

3 Senate Bill No. 1148

4 SENATE BILL NO. 1148 - By: ANDERSON of the Senate and JACKSON of the
5 House.

6 An Act relating to revenue and taxation; amending 68 O.S.
7 2001, Section 815, as last amended by Section 2, Chapter
8 276, O.S.L. 2006 (68 O.S. Supp. 2007, Section 815), which
9 relates to estate tax; authorizing the use of a simplified
10 return or affidavit in lieu of certain estate tax return;
11 providing an effective date; and declaring an emergency.

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

13 SECTION 1. AMENDATORY 68 O.S. 2001, Section 815, as last
14 amended by Section 2, Chapter 276, O.S.L. 2006 (68 O.S. Supp. 2007,
15 Section 815), is amended to read as follows:

16 Section 815. A. 1. The executor, administrator, trustee,
17 devisee, heir or transferee shall within nine (9) months after the
18 date of death of the decedent, unless the time has been extended by
19 the Oklahoma Tax Commission, make a detailed return, verified by
20 affidavit, to the Tax Commission upon forms furnished by it, giving
21 all the information called for or that may be necessary to determine
22 the value of the net estate. The provisions of this subsection
23 shall not apply to estates exempt from filing such return by the
24 provisions of subsections D, E and F of this section.

25 2. For estate tax returns filed pursuant to this section, an
26 extension of time to file the return may be granted for a period not

1 to exceed six (6) months. The request for the extension shall be
2 made to the Tax Commission before the expiration of the normal
3 filing period as allowed pursuant to paragraph 1 of this subsection.

4 B. Upon receipt of such return, the Tax Commission may, for the
5 purpose of determining the value of the estate or any transfer,
6 audit the books of account and records of any executor,
7 administrator, trustee, devisee, heir, corporation, bank, trust
8 company or transferee, and may appraise the property transferred or
9 returned and investigate and include any property or transfers which
10 may have been omitted from the return and shall thereupon compute,
11 and by order assess, the tax, together with any interest or penalty
12 which it may find to be due, and shall forthwith notify the
13 administrator, executor, trustee or transferee and such person's
14 attorney of record of such assessment by furnishing a detailed
15 statement of the values of the estate or transfers, as fixed by the
16 Tax Commission, and the amount of tax assessed. Such notice may be
17 delivered in person or may be by mail addressed to such
18 administrator, executor, trustee, transferee and such person's
19 attorney of record at the last-known post office addresses, with the
20 postage thereon prepaid, and upon receipt of such notice of
21 assessment, the administrator, executor, trustee, devisee, heir or
22 transferee liable for such tax shall pay the tax to the Tax
23 Commission as provided herein. Provided, however, that if upon

1 receipt of such notice the administrator, executor, or trustee or
2 any party interested is dissatisfied with such findings or
3 assessment or any appraisement made by the Tax Commission, such
4 person shall, within sixty (60) days from the date of mailing of
5 such notice, file with the Tax Commission an objection, in writing,
6 specifically setting forth the grounds of the objections, and
7 thereupon the Tax Commission may grant a hearing, and upon such
8 hearing may adjust the matters in controversy and correct the
9 assessment as justice may require. Provided further, the
10 administrator, executor, trustee or any interested party who finds,
11 within one (1) year from the date of mailing of the notice, an error
12 of omission or inclusion of property on return, may file in writing,
13 an objection with the Tax Commission specifically setting forth the
14 grounds of the objection, and thereupon the Tax Commission shall
15 grant a hearing, and upon such hearing shall adjust the matters in
16 controversy and add to or delete from the return such property as
17 justice may require.

