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STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3156

By: Sears of the House

and

Thompson of the Senate

AS INTRODUCED

An Act relating to state revenue administration; amending 11 O.S. 2011, Section 16-103.1, which relates to monies distributed to municipalities; modifying notification procedures; amending 68 O.S. 2011, Sections 219, 219.1, 305, as amended by Section 1, Chapter 317, O.S.L. 2015, 360.7, 417 and 2385.3, as last amended by Section 3, Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2017, Sections 305 and 2385.3), which relate to the Uniform Tax Procedure Code, cigarette and tobacco product excise taxes and withholding taxes; modifying certain dollar amount for purposes of certain agreements related to tax liabilities; modifying certain dollar amount with respect to approval of agreements by district courts; modifying procedures related to seizure of cigarettes or tobacco products; authorizing requests for hearing; authorizing destruction of cigarettes or tobacco products if no hearing requested; modifying certain date for purposes of withholding tax report; providing an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 11 O.S. 2011, Section 16-103.1, is
2 amended to read as follows:

3 Section 16-103.1 No monies shall be distributed pursuant to
4 Section 1104 of Title 47 and Section 504 of Title 68 of the Oklahoma
5 Statutes to any incorporated city or town which has failed to hold a
6 general or special municipal election to elect officers as provided
7 in Section 16-101 et seq. of this title or a biennial town meeting
8 as provided by the Oklahoma Town Meeting Act, on the dates required
9 by law for four (4) or more years, if a general or special municipal
10 election, or for two consecutive biennial town meetings. Such
11 monies shall be remitted to the county in which the incorporated
12 city or town is located and deposited to the county highway fund of
13 that county to be used as otherwise provided by law. An
14 incorporated city or town shall henceforth send the county treasurer
15 of the county in which it is located ~~and the chairman of the~~
16 ~~Oklahoma Tax Commission, or a person designated by the Oklahoma Tax~~
17 ~~Commission to receive service of process,~~ a copy of the
18 municipality's notice of a biennial town meeting or resolution
19 calling for its regular municipal elections, whichever is
20 appropriate. The copy of the resolution shall include a notation by
21 the county election board showing that the resolution was received
22 and the date it was received.

23 SECTION 2. AMENDATORY 68 O.S. 2011, Section 219, is
24 amended to read as follows:

1 Section 219. The Oklahoma Tax Commission is authorized to enter
2 into an agreement to compound, settle or compromise any controversy
3 relating to taxes collectible by the Tax Commission, or any admitted
4 or established tax liability as to any tax collectible under any
5 State Law in the following cases:

6 (1) In cases of controversy arising over the amount of tax due,
7 or,

8 (2) In case of inability to pay, resulting from insolvency of
9 the taxpayer.

10 In any case where the amount of any tax liability which has been
11 admitted or established exceeds ~~Ten Thousand Dollars (\$10,000.00)~~
12 Twenty-five Thousand Dollars (\$25,000.00), no agreement to compound,
13 settle or compromise such tax liability shall be effective until the
14 settlement thereof shall have been approved by judgment of one of
15 the judges of the district court of Oklahoma County, after a full
16 hearing thereon.

17 SECTION 3. AMENDATORY 68 O.S. 2011, Section 219.1, is
18 amended to read as follows:

19 Section 219.1 A. In accordance with the provisions of the
20 amendment to Section 5 of Article X of the Oklahoma Constitution as
21 set forth in Senate Joint Resolution No. 32 of the 2nd Session of
22 the 48th Oklahoma Legislature, the Oklahoma Tax Commission is hereby
23 authorized to abate all or any portion of tax liability and interest
24 and penalties accruing thereto, pursuant to a settlement agreement

1 entered into with a taxpayer, if the Tax Commission finds, by clear
2 and convincing evidence, that:

3 1. Collection of the tax liability and interest and penalties
4 accruing thereto would reasonably result in the taxpayer declaring
5 bankruptcy;

6 2. The tax is uncollectible due to insolvency of the taxpayer
7 resulting from factors beyond the control of the taxpayer or for
8 other similar cause beyond the control of the taxpayer;

9 3. The tax liability is attributable to actions of a person
10 other than the taxpayer and it would be inequitable to hold the
11 taxpayer liable for the tax liability; or

12 4. In cases of nonpayment of trust fund taxes, the taxes were
13 not collected by the taxpayer from its customer and the taxpayer had
14 a good faith belief that collection of the taxes was not required.

