

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 810

By: Jolley of the Senate

and

Nance of the House

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 219 and Section 1, Chapter 162, O.S.L. 2002 (68 O.S. Supp. 2004, Section 219.1), which relate to tax settlement agreements; expanding authority of the Oklahoma Tax Commission to enter into tax settlement agreements; increasing amount of tax settlement agreement which is required to be approved by district court; authorizing payment plan in certain circumstances; and providing a conditional effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 219, is amended to read as follows:

Section 219. The Oklahoma Tax Commission is authorized to 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.~~

In any case where the amount of any tax liability which has been admitted or established exceeds ~~Fifteen Hundred Dollars (\$1,500.00)~~ Ten Thousand Dollars (\$10,000.00), 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 2. AMENDATORY Section 1, Chapter 162, O.S.L. 2002 (68 O.S. Supp. 2004, Section 219.1), is amended to read as follows:

Section 219.1 A. ~~In accordance with the provisions of the amendment to Section 5 of Article X of the Oklahoma Constitution as set forth in Senate Joint Resolution No. 32 of the 2nd Session of the 48th Oklahoma Legislature,~~ the The Oklahoma Tax Commission is hereby authorized to abate all or any portion of tax liability and interest and penalties accruing thereto, pursuant to a settlement agreement entered into with a taxpayer, ~~if the Tax Commission finds, by clear and convincing evidence, that:~~

~~1. Collection of the tax liability and interest and penalties accruing thereto would reasonably result in the taxpayer declaring bankruptcy;~~

~~2. The tax is uncollectible due to insolvency of the taxpayer resulting from factors beyond the control of the taxpayer or for other similar cause beyond the control of the taxpayer;~~

~~3. The tax liability is attributable to actions of a person other than the taxpayer and it would be inequitable to hold the taxpayer liable for the tax liability; or~~

~~4. In cases of nonpayment of trust fund taxes, the taxes were not collected by the taxpayer from its customer and the taxpayer had a good faith belief that collection of the taxes was not required.~~

B. The Tax Commission may consider the following circumstances, in addition to any other aggravating or mitigating circumstances, in determining whether or not to enter into an agreement pursuant to the provisions of this section:

1. Whether the taxpayer has made efforts in good faith to comply with the tax laws of this state;

2. Whether the taxpayer has benefited from nonpayment of the tax; and

3. Involvement of the taxpayer in economic activity from which the tax liability originated.

C. All agreements entered into pursuant to the provisions of this section shall provide for the collection of all or a portion of the tax liability if at all possible, and in all cases collection of the tax liability shall take precedence over collection of interest and penalties. An agreement to abate a portion of the tax liability of a taxpayer may include a payment plan for the portion of the tax liability which is not abated.

D. Any abatement of tax liability authorized by this section shall only be granted by a unanimous vote of the members of the Tax Commission. The decision of the members of the Tax Commission in denying the abatement of any tax liability pursuant to this section shall be final and no right of appeal to any court may be taken from such decision.

E. In any case where the amount of tax liability to be abated pursuant to an agreement entered into pursuant to the provisions of this section exceeds ~~Five Thousand Dollars (\$5,000.00)~~ Ten Thousand Dollars (\$10,000.00), the agreement shall not become effective until it shall have been approved by one of the judges of the district court of Oklahoma County, after a full hearing thereon. Such judge shall be assigned to the matter by the chief judge on a rotating basis.

F. The provisions of this section shall not be construed to grant any legal right to any taxpayer for the abatement of any tax liability. A decision to grant abatement of tax liability pursuant to the provisions of this section shall be a discretionary act within the authority of the members of the Tax Commission.

G. No appointed or elected official shall be eligible to seek relief pursuant to any of the provisions of this section.

H. The Tax Commission shall promulgate rules to implement the provisions of this section.

SECTION 3. This act shall become effective upon certification of election returns favoring passage of the Constitutional Amendment proposed in Senate Joint Resolution No. \_\_\_ of the 1st session of the 50th Oklahoma Legislature.

50-1-543

RWT

6/13/2015 8:55:08 AM