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AS AMENDED

By: Sears of the House

Thompson of the Senate

[state revenue administration - monies distributed
to municipalities - notification procedures -
cigarette and tobacco product excise taxes and
withholding taxes - ~~effective date~~ -

~~emergency~~ 1

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

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

Section 16-103.1. No monies shall be distributed pursuant to Section 1104 of Title 47 and Section 504 of Title 68 of the Oklahoma Statutes to any incorporated city or town which has failed to hold a general or special municipal election to elect officers as provided in Section 16-101 et seq. of this title or a biennial town meeting as provided by the Oklahoma Town Meeting Act, on the dates required by law for four (4) or more years, if a general or special municipal election, or for two consecutive biennial town meetings. Such monies shall be remitted to the county in which the incorporated

1 city or town is located and deposited to the county highway fund of
2 that county to be used as otherwise provided by law. An
3 incorporated city or town shall henceforth send the county treasurer
4 of the county in which it is located ~~and the chairman of the~~
5 ~~Oklahoma Tax Commission, or a person designated by the Oklahoma Tax~~
6 ~~Commission to receive service of process,~~ a copy of the
7 municipality's notice of a biennial town meeting or resolution
8 calling for its regular municipal elections, whichever is
9 appropriate. The copy of the resolution shall include a notation by
10 the county election board showing that the resolution was received
11 and the date it was received.

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

14 Section 219. The Oklahoma Tax Commission is authorized to enter
15 into an agreement to compound, settle or compromise any controversy
16 relating to taxes collectible by the Tax Commission, or any admitted
17 or established tax liability as to any tax collectible under any
18 State Law in the following cases:

19 (1) In cases of controversy arising over the amount of tax due,
20 or,

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

23 In any case where the amount of any tax liability which has been
24 admitted or established exceeds ~~Ten Thousand Dollars (\$10,000.00)~~

1 Twenty-five Thousand Dollars (\$25,000.00), no agreement to compound,
2 settle or compromise such tax liability shall be effective until the
3 settlement thereof shall have been approved by judgment of one of
4 the judges of the district court of Oklahoma County, after a full
5 hearing thereon.

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

8 Section 219.1. A. In accordance with the provisions of the
9 amendment to Section 5 of Article X of the Oklahoma Constitution as
10 set forth in Senate Joint Resolution No. 32 of the 2nd Session of
11 the 48th Oklahoma Legislature, the Oklahoma Tax Commission is hereby
12 authorized to abate all or any portion of tax liability and interest
13 and penalties accruing thereto, pursuant to a settlement agreement
14 entered into with a taxpayer, if the Tax Commission finds, by clear
15 and convincing evidence, that:

16 1. Collection of the tax liability and interest and penalties
17 accruing thereto would reasonably result in the taxpayer declaring
18 bankruptcy;

19 2. The tax is uncollectible due to insolvency of the taxpayer
20 resulting from factors beyond the control of the taxpayer or for
21 other similar cause beyond the control of the taxpayer;

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

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

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

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

10 2. Whether the taxpayer has benefited from nonpayment of the
11 tax; and

12 3. Involvement of the taxpayer in economic activity from which
13 the tax liability originated.

14 C. All agreements entered into pursuant to the provisions of
15 this section shall provide for the collection of all or a portion of
16 the tax liability if at all possible, and in all cases collection of
17 the tax liability shall take precedence over collection of interest
18 and penalties.

19 D. Any abatement of tax liability authorized by this section
20 shall only be granted by a unanimous vote of the members of the Tax
21 Commission. The decision of the members of the Tax Commission in
22 denying the abatement of any tax liability pursuant to this section
23 shall be final and no right of appeal to any court may be taken from
24 such decision.

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

9 F. The provisions of this section shall not be construed to
10 grant any legal right to any taxpayer for the abatement of any tax
11 liability. A decision to grant abatement of tax liability pursuant
12 to the provisions of this section shall be a discretionary act
13 within the authority of the members of the Tax Commission.