15 B. The Tax Commission may consider the following circumstances,
16 in addition to any other aggravating or mitigating circumstances, in
17 determining whether or not to enter into an agreement pursuant to
18 the provisions of this section:

19 1. Whether the taxpayer has made efforts in good faith to
20 comply with the tax laws of this state;

21 2. Whether the taxpayer has benefited from nonpayment of the
22 tax; and

23 3. Involvement of the taxpayer in economic activity from which
24 the tax liability originated.

1 C. All agreements entered into pursuant to the provisions of
2 this section shall provide for the collection of all or a portion of
3 the tax liability if at all possible, and in all cases collection of
4 the tax liability shall take precedence over collection of interest
5 and penalties.

6 D. Any abatement of tax liability authorized by this section
7 shall only be granted by a unanimous vote of the members of the Tax
8 Commission. The decision of the members of the Tax Commission in
9 denying the abatement of any tax liability pursuant to this section
10 shall be final and no right of appeal to any court may be taken from
11 such decision.

12 E. In any case where the amount of tax liability to be abated
13 pursuant to an agreement entered into pursuant to the provisions of
14 this section exceeds ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five
15 Thousand Dollars (\$25,000.00), the agreement shall not become
16 effective until it shall have been approved by one of the judges of
17 the district court of Oklahoma County, after a full hearing thereon.
18 Such judge shall be assigned to the matter by the chief judge on a
19 rotating basis.

20 F. The provisions of this section shall not be construed to
21 grant any legal right to any taxpayer for the abatement of any tax
22 liability. A decision to grant abatement of tax liability pursuant
23 to the provisions of this section shall be a discretionary act
24 within the authority of the members of the Tax Commission.

1 G. No appointed or elected official shall be eligible to seek
2 relief pursuant to any of the provisions of this section.

3 H. The Tax Commission shall promulgate rules to implement the
4 provisions of this section.

5 SECTION 4. AMENDATORY 68 O.S. 2011, Section 305, as
6 amended by Section 1, Chapter 317, O.S.L. 2015 (68 O.S. Supp. 2017,
7 Section 305), is amended to read as follows:

8 Section 305. A. Every wholesaler doing business within this
9 state and required to secure a license as provided under Section 304
10 of this title shall, upon withdrawal from storage, and before making
11 any sale or distribution of cigarettes for consumption thereof,
12 affix or cause the same to have affixed thereto the stamp or stamps
13 as required by Section 301 et seq. of this title. It shall be the
14 duty of the wholesaler to supply the necessary stamps to cover any
15 and all drop shipments of cigarettes billed to the retailer or
16 consumer by the wholesaler; and the wholesaler shall be liable to
17 the Oklahoma Tax Commission to perform this service. Wholesalers
18 may apply stamps only to cigarette packages that they have received
19 directly from a manufacturer or importer of cigarettes who possesses
20 a valid and current permit under Section 5712 of Title 26 of the
21 United States Code.

22 B. Every retailer who has received unstamped cigarettes from a
23 manufacturer or wholesaler not required to secure a license as
24 provided for under Section 304 of this title, or to affix stamps as

1 required under subsection A of this section, shall, within seventy-
2 two (72) hours, excluding Sundays and holidays, from the time such
3 cigarettes come into the retailer's possession, and before making
4 any sale or distribution for consumption thereof, affix stamps upon
5 all cigarette packages in the proper denomination and amount, as
6 required by Section 302 of this title.

7 C. It shall be unlawful for any person to sell or consume
8 cigarettes on which the tax, as levied by Section 301 et seq. of
9 this title, has not been paid, and which are not contained in
10 packages to which are securely affixed the stamps evidencing payment
11 of the tax imposed by Section 301 et seq. of this title.

