ENGROSSED HOUSE
BILL NO. 3205

By: Sears and Casey of the House

and

Jolley, Treat and Mazzei of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 227, as amended by Section 2, Chapter 274, O.S.L. 2014 (68 O.S. Supp. 2015, Section 227), which relates to refund claims for state taxes; and modifying period of limitation with respect to sales and use tax refund claims.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 227, as amended by Section 2, Chapter 274, O.S.L. 2014 (68 O.S. Supp. 2015, Section 227), is amended to read as follows:

Section 227. (a) Any taxpayer who has paid to the State of Oklahoma, through error of fact, or computation, or misinterpretation of law, any tax collected by the Tax Commission may, as hereinafter provided, be refunded the amount of such tax so erroneously paid, without interest.

(b) ~~Any~~ <u>(1) Except as otherwise provided by division (2) of this subsection, any</u> taxpayer who has so paid any such tax may, within three (3) years from the date of payment thereof file with

the Tax Commission a verified claim for refund of such tax so erroneously paid. The Tax Commission may accept an amended ~~sales tax,~~ withholding tax or other report or return as a verified claim for refund if the amended report or return establishes a liability less than the original report or return previously filed.

(2) Upon the effective date of this act, with respect to the sales tax imposed by Section 1354 of this title and with respect to the use tax imposed by Section 1402 of this title, any taxpayer who has so paid such sales or use tax may, within two (2) years from the date of payment thereof file with the Tax Commission a verified claim for refund of such tax so erroneously paid. The Tax Commission may accept an amended sales or use tax report or return as a verified claim for refund if the amended report or return establishes a liability less than the original report or return previously filed.

(c) Said claim so filed with the Tax Commission, except for an amended report or return, shall specify the name of the taxpayer, the time when and period for which said tax was paid, the nature and kind of tax so paid, the amount of the tax which said taxpayer claimed was erroneously paid, the grounds upon which a refund is sought, and such other information or data relative to such payment as may be necessary to an adjustment thereof by the Tax Commission. It shall be the duty of the Commission to determine what amount of refund, if any, is due as soon as practicable after such claim has

been filed and advise the taxpayer about the correctness of his claim and the claim for refund shall be approved or denied by written notice to the taxpayer.

(d) If the claim for refund is denied, the taxpayer may file a demand for hearing with the Commission. The demand for hearing must be filed on or before the sixtieth day after the date the notice of denial was mailed. If the taxpayer fails to file a demand for hearing, the claim for refund shall be barred.

(e) Upon the taxpayer's timely filing of a demand for hearing, the Commission shall set a date for hearing upon the claim for refund which date shall not be later than sixty (60) days from the date the demand for hearing was mailed. The taxpayer shall be notified of the time and place of the hearing. The hearing may be held after the sixty-day period provided by this subsection upon agreement of the taxpayer.

(f) The provisions of this section shall not apply: (1) to refunds of income tax erroneously paid, refunds of which tax shall be payable out of the income tax adjustment fund as provided by law; (2) to estate tax because the payment of such tax is covered by an order of the Tax Commission and the estate and interested parties are given notice that Commission's position and computation of the tax will become final unless they protest and resist the payment thereof as provided by statute; nor, (3) in any case where the tax

was paid after an assessment thereof was made by the Tax Commission which assessment became final under the law.

Passed the House of Representatives the 16th day of May, 2016.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of _____, 2016.

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Presiding Officer of the Senate