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

16 H. The Tax Commission shall promulgate rules to implement the
17 provisions of this section.

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

21 Section 305. A. Every wholesaler doing business within this
22 state and required to secure a license as provided under Section 304
23 of this title shall, upon withdrawal from storage, and before making
24 any sale or distribution of cigarettes for consumption thereof,

1 affix or cause the same to have affixed thereto the stamp or stamps
2 as required by Section 301 et seq. of this title. It shall be the
3 duty of the wholesaler to supply the necessary stamps to cover any
4 and all drop shipments of cigarettes billed to the retailer or
5 consumer by the wholesaler; and the wholesaler shall be liable to
6 the Oklahoma Tax Commission to perform this service. Wholesalers
7 may apply stamps only to cigarette packages that they have received
8 directly from a manufacturer or importer of cigarettes who possesses
9 a valid and current permit under Section 5712 of Title 26 of the
10 United States Code.

11 B. Every retailer who has received unstamped cigarettes from a
12 manufacturer or wholesaler not required to secure a license as
13 provided for under Section 304 of this title, or to affix stamps as
14 required under subsection A of this section, shall, within seventy-
15 two (72) hours, excluding Sundays and holidays, from the time such
16 cigarettes come into the retailer's possession, and before making
17 any sale or distribution for consumption thereof, affix stamps upon
18 all cigarette packages in the proper denomination and amount, as
19 required by Section 302 of this title.

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

1 D. If, upon examination of invoices or from other
2 investigations, the Tax Commission finds that cigarettes have been
3 sold without stamps affixed as required by Section 301 et seq. of
4 this title, the Tax Commission shall have the power to require such
5 person to pay to the Tax Commission a sum equal to twice the amount
6 of the tax due. If, under the same circumstances, a person is
7 unable to furnish evidence to the Tax Commission of sufficient stamp
8 purchases to cover unstamped cigarettes purchased, the prima facie
9 presumption shall arise that such cigarettes were sold without
10 proper stamps being affixed thereto.

11 E. 1. All contraband cigarettes upon which taxes are imposed
12 by Section 301 et seq. of this title and all cigarettes stamped,
13 sold, offered for sale or imported into this state in violation of
14 the provisions of Section 305.1 of this title which shall be found
15 in the possession, custody or control of any person, for the purpose
16 of being consumed, sold or transported from one place to another in
17 this state, for the purpose of evading or violating the provisions
18 of Section 301 et seq. of this title, or with intent to avoid
19 payment of the tax imposed hereunder, and any automobile, truck,
20 conveyance or other vehicle whatsoever used in the transportation of
21 such cigarettes, and all paraphernalia, equipment or other tangible
22 personal property incident to the use of such purposes, found in the
23 place, building, vehicle or vehicles, where such cigarettes are
24 found, may be seized by any authorized agent of the Tax Commission,

1 or any sheriff, deputy sheriff, constable or other peace officer
2 within the state, without process. The same shall be, from the time
3 of such seizure, forfeited to the State of Oklahoma, and a proper
4 proceeding filed to maintain such seizure and prosecute the
5 forfeiture as herein provided.

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

1 ~~should be forfeited to the State of Oklahoma, it shall make an order~~
2 ~~forfeiting the cigarettes to the State of Oklahoma and directing the~~
3 ~~destruction of such cigarettes~~ If no request for hearing is filed
4 within the time provided, the property seized will be forfeited and
5 destroyed.

6 3. Any and all such vehicles and property so seized shall first
7 be listed and appraised by the officer making such seizure and
8 turned over to the county sheriff of the county in which the seizure
9 is made and a receipt therefor taken. The person making such
10 seizure shall immediately make and file a written report thereof,
11 showing the name of the person making such seizure, the place where
12 and the person from whom such property was seized, and an inventory
13 and appraisal thereof, at the usual and ordinary retail price of
14 such articles received, to the Tax Commission. The district
15 attorney of the county in which the seizures are made shall, at the
16 request of the Tax Commission or Attorney General, file in the
17 district court forfeiture proceedings in the name of the State of
18 Oklahoma, as plaintiff, and in the name of the owner or person in
19 possession, as defendant, if known, and if unknown in the name of
20 the property seized. The clerk of the court shall issue summons to
21 the owner or person in whose possession such property was found,
22 directing the owner or person to answer within ten (10) days. If
23 the property is declared forfeited and ordered sold, notice of the
24 sale shall be posted in five public places in the county not less

1 than ten (10) days before the date of sale. The proceeds of the
2 sale shall be deposited with the clerk of the court, who shall after
3 deducting costs, including the costs of sale, pay the balance to the
4 Tax Commission as cigarette tax collected, or in the case of
5 vehicles and property seized in connection with cigarettes seized as
6 being in violation of the provisions of Section 305.1 of this title,
7 to the Attorney General. The Attorney General shall remit the
8 amount of cigarette tax, if any be due, including all penalties and
9 interest due, to the Tax Commission as cigarette tax collected and
10 shall deposit the remainder to the revolving fund created in Section
11 305.2 of this title.