12 D. If, upon examination of invoices or from other
13 investigations, the Tax Commission finds that cigarettes have been
14 sold without stamps affixed as required by Section 301 et seq. of
15 this title, the Tax Commission shall have the power to require such
16 person to pay to the Tax Commission a sum equal to twice the amount
17 of the tax due. If, under the same circumstances, a person is
18 unable to furnish evidence to the Tax Commission of sufficient stamp
19 purchases to cover unstamped cigarettes purchased, the prima facie
20 presumption shall arise that such cigarettes were sold without
21 proper stamps being affixed thereto.

22 E. 1. All contraband cigarettes upon which taxes are imposed
23 by Section 301 et seq. of this title and all cigarettes stamped,
24 sold, offered for sale or imported into this state in violation of

1 the provisions of Section 305.1 of this title which shall be found
2 in the possession, custody or control of any person, for the purpose
3 of being consumed, sold or transported from one place to another in
4 this state, for the purpose of evading or violating the provisions
5 of Section 301 et seq. of this title, or with intent to avoid
6 payment of the tax imposed hereunder, and any automobile, truck,
7 conveyance or other vehicle whatsoever used in the transportation of
8 such cigarettes, and all paraphernalia, equipment or other tangible
9 personal property incident to the use of such purposes, found in the
10 place, building, vehicle or vehicles, where such cigarettes are
11 found, may be seized by any authorized agent of the Tax Commission,
12 or any sheriff, deputy sheriff, constable or other peace officer
13 within the state, without process. The same shall be, from the time
14 of such seizure, forfeited to the State of Oklahoma, and a proper
15 proceeding filed to maintain such seizure and prosecute the
16 forfeiture as herein provided.

17 2. All such cigarettes so seized shall first be listed and
18 appraised by the officer making such seizure and turned over to the
19 Tax Commission and a receipt therefor taken. The person making such
20 seizure shall immediately make and file a written report thereof,
21 showing the name of the person making such seizure, the place where
22 and the person from whom such property was seized, and an inventory
23 and appraisalment thereof, at the usual and ordinary retail price of
24 such articles received, to the Tax Commission, and the Attorney

1 General, in the case of cigarettes stamped, sold, offered for sale
2 or imported into this state in violation of the provisions of
3 Section 305.1 of this title. ~~The Tax Commission shall then proceed~~
4 ~~to hear and determine the matter of whether or not the cigarettes~~
5 ~~should, in fact, be forfeited to the State of Oklahoma. The~~ Within
6 sixty (60) days of seizure, the person from whom the property was
7 seized may file a request for hearing with the Tax Commission or the
8 Attorney General to show why the seized property should not be
9 forfeited and destroyed. If a hearing is requested, the owner of
10 the cigarettes shall be given at least ten (10) days' notice of the
11 hearing. ~~In the event the Commission finds that the cigarettes~~
12 ~~should be forfeited to the State of Oklahoma, it shall make an order~~
13 ~~forfeiting the cigarettes to the State of Oklahoma and directing the~~
14 ~~destruction of such cigarettes. If no request for hearing is filed~~
15 within the time provided, the property seized will be forfeited and
16 destroyed.

17 3. Any and all such vehicles and property so seized shall first
18 be listed and appraised by the officer making such seizure and
19 turned over to the county sheriff of the county in which the seizure
20 is made and a receipt therefor taken. The person making such
21 seizure shall immediately make and file a written report thereof,
22 showing the name of the person making such seizure, the place where
23 and the person from whom such property was seized, and an inventory
24 and appraisement thereof, at the usual and ordinary retail price of

