

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB864 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By deleting Sections 1 and 2 from the measure and by inserting in lieu thereof the following language:

(INSERT ATTACHED)

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Dennis Johnson

Reading Clerk

1 "SECTION 1. AMENDATORY 68 O.S. 2011, Section 225, is
2 amended to read as follows:

3 Section 225. A. Any taxpayer aggrieved by any order, ruling,
4 or finding of the Oklahoma Tax Commission directly affecting the
5 taxpayer or aggrieved by a final order of the Tax Commission issued
6 pursuant to subsection G of Section 221 of this title may appeal
7 therefrom directly to the Supreme Court of Oklahoma. Provided, any
8 taxpayer appealing from a final order of the Tax Commission
9 assessing a tax or an additional tax or denial of a claim for refund
10 may opt to file an appeal in district court as provided in
11 subsection D of this section.

12 B. Within thirty (30) days after the date of mailing to the
13 taxpayer of the order, ruling, or finding complained of, the
14 taxpayer desiring to appeal shall:

15 1. File a petition in error in the office of the Clerk of the
16 Supreme Court; and

17 2. Request that the Tax Commission prepare for filing with the
18 Supreme Court, within thirty (30) days, the record of the appeal,
19 certified by the Secretary of the Tax Commission, and consisting of
20 any citations, findings, judgments, motions, orders, pleadings and
21 rulings, together with a transcript of all evidence introduced at
22 any hearing relative thereto, or such portion of such citations,
23 findings, judgments, motions, orders, pleadings, rulings, and
24 evidence as the appealing parties and the Tax Commission may agree

1 to be sufficient to present fully to the Court the questions
2 involved.

3 C. Upon request of the taxpayer, the Tax Commission shall
4 furnish the taxpayer a copy of the proceedings had in connection
5 with the matter complained of.

6 ~~D. If the appeal is from an order of the Tax Commission~~
7 ~~assessing a tax or an additional tax, a penalty, or interest, the~~
8 ~~Tax Commission, within thirty (30) days from the date of the filing~~
9 ~~of the petition in error, may request the Court to order the~~
10 ~~taxpayer to pay to the Tax Commission the amounts of tax, additional~~
11 ~~tax, any penalty assessed, and interest accrued through the date of~~
12 ~~the payment, as a condition precedent to the right of the taxpayer~~
13 ~~to make and prosecute an appeal, and a jurisdictional prerequisite~~
14 ~~to the Supreme Court having jurisdiction to hear and determine the~~
15 ~~appeal. If, upon a final determination of the appeal the order~~
16 ~~assessing a tax, penalty, or interest is reversed or modified and it~~
17 ~~is determined that the tax or part thereof was erroneously or~~
18 ~~illegally assessed, the amounts paid by the taxpayer, together with~~
19 ~~the interest thereon at the rate of three percent (3%) per annum,~~
20 ~~shall be refunded to the taxpayer by the Tax Commission. In lieu of~~
21 ~~an appeal to the Supreme Court, any taxpayer aggrieved by a final~~
22 ~~order of the Tax Commission assessing a tax or an additional tax or~~
23 ~~denial of a claim for refund may opt to file an appeal for a trial~~
24 ~~de novo in the district court of Oklahoma County or the county in~~

1 which the taxpayer resides. If the amount in dispute exceeds Ten
2 Thousand Dollars (\$10,000.00), the appeal shall be heard by a
3 district or associate district judge sitting without a jury. If the
4 amount in dispute does not exceed Ten Thousand Dollars (\$10,000.00),
5 the appeal may be heard by a special judge sitting without a jury.
6 An order resulting from a trial provided pursuant to this subsection
7 shall be appealable directly to the Supreme Court of Oklahoma by
8 either party. Such appeal shall be taken in the manner and time
9 provided by law for appeal to the Supreme Court from the district
10 court in civil actions. Upon the filing of an appeal, the order of
11 the district court shall be superseded and neither party shall be
12 required to give bond. The provisions of this subsection shall be
13 applicable for tax periods beginning after the effective date of
14 this act. Provided, if the order applies to multiple tax periods
15 which begin before and after the effective date of this act, the
16 appeal provided by this subsection shall be available to the
17 aggrieved taxpayer.

18 E. If the appeal is from an order of the Tax Commission or a
19 district court denying a refund of taxes previously paid and if upon
20 final determination of the appeal, the order denying the refund is
21 reversed or modified, the taxes previously paid, together with
22 interest thereon from the date of the filing of the petition in
23 error at the rate ~~of three percent (3%) per annum~~ provided in
24

1 subsection A of Section 217 of this title, shall be refunded to the
2 taxpayer by the Tax Commission.

3 F. Such refunds and interest thereon shall be paid by the Tax
4 Commission out of monies in the Tax Commission clearing account from
5 subsequent collections from the same source as the original tax
6 assessment, provided that in the event there are insufficient funds
7 for refunds from subsequent collections from the same source, the
8 refund shall be paid by the Tax Commission from monies appropriated
9 by the Legislature to the special refund reserve account for such
10 purposes as hereinafter provided. There is hereby created within
11 the official depository of the State Treasury an agency special
12 account for the Tax Commission for the purpose of making such
13 refunds as may be required under this section, not otherwise
14 provided. This account shall consist of monies appropriated by the
15 Legislature for the purpose of making refunds under this section.

16 ~~G. In lieu of the cash payment provided for in subsection D of~~
17 ~~this section, the taxpayer may file with the Tax Commission,~~
18 ~~pursuant to Section 210 of this title, a bond in double the amount~~
19 ~~of the tax, additional tax, penalties and interest so assessed,~~
20 ~~conditioned that the taxpayer will faithfully and diligently~~
21 ~~prosecute such appeal to a final determination, and in the event the~~
22 ~~order of the Tax Commission be affirmed on appeal, will pay such~~
23 ~~tax, additional tax, penalties and interest, and costs so assessed~~
24 ~~against the taxpayer. Any bond submitted pursuant to this~~

1 ~~subsection must be approved by the Tax Commission as to form and~~
2 ~~amount and accepted within the time prescribed by the Court.~~

3 ~~H.~~ If the appeal be from an order, judgment, finding, or ruling
4 of the Tax Commission other than one assessing a tax and from which
5 a right of appeal is not otherwise specifically provided for in this
6 article the Uniform Tax Procedure Code, any aggrieved taxpayer may
7 appeal from that order, judgment, finding, or ruling as provided in
8 this section ~~and may~~. The filing of such an appeal shall supersede
9 the effect of such order, judgment, ruling, or finding ~~by filing~~
10 ~~with~~ of the Tax Commission ~~a bond in an amount fixed by the Tax~~
11 ~~Commission payable to the State of Oklahoma conditioned that the~~
12 ~~appeal will faithfully and diligently be prosecuted to a final~~
13 ~~determination, and in the event the order, judgment, ruling, or~~
14 ~~finding of the Tax Commission be affirmed on appeal, that such~~
15 ~~person will immediately conform thereto.~~

16 ~~I.~~ H. This section shall be construed to provide to the
17 taxpayer a legal remedy by action at law in any case where a tax, or
18 the method of collection or enforcement thereof, or any order,
19 ruling, finding, or judgment of the Tax Commission is complained of,
20 or is sought to be enjoined in any action in any court of this state
21 or the United States of America.

22 SECTION 2. This act shall become effective January 1, 2014."
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24 54-1-7924 MAH 04/16/13

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