12 4. The seizure of cigarettes shall not relieve the person from
13 whom such cigarettes were seized from any prosecution or the payment
14 of any penalties provided for under Section 301 et seq. of this
15 title.

16 5. The forfeiture provisions of Section 301 et seq. of this
17 title shall only apply to persons having possession of or
18 transporting cigarettes with intent to barter, sell or give away the
19 same; provided, that such possession of cigarettes in any quantity
20 of five or more cartons of ten packages each shall be prima facie
21 evidence of intent to barter, sell or give away such cigarettes in
22 violation of the provisions of Section 301 et seq. of this title.

23 F. Any person, including distributing agents, wholesalers,
24 carriers, retailers and consumers, having possession of unstamped

1 cigarettes in this state shall be liable for the tax on such
2 cigarettes in case the same are lost, stolen or unaccounted for, in
3 transit, storage or otherwise, and in such event a presumption shall
4 exist for the purposes of taxation, that such cigarettes were used
5 and consumed in Oklahoma.

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

8 Section 360.7. A. In addition to or in lieu of any other civil
9 or criminal remedy provided by law, upon a determination that a
10 stamping agent has violated Section 360.6 of this title or any rule
11 promulgated pursuant to the Master Settlement Agreement
12 Complementary Act, the Oklahoma Tax Commission may revoke or suspend
13 the license of the stamping agent. Each stamp affixed and each sale
14 or offer to sell cigarettes in violation of the Master Settlement
15 Agreement Complementary Act shall constitute a separate violation.
16 For each violation, the Oklahoma Tax Commission may also impose a
17 civil penalty in an amount not to exceed the greater of five hundred
18 percent (500%) of the retail value of the cigarettes or Five
19 Thousand Dollars (\$5,000.00) upon a determination of violation of
20 the Master Settlement Agreement Complementary Act or any rules
21 promulgated pursuant thereto.

22 B. Any cigarettes that have been sold, offered for sale, or
23 possessed for sale in this state or imported for personal
24 consumption in this state, in violation of the Master Settlement

1 Agreement Complementary Act, shall be deemed contraband pursuant to
2 the Master Settlement Agreement Complementary Act. Those cigarettes
3 shall be subject to seizure and forfeiture as provided by this
4 section and all cigarettes so seized and forfeited shall be
5 destroyed as provided by this section and not resold.

6 C. 1. Cigarettes or tobacco product distributors and
7 wholesalers licensed by the Oklahoma Tax Commission, pursuant to
8 Section 304 or 415 of this title, who also distribute cigarettes in
9 a state bordering Oklahoma may store in their Oklahoma warehouse
10 cigarettes made contraband under this section if, and only if, they
11 have the tax stamp of another state affixed to each package of
12 cigarettes.

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

- 17 a. on a commercial carrier with a proper bill of lading
18 with an out-of-state destination,
- 19 b. when the tax stamp of another state is affixed to each
20 pack of cigarettes or tobacco product transported, or
- 21 c. on a commercial carrier with a proper bill of lading
22 to a tobacco product distributor or wholesaler
23 licensed by the Oklahoma Tax Commission, pursuant to
24 Section 304 or 415 of this title, who also distributes

1 cigarettes in a state bordering Oklahoma if, and only
2 if, the packing slip accompanying the shipment
3 indicates the shipment is for sale in another state
4 and indicates which state, and the invoice for the
5 shipment also indicates the shipment is for sale in a
6 state other than Oklahoma and identifies the state in
7 which the shipment is to be sold. The time of
8 delivery of the shipments shall be indicated on the
9 bill of lading of the common carrier when delivery is
10 completed. The receiving Oklahoma distributor or
11 wholesaler must, within twenty-four (24) hours of
12 receiving the delivery, affix or cause to be affixed
13 to each package of cigarettes the stamp of the state
14 in which they are to be sold.