1 such articles received, to the Tax Commission. The district
2 attorney of the county in which the seizures are made shall, at the
3 request of the Tax Commission or Attorney General, file in the
4 district court forfeiture proceedings in the name of the State of
5 Oklahoma, as plaintiff, and in the name of the owner or person in
6 possession, as defendant, if known, and if unknown in the name of
7 the property seized. The clerk of the court shall issue summons to
8 the owner or person in whose possession such property was found,
9 directing the owner or person to answer within ten (10) days. If
10 the property is declared forfeited and ordered sold, notice of the
11 sale shall be posted in five public places in the county not less
12 than ten (10) days before the date of sale. The proceeds of the
13 sale shall be deposited with the clerk of the court, who shall after
14 deducting costs, including the costs of sale, pay the balance to the
15 Tax Commission as cigarette tax collected, or in the case of
16 vehicles and property seized in connection with cigarettes seized as
17 being in violation of the provisions of Section 305.1 of this title,
18 to the Attorney General. The Attorney General shall remit the
19 amount of cigarette tax, if any be due, including all penalties and
20 interest due, to the Tax Commission as cigarette tax collected and
21 shall deposit the remainder to the revolving fund created in Section
22 305.2 of this title.

23 4. The seizure of cigarettes shall not relieve the person from
24 whom such cigarettes were seized from any prosecution or the payment

1 of any penalties provided for under Section 301 et seq. of this
2 title.

3 5. The forfeiture provisions of Section 301 et seq. of this
4 title shall only apply to persons having possession of or
5 transporting cigarettes with intent to barter, sell or give away the
6 same; provided, that such possession of cigarettes in any quantity
7 of five or more cartons of ten packages each shall be prima facie
8 evidence of intent to barter, sell or give away such cigarettes in
9 violation of the provisions of Section 301 et seq. of this title.

10 F. Any person, including distributing agents, wholesalers,
11 carriers, retailers and consumers, having possession of unstamped
12 cigarettes in this state shall be liable for the tax on such
13 cigarettes in case the same are lost, stolen or unaccounted for, in
14 transit, storage or otherwise, and in such event a presumption shall
15 exist for the purposes of taxation, that such cigarettes were used
16 and consumed in Oklahoma.

17 SECTION 5. AMENDATORY 68 O.S. 2011, Section 360.7, is
18 amended to read as follows:

19 Section 360.7 A. In addition to or in lieu of any other civil
20 or criminal remedy provided by law, upon a determination that a
21 stamping agent has violated Section 360.6 of this title or any rule
22 promulgated pursuant to the Master Settlement Agreement
23 Complementary Act, the Oklahoma Tax Commission may revoke or suspend
24 the license of the stamping agent. Each stamp affixed and each sale

1 or offer to sell cigarettes in violation of the Master Settlement
2 Agreement Complementary Act shall constitute a separate violation.
3 For each violation, the Oklahoma Tax Commission may also impose a
4 civil penalty in an amount not to exceed the greater of five hundred
5 percent (500%) of the retail value of the cigarettes or Five
6 Thousand Dollars (\$5,000.00) upon a determination of violation of
7 the Master Settlement Agreement Complementary Act or any rules
8 promulgated pursuant thereto.

9 B. Any cigarettes that have been sold, offered for sale, or
10 possessed for sale in this state or imported for personal
11 consumption in this state, in violation of the Master Settlement
12 Agreement Complementary Act, shall be deemed contraband pursuant to
13 the Master Settlement Agreement Complementary Act. Those cigarettes
14 shall be subject to seizure and forfeiture as provided by this
15 section and all cigarettes so seized and forfeited shall be
16 destroyed as provided by this section and not resold.

17 C. 1. Cigarettes or tobacco product distributors and
18 wholesalers licensed by the Oklahoma Tax Commission, pursuant to
19 Section 304 or 415 of this title, who also distribute cigarettes in
20 a state bordering Oklahoma may store in their Oklahoma warehouse
21 cigarettes made contraband under this section if, and only if, they
22 have the tax stamp of another state affixed to each package of
23 cigarettes.

