ENGROSSED HOUSE
BILL NO. 2380 By: Osborn (Leslie) and Wallace of the House

and

David and Fields of the Senate

An Act relating to revenue and taxation; authorizing Oklahoma Tax Commission to establish Voluntary Disclosure Initiative; providing procedures for waiver of penalty and interest; imposing time limit; requiring abatement of interest and penalty; providing for abatement of collection fees; defining term; designating eligible tax types; prescribing requirements for eligibility to participate in Voluntary Disclosure Initiative; providing for waiver of certain amounts by operation of law; providing for limitation on period for assessment; authorizing modified voluntary disclosure agreements; prescribing requirements for modified voluntary disclosure agreements; providing for effect of waivers; authorizing expenditure of funds; authorizing contracts with third parties; providing for exemption from certain procedures; authorizing administrative rules; requiring programs related to certain tax collection requirements; prescribing content of program; providing for certain visits by Oklahoma Tax Commission personnel; prescribing scope of authorized activity; requiring visits be conducted according to certain standard; amending 68 O.S. 2011, Section 256, which relates to a taxpayer assistance program; providing for authorized expenditures for purposes related to tax compliance and education program; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 216.4 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of encouraging the voluntary disclosure and payment of taxes owed to this state, the Oklahoma Tax Commission is hereby authorized and directed to establish a Voluntary Disclosure Initiative for eligible taxes, as provided in this section. A taxpayer shall be entitled to a waiver of penalty, interest and other collection fees due on eligible taxes if the taxpayer voluntarily files delinquent tax returns and pays the taxes due during the disclosure initiative. The time in which a voluntary payment of tax liability may be made or the taxpayer may enter into a payment program acceptable to the Tax Commission for payment of the unpaid taxes in full in the manner and time established in a written payment program agreement between the Tax Commission and the taxpayer under the Voluntary Disclosure Initiative is limited to the period beginning September 1, 2017, and ending November 30, 2017.

B. Upon payment of the eligible taxes under the Voluntary Disclosure Initiative established, the Tax Commission shall abate and not seek to collect any interest, penalties or collection fees that would otherwise be applicable.

C. As used in this section, "eligible taxes" shall include the following taxes that were due and payable for any tax period or periods ending prior to entering into an agreement as provided in the initiative except as provided in this subsection:

1. Mixed beverage tax levied pursuant to Section 576 of Title 37 of the Oklahoma Statutes;

2. Gasoline and diesel tax levied pursuant to Section 500.4 of Title 68 of the Oklahoma Statutes;

3. Gross production and petroleum excise tax levied pursuant to Sections 1001, 1101 and 1102 of Title 68 of the Oklahoma Statutes;

4. Sales tax levied pursuant to Section 1354 of Title 68 of the Oklahoma Statutes;

5. Use tax levied pursuant to Section 1402 of Title 68 of the Oklahoma Statutes;

6. Income tax levied pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for tax periods ending prior to January 1, 2016; and

7. Withholding tax levied pursuant to Section 2385.2 of Title 68 of the Oklahoma Statutes.

D. To be eligible to participate in this initiative, taxpayers must:

1. Not have outstanding tax liabilities other than those reported pursuant to this initiative;

2. Not have been contacted by the Oklahoma Tax Commission, or third party acting on behalf of the Commission, with respect to the

taxpayer's potential or actual obligation to file a return or make a payment to the state;

3. Not have collected taxes from others, such as sales and use taxes or payroll taxes, and not reported those taxes; and

4. Not have, within the preceding three (3) years, entered into a voluntary disclosure agreement for the type of tax owed.

E. If the Tax Commission agrees with the proposed terms for payment of the principal amount of tax due and owing, the penalties and interest 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 and applicable interest.

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

G. Taxpayers who meet all of the qualifications specified in subsection D of this section, except those who 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.

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

I. The waiver of penalty and interest provided herein is fully effective provided taxpayer continues payment or collection and remittance of applicable taxes, as required by law, for a period of one (1) year after the tax period(s) for which taxes were paid pursuant to this initiative.

J. The Tax Commission is authorized to expend necessary available funds, including contracting with third parties, to publicly advertise, assist in the collection of eligible taxes, and administer the Voluntary Disclosure Initiative and shall be exempt from the provisions of Section 85.7 of Title 74 of the Oklahoma Statutes for the purpose of implementing this section.

K. The Tax Commission is authorized to promulgate rules detailing the terms and other conditions of this program.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 256.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall establish a program that focuses on educating businesses, as well as identifying and registering businesses who are actively selling or leasing tangible personal property in Oklahoma without a permit as required under Section 1364 of Title 68 of the Oklahoma Statutes. Further, the Tax Commission shall monitor and provide education to business owners of their state tax responsibilities.

B. The program shall include the establishment of teams of Tax Commission employees conducting visits to nonresidential retail businesses to:

1. Determine the existence of a sales tax permit and other required permits and licenses;

2. Verify accuracy and validity of licenses and permits;

3. Determine if the business is reporting and remitting taxes properly; and

4. Provide information and assistance to the business owner on tax reporting responsibilities.

C. The Tax Commission shall conduct such visits in a manner that shall not disrupt the operations of a business location.

SECTION 3. AMENDATORY 68 O.S. 2011, Section 256, is amended to read as follows:

Section 256. <u>A.</u> The Tax Commission shall establish a taxpayer assistance program to provide information and problem-solving expertise to the general public regarding the tax laws of this state. Said program shall include, but not be limited to, the following:

1. The installation of toll-free telephone lines within the Commission in order to provide information and problem-solving assistance to the general public. Such telephone lines shall provide access to Tax Commission employees who are specially trained and equipped to provide such assistance; ~~and~~

2. The preparation and distribution of publications providing information to the taxpayer regarding the tax laws of this state. Such publications shall be made available statewide; and

3. The presentation of taxpayer education programs by specially trained Tax Commission employees throughout the state to inform the general public regarding the state tax laws and to provide problem-solving assistance to taxpayers.

B. The Tax Commission is authorized to expend necessary available funds, including contracting with third parties, to publicly advertise the programs and assistance available for the filing of returns and the payment of taxes and education of the tax laws of this state. Such advertising may include advertising that focuses on social networking services.

SECTION 4. This act shall become effective July 1, 2017.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or 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.

Passed the House of Representatives the 15th day of May, 2017.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of __________, 2017.

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Presiding Officer of the Senate