05/17/2011 09:53:38 AM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1231

By: Ownbey of the House and Mazzei of the Senate

Title: Revenue and taxation; modifying various tax provisions dealing with tax collections and refunds; effective date; emergency.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its Amendments No. 1, 2, 3, and 4; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HB1231 CCR A

HOUSE CONFEREES

Armes	Don L. Armes	Sullivan	Alan Sullivan
Billy		Walker	
Blackwell			
Brown			
Cox	Douglas L. Cox M.D.		
Dank	David M. Dank		
DeWitt	Dale DeWitt		
Denney	Lee Denney		
Dorman			
Hoskin			
Liebmann	Jim Liebmann		
Martin (Scott)	Scott C. Martin		
McPeak			
Peters	Jon Peters		
Sears	Earl Sears		

House Action _____ Date _____ Senate Action _____ Date _____

HB1231 CCR A

SENATE CONFEREES

Ballenger
Branan
Brinkley
Burrage
Crain
Ford
Halligan
Ivester
Jolley
Justice
Marlatt
Mazzei
Myers
Newberry
Nichols
Paddack
Rice
Stanislawski
Sykes
Wilson
Wyrick

House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1231 By: Ownbey of the House

and

Mazzei and Ivester of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 228.1, which relates to tax refunds; providing additional source of funds; amending Section 1, Chapter 376, O.S.L. 2003, as amended by Section 4, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2010, Section 238.2), which relates to state employee income taxes; specifying that certain notices are not agency specific; amending 68 O.S. 2001, Section 255, as last amended by Section 10, Chapter 412, O.S.L. 2010 (68 O.S. Supp. 2010, Section 255), which relates to delinquent taxes; removing certain requirement that unfiled returns be consecutive; expanding scope to include withholding returns; 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 228.1, is amended to read as follows:

Section 228.1 Except as otherwise provided by law, claims for refunds which are required to be paid by the Oklahoma Tax Commission shall be paid from funds in the official depository clearing account of the Tax Commission, derived from collections from the same source from which the overpayment occurred. Provided, in the case of refunds due 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 such refund, credit the account of the taxpayer for such amount. <u>If current collections from the same source are insufficient to pay refunds, available cash funds from the unclassified taxes account may be used for such purpose.</u>

SECTION 2. AMENDATORY Section 1, Chapter 376, O.S.L. 2003, as amended by Section 4, Chapter 479, O.S.L. 2005 (68 O.S. Supp. 2010, Section 238.2), is amended to read as follows:

Section 238.2 A. It is the intent of the Legislature that the provisions of this section operate to provide for the collection of income taxes due to the State of Oklahoma by state employees in a manner that will maximize flexibility for state employees to pay any such taxes due while minimizing disruption to operations of state agencies. It is the further intent of the Legislature that the Oklahoma Tax Commission provide notice to state employees pursuant to the provisions of subsection C of this section and that the Tax Commission provide such notice to state employees at least six (6) months prior to notification of noncompliance to a state agency.

B. The Office of State Finance shall, not later than August 1, 2003, and August 1 of each year thereafter, provide to the Tax Commission a list of all state employees as of the preceding July 1 and such identifying information as may be required by the Tax Commission. Such list and information shall be used by the Tax Commission exclusively for the purpose of collection of income taxes due to the State of Oklahoma. The provisions of any laws making information confidential shall not apply with respect to information supplied to the Tax Commission pursuant to the provisions of this section; provided, such information shall be subject to the provisions of Section 205 of ~~Title 68 of the Oklahoma Statutes~~ this title.

C. The Tax Commission shall, not later than November 1, 2003, and November 1 of each year thereafter, notify any state employee who is not in compliance with the income tax laws of this state. Such notification shall include:

1. A statement that the employee will be subject to disciplinary action by the appointing authority unless the taxpayer is deemed by the Tax Commission to be in compliance with the income tax laws of this state;

2. The reasons that the taxpayer is considered to be out of compliance with the income tax laws of this state, including a statement of the amount of any tax, penalties and interest due or a

list of the tax years for which income tax returns have not been filed as required by law;

3. An explanation of the rights of the taxpayer and the procedures which must be followed by the taxpayer in order to come into compliance with the income tax laws of this state; and

4. Such other information as may be deemed necessary by the Tax Commission.

D. A state employee who has entered into and is abiding by a payment agreement, or who has requested relief as an innocent spouse which is pending or has been granted, shall be deemed to be in compliance with the state income tax laws for purposes of this section.

E. If the Tax Commission notifies a state employee who is not in compliance with the income tax laws of this state as required in this section and such state employee does not respond to such notification or fails to come into compliance with the income tax laws of this state after an assessment has been made final or after the Tax Commission determines that every reasonable effort has been made to assist the state employee to come into compliance with the income tax laws of this state, the Tax Commission, notwithstanding the provisions of Section 205 of ~~Title 68 of the Oklahoma Statutes~~ this title, shall so notify the appointing authority, which shall commence disciplinary action with respect to the state employee and shall notify the state employee of the reason for such action;

provided, if a state agency receives a ~~third~~ notification with respect to a state employee who has failed to come into compliance with the income tax laws ~~for the same tax year or years~~, and the notification is the employee's third notification as a state employee, regardless of which agency the employee was employed by at the time of the first and second notices, such employee shall be terminated by the state agency according to the procedures provided by law. If a state employee who has been previously reported by the Tax Commission to a state agency as being out of compliance comes into compliance, the Tax Commission shall immediately notify the appointing authority. Neither a state agency nor an appointing authority shall be held liable for any action with respect to a state employee pursuant to the provisions of this section.

