

1 **SENATE FLOOR VERSION**

2 April 5, 2017

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2252

By: Brumbaugh and Bennett
(John) of the House

6 and

7 Leewright of the Senate

8
9 COMMITTEE SUBSTITUTE

10 [revenue and taxation - disclosure agreements -
11 waiver of penalty - effective date]
12

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

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

16 Section 220. A. The interest or penalty or any portion thereof
17 ordinarily accruing by reason of a taxpayer's failure to file a
18 report or return or failure to file a report or return in the
19 correct form as required by any state tax law or by this Code or to
20 pay a state tax within the statutory period allowed for its payment
21 may be waived or remitted by the Oklahoma Tax Commission or its
22 designee provided the taxpayer's failure to file a report or return
23 or to pay the tax is satisfactorily explained to the Tax Commission
24 or such designee, or provided such failure has resulted from a

1 mistake by the taxpayer of either the law or the facts subjecting
2 him to such tax, or inability to pay such interest or penalty
3 resulting from insolvency.

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

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

16 C. Taxpayers who (1) do not have outstanding tax liabilities
17 other than those reported pursuant to a voluntary disclosure
18 agreement, (2) have not been contacted by the Oklahoma Tax
19 Commission with respect to the taxpayer's potential or actual
20 obligation to file a return or make a payment to the state, (3) have
21 not collected taxes from others, such as sales and use taxes or
22 payroll taxes, and not reported those taxes, and (4) have not within
23 the preceding three (3) years entered into a voluntary disclosure
24 agreement for the type of tax owed may enter into a voluntary

1 disclosure agreement with the Tax Commission in order to report a
2 state tax liability owed by the taxpayer. Taxpayers who have
3 collected taxes from others, such as sales and use taxes or payroll
4 taxes, and not reported those taxes, may enter into a modified
5 voluntary disclosure agreement as is provided in subsection F of
6 this section provided that they meet all the other requirements
7 provided in this subsection. If the Tax Commission agrees with the
8 proposed terms for payment of the principal amount of tax due and
9 owing, the penalty otherwise imposed by law upon the principal
10 amount shall be waived by operation of law and no further action by
11 the Tax Commission or by the taxpayer shall be required for the
12 waiver of such penalty amount and fifty percent (50%) of the
13 otherwise applicable interest amount shall be waived by operation of
14 law and no further action by the Tax Commission or by the taxpayer
15 shall be required for the waiver of such interest amount.

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

20 E. Voluntary disclosure agreements may be denied or nullified
21 by the Tax Commission if a taxpayer's failure to report or pay is
22 determined to be the result of a pattern of intentional or gross
23 negligence regarding compliance with the laws.
24

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
17 April 5, 2017 - DO PASS AS AMENDED
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