1 2. Cigarettes or roll-your-own tobacco products made contraband
2 pursuant to this section, without being subject to seizure or
3 forfeiture, may be transported in, into, or through the state
4 either:

- 5 a. on a commercial carrier with a proper bill of lading
6 with an out-of-state destination,
- 7 b. when the tax stamp of another state is affixed to each
8 pack of cigarettes or tobacco product transported, or
- 9 c. on a commercial carrier with a proper bill of lading
10 to a tobacco product distributor or wholesaler
11 licensed by the Oklahoma Tax Commission, pursuant to
12 Section 304 or 415 of this title, who also distributes
13 cigarettes in a state bordering Oklahoma if, and only
14 if, the packing slip accompanying the shipment
15 indicates the shipment is for sale in another state
16 and indicates which state, and the invoice for the
17 shipment also indicates the shipment is for sale in a
18 state other than Oklahoma and identifies the state in
19 which the shipment is to be sold. The time of
20 delivery of the shipments shall be indicated on the
21 bill of lading of the common carrier when delivery is
22 completed. The receiving Oklahoma distributor or
23 wholesaler must, within twenty-four (24) hours of
24 receiving the delivery, affix or cause to be affixed

1 to each package of cigarettes the stamp of the state
2 in which they are to be sold.

3 3. All such cigarettes and tobacco products so seized shall
4 first be listed and appraised by the officer making such seizure and
5 turned over to the Tax Commission and a receipt therefor taken. The
6 person making such seizure shall immediately make and file a written
7 report thereof, showing the name of the person making such seizure,
8 the place where and the person from whom such property was seized,
9 and an inventory and appraisal thereof, at the usual and ordinary
10 retail price of such articles received, to the Tax Commission, and
11 the Attorney General, in the case of cigarettes stamped, sold,
12 offered for sale, or imported into this state in violation of the
13 provisions of Section 305.1 of this title and tobacco made
14 contraband by this section. ~~The Tax Commission shall then proceed~~
15 ~~to hear and determine the matter of whether or not the cigarettes~~
16 ~~and tobacco products should, in fact be forfeited to the State of~~
17 ~~Oklahoma. The~~ Within sixty (60) days of seizure, the person from
18 whom the property was seized may file a request for hearing with the
19 Tax Commission or the Attorney General to show why the seized
20 property should not be forfeited and destroyed. If a hearing is
21 requested, the owner of the cigarettes and tobacco products shall be
22 given at least ten (10) days' notice of the hearing. ~~In the event~~
23 ~~the Commission finds that the cigarettes and tobacco products should~~
24 ~~be forfeited to the State of Oklahoma, it shall make an order~~

1 ~~forfeiting the cigarettes and tobacco products to the State of~~
2 ~~Oklahoma and directing the destruction of such cigarettes and~~
3 ~~tobacco products~~ If no request for hearing is filed within the time
4 provided, the property seized will be forfeited and destroyed.

5 4. Any and all vehicles and property so seized shall be listed
6 and appraised by the officer making the seizure and turned over to
7 the county sheriff of the county in which the seizure is made and a
8 receipt therefor taken. The person making the seizure shall
9 immediately make a written report of the seizure, showing the name
10 of the person making the seizure, the location of the seizure, the
11 person from whom the property was seized, and an inventory and
12 appraisement of the property at the usual and ordinary retail price
13 of the articles received. The report shall be filed with the
14 Oklahoma Tax Commission and the Attorney General. The district
15 attorney of the county in which the seizures are made, at the
16 request of the Oklahoma Tax Commission or Attorney General, shall
17 file in the district court forfeiture proceedings in the name of the
18 State of Oklahoma, as plaintiff, and in the name of the owner or
19 person in possession, as defendant, if known, and if unknown or not
20 susceptible to the jurisdiction of the court, in the name of the
21 property seized. The clerk of the court shall issue a summons to
22 the owner or person in whose possession the property was found
23 directing the owner or person to answer within ten (10) days. At
24 the forfeiture proceeding, if a distributor or wholesaler

demonstrates through clear and convincing evidence that the possession of contraband by the distributor or wholesaler was accidental, the vehicle in which the contraband was being transported shall not be forfeited. In no case, however, shall possession of more than twenty (20) cartons of contraband product be considered by the courts as being possessed accidentally. If the property is declared forfeited and ordered sold, notice of the sale shall be posted not less than ten (10) days before the date of sale in five public places in the county in which the seizures are made. Proceeds of the sale shall be deposited with the clerk of the court, who shall, after deducting costs including the costs of prosecution, storage, and sale, pay the balance to the Oklahoma Tax Commission for deposit in the Tobacco Settlement Endowment Trust Fund.

