STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2252 By: Brumbaugh

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 220, which relates to the Uniform Tax Procedure Code; modifying dollar amount required for approval by district court; providing for voluntary disclosure agreements; providing for waiver of penalty; providing for waiver of designated percentage of interest; exempting waiver from further action by Oklahoma Tax Commission or taxpayer; prescribing limitations on agreements; providing for modified disclosure agreements; limiting certain periods of time; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 220, is amended to read as follows:

Section 220. A. The interest or penalty or any portion thereof ordinarily accruing by reason of a taxpayer's failure to file a report or return or failure to file a report or return in the correct form as required by any state tax law or by this Code or to pay a state tax within the statutory period allowed for its payment may be waived or remitted by the Oklahoma Tax Commission or its designee provided the taxpayer's failure to file a report or return or to pay the tax is satisfactorily explained to the Tax Commission or such designee, or provided such failure has resulted from a mistake by the taxpayer of either the law or the facts subjecting him to such tax, or inability to pay such interest or penalty resulting from insolvency.

B. ~~The~~ Except as otherwise provided by subsections C and D of this section, the waiver or remission of all or any part of any such interest or penalties in excess of ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) shall not become effective unless approved by one of the judges of the district court of Oklahoma County after a full hearing thereon.

The application for the approval of such waiver or remission shall be filed in the office of the court clerk of the court at least twenty (20) days prior to the entry of the order of the judge finally approving or disapproving the waiver or remission. The order so entered shall be a final order of the district court of the county.

C. Taxpayers who (1) are not currently under audit or investigation, (2) have not collected taxes from others, such as sales and use taxes or payroll taxes, and not reported those taxes, and (3) have not within the preceding three (3) years entered into a voluntary disclosure agreement for the type of tax owed may enter into a voluntary disclosure agreement with the Tax Commission in order to report a state tax liability owed by the taxpayer. Taxpayers who have not collected taxes from others, such as sales and use taxes or payroll taxes, and not reported those taxes, may enter into a modified voluntary disclosure agreement as is provided in subsection F of this section provided that they meet all the other requirements provided in this subsection. If the Tax Commission agrees with the proposed terms for payment of the principal amount of tax due and owing, the penalty otherwise imposed by law upon the principal amount shall be waived by operation of law and no further action by the Tax Commission or by the taxpayer shall be required for the waiver of such penalty amount and fifty percent (50%) of the otherwise applicable interest amount shall be waived by operation of law and no further action by the Tax Commission or by the taxpayer shall be required for the waiver of such interest amount.

D. The Tax Commission shall limit the period for which additional taxes may be assessed (the lookback period) to three (3) taxable years for annually filed taxes, or thirty-six (36) months for taxes that do not have an annual filing frequency.

E. Voluntary disclosure agreements may be denied or nullified by the Tax Commission if a taxpayer's failure to report or pay is determined to be the result of a pattern of intentional or gross negligence regarding compliance with the laws.

F. Taxpayers who meet all of the qualifications specified in subsection C of this section, except that they have collected taxes from others, such as sales and use taxes or payroll taxes, and not reported those taxes, may enter into a modified voluntary disclosure agreement.

G. The provisions of a modified voluntary disclosure agreement shall be the same as a voluntary disclosure agreement as specified in subsection C of this section, except that (1) waiver of interest shall not apply except as may be optionally granted at the discretion of the Tax Commission, and (2) the period for which taxes must be reported and remitted is extended beyond the three-year or thirty-six-month period provided in subsection C of this section to include all periods in which tax has been collected but not remitted.

SECTION 2. This act shall become effective November 1, 2017.

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