991, Section 2830, as amended by Section 1, Chapter 323, O.S.L. 1996 (68 O.S. Supp. 2000, Section 2830), is amended to read as follows:

Section 2830. A. The Oklahoma Tax Commission shall monitor the progress of valuation in each county as it occurs each year. Such monitoring may be conducted by periodic audits of assessments through visits to the county or through an analysis of assessment activity by means of a computer-assisted monitoring program.

B. The ~~Oklahoma~~ Tax Commission shall establish guidelines for determining the extent of noncompliance with the applicable law or administrative rules governing valuation of taxable property. Such guidelines shall establish three categories of noncompliance. The categories shall be respectively denominated as Category 1, Category 2 and Category 3. Each category shall represent progressive degrees of noncompliance. Provided, if the Tax Commission finds that a county assessor is not annually valuing taxable real and personal property within the county as required by Sections 2817 and 2829 of this title, the Tax Commission shall certify that the county is not in compliance with such statutes and shall be required to take action as prescribed by this section for the appropriate category of noncompliance according to the guidelines established pursuant to

the provisions of this subsection. The ~~Oklahoma~~ Tax Commission shall be authorized to take action as prescribed by this section for each category of noncompliance as follows:

Category 1: The ~~Oklahoma~~ Tax Commission shall notify the county assessor of the nature of the noncompliance and shall indicate the action required to correct such noncompliance.

Category 2: The ~~Oklahoma~~ Tax Commission shall order the action to be taken in order to bring the county into compliance. The ~~Oklahoma~~ Tax Commission is authorized to do any or all of the following:

1. Impose a schedule of required actions by county officials to bring the county into compliance;
 2. Establish deadlines for bringing the county into compliance;
- or
3. Impose changes in procedures in the assessor's office, if necessary, to facilitate continued compliance.

Category 3: The ~~Oklahoma~~ Tax Commission shall notify the board of county commissioners and the county assessor of the affected county that the county is in violation of law or regulations relating to the valuation function for the administration of the ad valorem tax. The ~~Oklahoma~~ Tax Commission shall conduct a conference, within thirty (30) days after such notice, in that county with the board of county commissioners, the county assessor and the county board of equalization, to formally notify the county of the extent of noncompliance and the measures necessary to correct it. The ~~Oklahoma~~ Tax Commission is authorized to do any or all of the following:

1. Impose a schedule of required actions by county officials to bring the county into compliance;
2. Establish deadlines for bringing the county into compliance;
3. Impose changes in procedures in the assessor's office, if necessary, to facilitate continued compliance;

4. Place the county valuation function under the temporary supervision of a qualified ~~Oklahoma~~ Tax Commission employee;

5. Require additional training for the assessor, deputies or members of the equalization board; or

6. Provide written or oral reports to the board of county commissioners and the county board of equalization of the progress in regaining compliance status for the county. Such reports shall be public records.

The ~~Oklahoma~~ Tax Commission shall periodically conduct a review of the extent of noncompliance in each county determined to be in Category 3 noncompliance. When the ~~Oklahoma~~ Tax Commission determines that such a county is in substantial compliance with the applicable law or administrative regulations governing valuation of taxable property, the Tax Commission shall so certify.

C. The ~~Oklahoma~~ Tax Commission may request the Ad Valorem Tax Valuation Division of the Court of Tax Review to order a county determined to be in Category 3 noncompliance to reimburse the ~~Oklahoma~~ Tax Commission from the county assessor's budget as established in Section 2823 of this title for all costs incurred as a result of the assumption of the valuation function by the Tax Commission. The salary of the county assessor shall not be paid during the time that a qualified employee of the ~~Oklahoma~~ Tax Commission is supervising the valuation function in the county, but shall be restored as of the date the Tax Commission certifies to the board of county commissioners that noncompliance has been corrected.

D. The county assessor shall have the right to appeal an order issued by the ~~Oklahoma~~ Tax Commission to correct Category 2 noncompliance or to appeal a decision finding Category 3 noncompliance in the manner provided by Section 2883 of this title.

SECTION 28. AMENDATORY 68 O.S. 1991, Section 2881, as last amended by Section 2, Chapter 337, O.S.L. 1997 (68 O.S. Supp. 2000, Section 2881), is amended to read as follows:

Section 2881. A. The secretary of the State Board of Equalization shall notify all railroads, air carriers and public service corporations of the ad valorem tax assessments rendered by the State Board, including the valuation, assessment ratio and total amount of assessment. The notice, which shall clearly be marked with the date upon which it was prepared, shall be mailed within one (1) working day of such date. The taxpayer shall have thirty (30) calendar days from the date of the notice in which to file, with the Clerk of the Ad Valorem Tax Valuation Division of the Court of Tax Review, a written complaint on a form prescribed by the Oklahoma Tax Commission, specifying grievances with the pertinent facts in relation thereto in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended. The complaint shall include the amount of Oklahoma assessed valuation protested and the grounds for the protest. The taxpayer shall be required to send a copy of the complaint to the Tax Commission.