D. The Attorney General may seek an injunction to restrain a threatened or actual violation of the Master Settlement Agreement Complementary Act by a stamping agent and to compel the stamping agent to comply with those provisions. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees.

E. 1. It shall be unlawful for a person to:

- a. sell or distribute cigarettes, or
- b. acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows

1 or should know are intended for distribution or sale
2 in the state in violation of the Master Settlement
3 Agreement Complementary Act. A violation of the act
4 shall be a misdemeanor.

5 2. A person who violates subsection C of Section 360.4 of this
6 title engages in an unfair and deceptive trade practice in violation
7 of the provisions of the Oklahoma Consumer Protection Act.

8 SECTION 6. AMENDATORY 68 O.S. 2011, Section 417, is
9 amended to read as follows:

10 Section 417. A. All unstamped tobacco products upon which a
11 tax is levied by Section 401 et seq. of this title and all tobacco
12 products stamped, sold, offered for sale, or imported into this
13 state in violation of the provisions of Section 403.2 of this title,
14 found in the possession, custody or control of any person for the
15 purpose of being consumed, sold or transported from one place to
16 another in this state, for the purpose of evading or violating the
17 provisions of Section 401 et seq. of this title, or with intent to
18 avoid payment of the tax imposed thereunder, may be seized by any
19 authorized agent of the Oklahoma Tax Commission or any sheriff,
20 deputy sheriff or police within the state. Tobacco products from
21 the time of seizure shall be forfeited to the State of Oklahoma. A
22 proper proceeding shall be filed to maintain such seizure and
23 prosecute the forfeiture as herein provided; the provisions of this
24

1 section shall not apply, however, where the tax on such unstamped
2 tobacco products does not exceed One Dollar (\$1.00).

3 B. All such tobacco products so seized shall first be listed
4 and appraised by the officer making such seizure and turned over to
5 the Tax Commission and a receipt taken therefor.

6 C. The person making such seizure shall immediately make and
7 file a written report thereof to the Tax Commission, showing the
8 name of the person making such seizure, the place where seized, the
9 person from whom seized, the property seized and an inventory and
10 appraisement thereof, which inventory shall be based on the usual
11 and ordinary retail price or value of the articles seized, and the
12 Attorney General, in the case of tobacco products stamped, sold,
13 offered for sale, or imported into this state in violation of the
14 provisions of Section 403.2 of this title. ~~The Tax Commission shall~~
15 ~~then proceed to hear and determine the matter of whether or not the~~
16 ~~tobacco products should, in fact be forfeited to the State of~~
17 ~~Oklahoma. The~~ Within sixty (60) days of seizure, the person from
18 whom the property was seized may file a request for hearing with the
19 Tax Commission or the Attorney General to show why the seized
20 property should not be forfeited and destroyed. If a hearing is
21 requested, the owner of the tobacco products shall be given at least
22 ten (10) days' notice of the hearing. ~~In the event the Commission~~
23 ~~finds that the tobacco products should be forfeited to the State of~~
24 ~~Oklahoma, it shall make an order forfeiting the tobacco products to~~

1 ~~the State of Oklahoma and directing the destruction of such tobacco~~
2 ~~products~~ If no request for hearing is filed within the time
3 provided, the property seized will be forfeited and destroyed.

4 D. The seizure of such tobacco products shall not relieve the
5 person from whom such tobacco products were seized from prosecution
6 or the payment of penalties.

7 E. The forfeiture provisions of Section 401 et seq. of this
8 title shall only apply to persons having possession of or
9 transporting tobacco products with intent to barter, sell or give
10 away the same.