F. The Tax Commission shall promulgate rules for the implementation of the provisions of this section.

G. As used in this section:

1. "State agency" means any office, department, board, commission or institution of the executive, legislative or judicial branch of state government;

2. "Employee" or "state employee" means an appointed officer or employee of a state agency; provided, the term employee or state employee shall not include an elected official or an employee of a local governmental entity; and

3. "Appointing authority" means the chief administrative officer of a state agency.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 255, as last amended by Section 10, Chapter 412, O.S.L. 2010 (68 O.S. Supp. 2010, Section 255), is amended to read as follows:

Section 255. A. In order to facilitate and expedite the collection of taxes more than ninety (90) days overdue from any taxpayer, the Oklahoma Tax Commission may enter into a contract with a debt collection agency doing business in the State of Oklahoma or in any other state for the collection of such delinquent taxes in addition to all other taxes accrued or accruing, including penalties and interest thereon, from the taxpayer. The contract shall only authorize the debt collection agency to collect tax liabilities which are already established and the Tax Commission shall not refer accounts to the debt collection agency unless the Tax Commission has notified the taxpayer, by first class mail, of the liability and has made additional efforts to collect the debt. Provided, if a sales tax permit holder fails to file two or more ~~consecutive~~ sales tax returns, as required under Section 1365 of this title, <u>or a taxpayer required to remit withholding taxes fails to file two or more withholding tax returns, as required under Section 2385.3 of this title,</u> the Tax Commission may refer the accounts to the debt collection agency prior to the establishment of the tax liability,

but only after the Commission has notified the taxpayer as required under this subsection.

B. If an account has been referred to a debt collection agency, the Tax Commission shall review all payments posted by the collection agency prior to commencing any further collection activity against the taxpayer. Further, the collection agency shall review all payments posted by the Tax Commission prior to commencing any collection activity. The Tax Commission or the collection agency shall, within ten (10) business days, provide the taxpayer with a written confirmation of all payments received and any balance due. In addition, the contract shall not authorize the debt collection agency to conduct audits or examine the books and records of a taxpayer in any manner. The Tax Commission may also enter into a contract with a person doing business in the State of Oklahoma or in any other state for the purpose of identifying and locating the assets of such delinquent taxpayer. Such contracts authorized by this section shall be subject to the provisions of The Oklahoma Central Purchasing Act.

C. In addition to the authority provided in subsection A of this section, the Tax Commission may enter into a contract for the purpose of identifying nonresident businesses and individuals who are required by law to file and pay Oklahoma state taxes and who are presently unknown to the Tax Commission.

D. Prior to entering into such a contract with a debt collection agency, the Tax Commission shall require that the debt collection agency file a bond in the amount of One Hundred Thousand Dollars ($100,000.00). The bond shall be a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bonds, as the Tax Commission may deem necessary to guarantee compliance with the terms of the contract.

E. Each contract entered into by the Tax Commission with a debt collection agency, pursuant to the provisions of this section, shall specify that fees for services rendered, reimbursements or other remuneration shall be based on the total amount of delinquent taxes, including accrued penalties and interest, which is actually collected. No costs shall be reimbursed unless authorized in the contract. Each contract entered into between the Tax Commission and a debt collection agency shall provide for the payment of fees for such services, reimbursements or other remuneration not in excess of thirty-five percent (35%) of the total amount of delinquent taxes, penalty and interest actually collected. The debt collection agency contract fee shall be added to the amount of the delinquent taxes, accrued penalties and interest collected from the taxpayer. The total amount of the delinquent tax, accrued penalties and interest, and the debt collection agency contract fee shall be owed and collected from the taxpayer.

F. Each contract entered into by the Tax Commission with a person for the purpose of identifying and locating assets of delinquent taxpayers shall specify the amount of money to be paid for the performance of such services. No costs shall be reimbursed unless authorized in the contract.

G. All such funds collected by a debt collection agency, including the fees for collection services as provided for in such contract, shall be remitted to the Tax Commission within five (5) days from the date of collection from a taxpayer. The Tax Commission shall pay from such remitted fees the amount of fees to which such debt collecting agency is entitled for services performed pursuant to the provisions of such contract. All assets of such delinquent taxpayers which are identified and located shall be reported to the Tax Commission within five (5) days from the date of identification and location. Forms to be used for such remittances and reports shall be prescribed by the Tax Commission.

H. A debt collection agency entering into a contract with the Tax Commission or a person entering into a contract with the Tax Commission for asset location purposes pursuant to this section shall agree that it is receiving income from sources within this state or doing business in this state for purposes of the Oklahoma tax laws. Debt collection agency employees and/or their agents shall not disclose confidential tax information except as authorized

by Section 205 of this title, subject to the penalties contained therein.

SECTION 4. This act shall become effective July 1, 2011.

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.

53-1-7766 CJB 05/10/11