18 An administrator, executor, trustee or any interested party who
19 fails to file an objection within the sixty-day time period
20 prescribed by this section may, within one (1) year from the date of
21 mailing of the notice, request the Tax Commission to adjust or abate
22 the assessment for reasons other than an error of omission or
23 inclusion of property on return, if the administrator, executor,

1 trustee or any interested party can demonstrate, by a preponderance
2 of the evidence, that the assessment or some portion thereof is
3 clearly erroneous. If the Tax Commission determines that the proper
4 showing has been made, the assessment or portion thereof determined
5 to be clearly erroneous shall be deemed not to have become final and
6 absolute. No hearing to adjust or abate a clearly erroneous
7 assessment may be granted after the denial by the Tax Commission of
8 such a request. An order of the Tax Commission denying a request of
9 an administrator, executor, trustee or any interested party to
10 adjust or abate an assessment alleged to be clearly erroneous is not
11 an appealable order under Section 225 of this title. No proceeding
12 instituted by the Tax Commission to collect a tax liability may be
13 stayed because of a request made by a taxpayer to adjust or abate an
14 assessment alleged to be clearly erroneous.

15 C. No assessment of inheritance, estate or transfer tax shall
16 be made hereunder subsequent to the lapse of ten (10) years after
17 the date of the death of any decedent. If an estate tax return is
18 filed as required by law, additional assessment may be made based
19 upon unreported assets of the estate if such assessment is made not
20 later than ten (10) years from the date of death of the decedent;
21 provided, however, such additional assessment shall be made and any
22 lien applicable thereto shall attach only against such unreported
23 assets.

1 D. When all the property, both real and personal, of a decedent
2 passes to the surviving spouse, no estate tax return shall be
3 required and no order from the Tax Commission exempting such estate,
4 the executor, administrator or beneficiary from payment of estate
5 tax shall be necessary for any purpose, unless there are taxes due
6 under the provisions of Section 804 of this title. However, an
7 estate tax return or affidavit in a form provided by the Tax
8 Commission may be filed which indicates that all the property of the
9 decedent passes to the surviving spouse, and the Tax Commission,
10 upon being satisfied from an examination of the return or affidavit
11 and any other information available to it that all of the property
12 of the decedent passes to the surviving spouse, shall issue an order
13 exempting as nontaxable all property included in such decedent's
14 estate.

15 E. When an order releasing estate tax liability is obtained
16 from the district court, as provided in this act, no estate tax
17 return shall be required and no order from the Tax Commission
18 exempting such estate, the executor, administrator or beneficiaries
19 from the payment of estate tax shall be necessary for any purpose
20 for any property described in such order of the district court.

21 F. ~~When all the property, both real and personal, of a decedent~~
22 ~~passes to the father, mother, child, child of husband or wife,~~
23 ~~adopted child or any lineal descendant of decedent or of such~~

1 ~~adopted child and~~ the net estate of a decedent is equal to or less
2 than the applicable exemption provided in Section 809 of this title,
3 a simplified return or affidavit, on a form prescribed by the Tax
4 Commission, may be filed in lieu of the return required in
5 subsection A of this section. The return shall contain sufficient
6 information to determine that ~~all the property of the decedent~~
7 ~~passes to one or more of the persons listed in this subsection and~~
8 ~~that~~ the value of the net estate is equal to or less than the
9 applicable exemption provided in Section 809 of this title. The Tax
10 Commission, upon being satisfied from an examination of the return
11 or affidavit and any other information available to it, shall issue
12 an order exempting as nontaxable all property included in such
13 decedent's estate.

14 G. The provisions of this section or Section 205 of this title
15 shall not prevent the Tax Commission from delivering, upon written
16 request, to a duly authorized representative of the taxpayer, or any
17 individual who has judicially been determined to be an heir,
18 devisee, or legatee of the taxpayer by a court of competent
19 jurisdiction, or any individual named as a beneficiary of a trust of
20 the taxpayer, a copy of any return exclusive of distribution
21 schedule, any order assessing tax or any other paper or report filed
22 or issued pursuant to the provisions of Sections 801 et seq. of this
23 title.

1 SECTION 2. This act shall become effective July 1, 2008.

2 SECTION 3. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-12-08 - DO PASS,
7 As Coauthored.