11 SECTION 7. AMENDATORY 68 O.S. 2011, Section 2385.3, as
12 last amended by Section 3, Chapter 28, O.S.L. 2016 (68 O.S. Supp.
13 2017, Section 2385.3), is amended to read as follows:

14 Section 2385.3 A. Every employer required to deduct and
15 withhold taxes under Section 2385.2 of this title shall pay over the
16 amount so withheld as taxes to the Oklahoma Tax Commission pursuant
17 to the schedule outlined in paragraphs 1 through 3 of this
18 subsection, and shall file a quarterly return in such form as the
19 Tax Commission shall prescribe on or before the twentieth day of the
20 month following the close of each calendar quarter:

21 1. Every employer required to remit federal withholding under
22 the Federal Semiweekly Deposit Schedule shall pay over the amount so
23 withheld under subsection A of this section on the same dates as
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1 required under the Federal Semiweekly Deposit Schedule for federal
2 withholding taxes;

3 2. Every employer owing an average of Five Hundred Dollars
4 (\$500.00) or more per quarter in taxes in the previous fiscal year
5 who is not subject to the provisions of paragraph 1 of this
6 subsection shall pay over the amount so withheld on or before the
7 twentieth day of each succeeding month; and

8 3. Every employer owing an average of less than Five Hundred
9 Dollars (\$500.00) per quarter in taxes in the previous fiscal year
10 shall pay over the amount so withheld on or before the twentieth day
11 of the month following the close of each succeeding quarterly
12 period.

13 B. Every employer subject to the provisions of paragraph 1 of
14 subsection A of this section shall file returns pursuant to the Tax
15 Commission's electronic data interchange program.

16 C. Every employer required under Section 2385.2 of this title
17 to deduct and withhold a tax from the wages paid an employee shall,
18 as to the total wages paid to each employee during the calendar
19 year, furnish to such employee, on or before January 31 of the
20 succeeding year, a written statement showing the name of the
21 employer, the name of the employee and the employee's Social
22 Security account number, if any, the total amount of wages subject
23 to taxation, and the total amount deducted and withheld as tax and
24 such other information as the Tax Commission may require. If an

1 employee's employment is terminated before the close of a calendar
2 year, the written statement must be furnished within thirty (30)
3 days of the date of which the last payment of wages is made.

4 D. Every employer required under Section 2385.2 of this title
5 to deduct and withhold a tax from the wages paid an employee shall
6 furnish to the Oklahoma Tax Commission, on or before ~~February 28~~
7 January 31 of the succeeding year, an annual reconciliation and such
8 other information as the Tax Commission may require pursuant to the
9 Tax Commission's electronic data interchange program.

10 E. If the Tax Commission, in any case, has justifiable reason
11 to believe that the collection of the tax provided for in Section
12 2385.2 of this title is in jeopardy, the Tax Commission may require
13 the employer to file a return and pay the tax at any time.

14 F. Any sum or sums withheld in accordance with the provisions
15 of Section 2385.2 of this title shall be deemed to be held in trust
16 for the State of Oklahoma, and, as trustee, the employer shall have
17 a fiduciary duty to the State of Oklahoma in regard to such sums and
18 shall be subject to the trust laws of this state.

19 G. If any employer fails to withhold the tax required to be
20 withheld by Section 2385.2 of this title and thereafter the income
21 tax is paid by the employee, the tax so required to be withheld
22 shall not be collected from the employer but such employer shall not
23 be relieved from the liability for penalties or interest otherwise
24 applicable because of such failure to withhold the tax.

1 H. Every person making payments of winnings subject to
2 withholding shall, for each monthly period, on or before the
3 twentieth day of the month following the payment of such winnings
4 pay over to the Tax Commission the amounts so withheld, and shall
5 file a return, in a form as prescribed by the Tax Commission.

6 I. Every person making payments of winnings subject to
7 withholding shall furnish to each recipient on or before January 31
8 of the succeeding year a written statement in a form as prescribed
9 by the Tax Commission. Every person making such reports shall also
10 furnish a copy of such report to the Tax Commission in a manner and
11 at a time as shall be prescribed by the Tax Commission.

12 SECTION 8. This act shall become effective July 1, 2018.

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

17
18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
19 02/20/2018 - DO PASS, As Coauthored.
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