

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

11 B. The Office of State Finance shall, not later than August 1,
12 2003, and August 1 of each year thereafter, provide to the Tax
13 Commission a list of all state employees as of the preceding July 1
14 and such identifying information as may be required by the Tax
15 Commission. Such list and information shall be used by the Tax
16 Commission exclusively for the purpose of collection of income taxes
17 due to the State of Oklahoma. The provisions of any laws making
18 information confidential shall not apply with respect to information
19 supplied to the Tax Commission pursuant to the provisions of this
20 section; provided, such information shall be subject to the
21 provisions of Section 205 of ~~Title 68 of the Oklahoma Statutes~~ this
22 title.

23
24

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

4 Such notification shall include:

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

9 2. The reasons that the taxpayer is considered to be out of
10 compliance with the income tax laws of this state, including a
11 statement of the amount of any tax, penalties and interest due or a
12 list of the tax years for which income tax returns have not been
13 filed as required by law;

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

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

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

1 E. If the Tax Commission notifies a state employee who is not
2 in compliance with the income tax laws of this state as required in
3 this section and such state employee does not respond to such
4 notification or fails to come into compliance with the income tax
5 laws of this state after an assessment has been made final or after
6 the Tax Commission determines that every reasonable effort has been
7 made to assist the state employee to come into compliance with the
8 income tax laws of this state, the Tax Commission, notwithstanding
9 the provisions of Section 205 of ~~Title 68 of the Oklahoma Statutes~~
10 this title, shall so notify the appointing authority, which shall
11 commence disciplinary action with respect to the state employee and
12 shall notify the state employee of the reason for such action;
13 provided, if a state agency receives a third notification with
14 respect to a state employee who has failed to come into compliance
15 with the income tax laws ~~for the same tax year or years~~, such
16 employee shall be terminated by the state agency according to the
17 procedures provided by law regardless of the state agency in which
18 the employee currently works. If a state employee who has been
19 previously reported by the Tax Commission to a state agency as being
20 out of compliance comes into compliance, the Tax Commission shall
21 immediately notify the appointing authority. Neither a state agency
22 nor an appointing authority shall be held liable for any action with

23
24

1 respect to a state employee pursuant to the provisions of this
2 section.

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

5 G. As used in this section:

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

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

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

15 SECTION 2. AMENDATORY 68 O.S. 2001, Section 255, as last
16 amended by Section 10, Chapter 412, O.S.L. 2010 (68 O.S. Supp. 2010,
17 Section 255), is amended to read as follows:

18 Section 255. A. In order to facilitate and expedite the
19 collection of taxes more than ninety (90) days overdue from any
20 taxpayer, the Oklahoma Tax Commission may enter into a contract with
21 a debt collection agency doing business in the State of Oklahoma or
22 in any other state for the collection of such delinquent taxes in
23 addition to all other taxes accrued or accruing, including penalties

1 and interest thereon, from the taxpayer. The contract shall only
2 authorize the debt collection agency to collect tax liabilities
3 which are already established and the Tax Commission shall not refer
4 accounts to the debt collection agency unless the Tax Commission has
5 notified the taxpayer, by first class mail, of the liability and has
6 made additional efforts to collect the debt. Provided, if a sales
7 tax permit holder fails to file two or more ~~consecutive~~ sales tax
8 returns, as required under Section 1365 of this title, or a taxpayer
9 required to remit withholding taxes fails to file two or more
10 withholding tax returns, as required under Section 2385.3 of this
11 title, the Tax Commission may refer the accounts to the debt
12 collection agency prior to the establishment of the tax liability,
13 but only after the Commission has notified the taxpayer as required
14 under this subsection.

15 B. If an account has been referred to a debt collection agency,
16 the Tax Commission shall review all payments posted by the
17 collection agency prior to commencing any further collection
18 activity against the taxpayer. Further, the collection agency shall
19 review all payments posted by the Tax Commission prior to commencing
20 any collection activity. The Tax Commission or the collection
21 agency shall, within ten (10) business days, provide the taxpayer
22 with a written confirmation of all payments received and any balance
23 due. In addition, the contract shall not authorize the debt

1 collection agency to conduct audits or examine the books and records
2 of a taxpayer in any manner. The Tax Commission may also enter into
3 a contract with a person doing business in the State of Oklahoma or
4 in any other state for the purpose of identifying and locating the
5 assets of such delinquent taxpayer. Such contracts authorized by
6 this section shall be subject to the provisions of The Oklahoma
7 Central Purchasing Act.

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

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

21 E. Each contract entered into by the Tax Commission with a debt
22 collection agency, pursuant to the provisions of this section, shall
23 specify that fees for services rendered, reimbursements or other
24

1 remuneration shall be based on the total amount of delinquent taxes,
2 including accrued penalties and interest, which is actually
3 collected. No costs shall be reimbursed unless authorized in the
4 contract. Each contract entered into between the Tax Commission and
5 a debt collection agency shall provide for the payment of fees for
6 such services, reimbursements or other remuneration not in excess of
7 thirty-five percent (35%) of the total amount of delinquent taxes,
8 penalty and interest actually collected. The debt collection agency
9 contract fee shall be added to the amount of the delinquent taxes,
10 accrued penalties and interest collected from the taxpayer. The
11 total amount of the delinquent tax, accrued penalties and interest,
12 and the debt collection agency contract fee shall be owed and
13 collected from the taxpayer.

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

19 G. All such funds collected by a debt collection agency,
20 including the fees for collection services as provided for in such
21 contract, shall be remitted to the Tax Commission within five (5)
22 days from the date of collection from a taxpayer. The Tax
23 Commission shall pay from such remitted fees the amount of fees to

1 which such debt collecting agency is entitled for services performed
2 pursuant to the provisions of such contract. All assets of such
3 delinquent taxpayers which are identified and located shall be
4 reported to the Tax Commission within five (5) days from the date of
5 identification and location. Forms to be used for such remittances
6 and reports shall be prescribed by the Tax Commission.

7 H. A debt collection agency entering into a contract with the
8 Tax Commission or a person entering into a contract with the Tax
9 Commission for asset location purposes pursuant to this section
10 shall agree that it is receiving income from sources within this
11 state or doing business in this state for purposes of the Oklahoma
12 tax laws. Debt collection agency employees and/or their agents
13 shall not disclose confidential tax information except as authorized
14 by Section 205 of this title, subject to the penalties contained
15 therein.

16 SECTION 3. AMENDATORY 68 O.S. 2001, Section 228.1, is
17 amended to read as follows:

18 Section 228.1 Except as otherwise provided by law, claims for
19 refunds which are required to be paid by the Oklahoma Tax Commission
20 shall be paid from funds in the official depository clearing account
21 of the Tax Commission, derived from collections from the same source
22 from which the overpayment occurred. Provided, in the case of
23 refunds due to taxpayers who are required to remit taxes to the Tax

1 Commission on a monthly or quarterly basis, the Tax Commission may,
2 in lieu of such refund, credit the account of the taxpayer for such
3 amount. If current collections from the same source are
4 insufficient to pay refunds, available cash funds from the
5 unclassified taxes account may be used for such purpose.

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

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

11
12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
13 03-03-2011 - DO PASS, As Coauthored.

14
15
16
17
18
19
20
21
22
23
24

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.