B. If the taxpayer fails to file a written complaint within the thirty-day period provided for in this section, then the assessed valuation stated in the notice, without further action of the State Board of Equalization, shall become final and absolute at the expiration of thirty (30) days from the date the notice is mailed to the taxpayer.

C. After the filing of a complaint provided for in subsection A of this section, the State Board of Equalization shall have thirty (30) days within which to file an answer. The ~~Court of Tax Review~~ Division shall set a date of hearing, conduct such hearing, render its decision, and notify in writing the taxpayer and the State Board of Equalization of its decision within sixty (60) days of the date of the scheduling conference. The ~~Court of Tax Review~~ Division shall be authorized and empowered to take evidence pertinent to the complaint, and for that purpose may compel the attendance of

witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the valuation, as required by law.

D. The State Board of Equalization shall notify, in writing and by certified mail, the Attorney General and all affected school districts and other recipients of ad valorem tax revenue of the complaint provided for by this section within ten (10) days of the filing of the complaint.

E. The Attorney General may appear in all actions to enforce the valuation and assessment of property by the State Board of Equalization and the collection of ad valorem tax which is the subject of the complaint filed pursuant to this section.

F. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the ~~Court of Tax Review~~ Division by filing a notice of intent to appeal with the Clerk of the ~~Court of Tax Review~~ Division within thirty (30) calendar days of the date the final decision is sent to the parties. Appeal shall be brought in the ~~Oklahoma~~ Supreme Court in the same manner as provided for other appeals from the ~~Court of Tax Review~~ Division. The Supreme Court shall give precedence to such appeals and affirm the decision of the ~~Court of Tax Review~~ Division if supported by competent evidence. If the ~~Oklahoma~~ Supreme Court assigns the appeal to the Court of Civil Appeals, the ~~Oklahoma~~ Court of Civil Appeals shall give precedence to the appeal and affirm the decision of the ~~Court of Tax Review~~ Division if supported by competent evidence.

G. In all instances where the notice of assessed valuation certified by the State Board of Equalization has been permitted to become final, such notice shall have the same force and be subject to the same law as a judgment not subject to further appeal.

SECTION 29. AMENDATORY 68 O.S. 1991, Section 2882, is amended to read as follows:

Section 2882. A. In any case where the State Board of Equalization, in the equalization of property locally assessed, shall make its determination that the ratio of the assessed value of real property within the county to the fair cash value of ~~said~~ the real property does not comply with the legal requirements for the level of assessment, or does not comply with the legal requirements for the uniformity of assessment then the State Board shall notify, by mail, the board of county commissioners of ~~said~~ the county, and the county assessor, giving the ratio determined and the percentage valuation increase or decrease the county must achieve during the next assessment period or the action required for compliance with any applicable order for assessment uniformity.

B. The district attorney, acting under direction of the board of county commissioners and for the entire taxpaying public of the county, shall have twenty (20) days from date of such notice to the board of county commissioners and the county assessor in which to file with the Clerk of the Ad Valorem Tax Valuation Division of the Court of Tax Review a written complaint specifying grievances and the pertinent facts in relation thereto in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board of county commissioners shall cause a notice of the order for a valuation increase or decrease made by the State Board of Equalization to be published in at least one (1) newspaper of general circulation within the county at least one (1) time each week for two (2) consecutive weeks. Such notice by publication shall constitute sufficient notice to any taxpayer within such county of the possible increase or decrease in the valuation of property owned by the taxpayer located within such county. No individual valuation increase or decrease notice shall be required to be mailed or delivered to an affected taxpayer as a result of the

implementation of an order for an increase or decrease in valuation issued by the State Board of Equalization.

C. After the filing of a complaint as provided for in subsection B of this section the State Board of Equalization shall have fifteen (15) days within which to file an answer. The ~~Court of Tax Review~~ Division shall set a date of hearing within sixty (60) days of the date of the notice which caused the filing of the complaint. The ~~Court of Tax Review~~ Division shall be authorized and empowered to take evidence pertinent to ~~said~~ the complaint, and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the order of the State Board of Equalization, as required by law.

D. At the time of hearing upon a complaint filed pursuant to this section, the State Board of Equalization shall bear the burden of proof of supporting its action which is the subject matter of the complaint.

E. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the ~~Court of Tax Review~~ Division by filing a notice of intent to appeal with the Clerk of the ~~Court of Tax Review~~ Division within ten (10) calendar days of the date the final decision is rendered. Appeal shall be made to the Oklahoma Supreme Court which shall affirm the decision of the ~~Court of Tax Review~~ Division if supported by competent evidence.

SECTION 30. AMENDATORY 68 O.S. 1991, Section 2883, is amended to read as follows:

Section 2883. A. A county assessor may appeal the decision of the Oklahoma Tax Commission to correct Category 2 noncompliance or a decision ordering corrective action for Category 3 noncompliance as authorized by Section ~~30~~ 2830 of this ~~act~~ title by filing a notice of intent to appeal with the Clerk of the Ad Valorem Tax Valuation

Division of the Court of Tax Review within ten (10) calendar days of the date the final decision is rendered.

B. After the filing of a notice of intent to appeal as provided for in subsection A of this section, the Oklahoma Tax Commission shall have fifteen (15) days within which to file an answer. The ~~Court of Tax Review~~ Division shall set a date of hearing within sixty (60) days of the date of the answer date. The ~~Court of Tax Review~~ Division shall be authorized and empowered to take evidence pertinent to said appeal, and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the order of the ~~Oklahoma~~ Tax Commission, as required by law.

C. At the time of hearing upon a complaint filed pursuant to this section, the ~~Oklahoma~~ Tax Commission shall bear the burden of proof of supporting its action which is the subject matter of the appeal.

D. Either the county assessor or the ~~Oklahoma~~ Tax Commission may appeal the decision of the ~~Court of Tax Review~~ Division by filing a notice of intent to appeal with the Clerk of the ~~Court of Tax Review~~ Division within ten (10) calendar days of the date the final decision is rendered. Appeal shall be made to the Oklahoma Supreme Court which shall affirm the decision of the ~~Court of Tax Review~~ Division if supported by competent evidence.

SECTION 31. AMENDATORY 62 O.S. 1991, Section 365.3, as amended by Section 10, Chapter 277, O.S.L. 1994 (62 O.S. Supp. 2000, Section 365.3), is amended to read as follows:

Section 365.3 Each of the three municipal officers specified in Section 365.2 of this title shall maintain, on forms prescribed by the State Auditor and Inspector, a record of such judgments and of levies made therefor and of payments made thereon. The record of the secretary of the county excise board shall be made to show, as to each such judgment, also the case number and date of final decree

of either the ~~Oklahoma~~ Ad Valorem Tax Valuation Division of the Court of Tax Review or of the ~~Oklahoma~~ Supreme Court invalidating any levy or part of levy attempted to be made therefor, and it shall be ~~his~~ the secretary's duty to notify the court clerk, forthwith, of such decree, who shall make note of the same on the docket sheet for the case in which the judgment was entered.

SECTION 32. AMENDATORY 62 O.S. 1991, Section 365.4, is amended to read as follows:

Section 365.4 If an attempted levy for any judgment has once been invalidated by final decree either by the ~~Oklahoma~~ Ad Valorem Tax Valuation Division of the Court of Tax Review, not appealed from, or of the Supreme Court, by reason of jurisdictional defeat, then such judgment shall not again be included in levy computation until revived by decree from the court of original jurisdiction; and provided further that, the owner and holder of such judgment is hereby authorized to defend such judgment levy before any court.

SECTION 33. AMENDATORY 62 O.S. 1991, Section 436c, is amended to read as follows:

Section 436c. After June ~~fifteenth~~ 15 of each year ~~the county treasurer shall~~, after reserving sufficient of the Resale Property Fund for all encumbrances and sufficient for estimated cost of preparing, publishing, and completing through the ensuing fiscal year all tax-enforcement procedures imposed by law upon the county treasurer, all excess remaining in ~~said~~ the resale property fund on such June fifteenth shall be, by the county treasurer, apportioned and credited to the county, and the several cities, towns and school districts therein, and to the several funds thereof, in ratio to the final gross ad valorem taxes for such fiscal year levied in each thereof in accordance with the certificate of the county excise board on the current budget of each thereof, unless the same has been altered by order of the Ad Valorem Tax Valuation Division of the Court of Tax Review or the Supreme Court and then in ratio to

the amounts so adjusted. Provided, that, if the board of county commissioners so order by current resolution, in any county, that portion so accruing to all or any of the county's funds shall be credited to the courthouse and jail fund of the county.

SECTION 34. This act shall become effective July 1, 2001.

SECTION 35. 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.

48-1-760

CD

6/12/2015 11:16:23 AM