15 3. All such cigarettes and tobacco products so seized shall
16 first be listed and appraised by the officer making such seizure and
17 turned over to the Tax Commission and a receipt therefor taken. The
18 person making such seizure shall immediately make and file a written
19 report thereof, showing the name of the person making such seizure,
20 the place where and the person from whom such property was seized,
21 and an inventory and appraisal thereof, at the usual and ordinary
22 retail price of such articles received, to the Tax Commission, and
23 the Attorney General, in the case of cigarettes stamped, sold,
24 offered for sale, or imported into this state in violation of the

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

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

1 of the articles received. The report shall be filed with the
2 Oklahoma Tax Commission and the Attorney General. The district
3 attorney of the county in which the seizures are made, at the
4 request of the Oklahoma Tax Commission or Attorney General, shall
5 file in the district court forfeiture proceedings in the name of the
6 State of Oklahoma, as plaintiff, and in the name of the owner or
7 person in possession, as defendant, if known, and if unknown or not
8 susceptible to the jurisdiction of the court, in the name of the
9 property seized. The clerk of the court shall issue a summons to
10 the owner or person in whose possession the property was found
11 directing the owner or person to answer within ten (10) days. At
12 the forfeiture proceeding, if a distributor or wholesaler
13 demonstrates through clear and convincing evidence that the
14 possession of contraband by the distributor or wholesaler was
15 accidental, the vehicle in which the contraband was being
16 transported shall not be forfeited. In no case, however, shall
17 possession of more than twenty (20) cartons of contraband product be
18 considered by the courts as being possessed accidentally. If the
19 property is declared forfeited and ordered sold, notice of the sale
20 shall be posted not less than ten (10) days before the date of sale
21 in five public places in the county in which the seizures are made.
22 Proceeds of the sale shall be deposited with the clerk of the court,
23 who shall, after deducting costs including the costs of prosecution,
24

1 storage, and sale, pay the balance to the Oklahoma Tax Commission
2 for deposit in the Tobacco Settlement Endowment Trust Fund.

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

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

- 11 a. sell or distribute cigarettes, or
- 12 b. acquire, hold, own, possess, transport, import, or
- 13 cause to be imported cigarettes that the person knows
- 14 or should know are intended for distribution or sale
- 15 in the state in violation of the Master Settlement
- 16 Agreement Complementary Act. A violation of the act
- 17 shall be a misdemeanor.

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

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

23 Section 417. A. All unstamped tobacco products upon which a
24 tax is levied by Section 401 et seq. of this title and all tobacco

1 products stamped, sold, offered for sale, or imported into this
2 state in violation of the provisions of Section 403.2 of this title,
3 found in the possession, custody or control of any person for the
4 purpose of being consumed, sold or transported from one place to
5 another in this state, for the purpose of evading or violating the
6 provisions of Section 401 et seq. of this title, or with intent to
7 avoid payment of the tax imposed thereunder, may be seized by any
8 authorized agent of the Oklahoma Tax Commission or any sheriff,
9 deputy sheriff or police within the state. Tobacco products from
10 the time of seizure shall be forfeited to the State of Oklahoma. A
11 proper proceeding shall be filed to maintain such seizure and
12 prosecute the forfeiture as herein provided; the provisions of this
13 section shall not apply, however, where the tax on such unstamped
14 tobacco products does not exceed One Dollar (\$1.00).

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

18 C. The person making such seizure shall immediately make and
19 file a written report thereof to the Tax Commission, showing the
20 name of the person making such seizure, the place where seized, the
21 person from whom seized, the property seized and an inventory and
22 appraisement thereof, which inventory shall be based on the usual
23 and ordinary retail price or value of the articles seized, and the
24 Attorney General, in the case of tobacco products stamped, sold,

1 offered for sale, or imported into this state in violation of the
2 provisions of Section 403.2 of this title. ~~The Tax Commission shall~~
3 ~~then proceed to hear and determine the matter of whether or not the~~
4 ~~tobacco products should, in fact be forfeited to the State of~~
5 ~~Oklahoma.~~ The Within sixty (60) days of seizure, the person from
6 whom the property was seized may file a request for hearing with the
7 Tax Commission or the Attorney General to show why the seized
8 property should not be forfeited and destroyed. If a hearing is
9 requested, the owner of the tobacco products shall be given at least
10 ten (10) days' notice of the hearing. ~~In the event the Commission~~
11 ~~finds that the tobacco products should be forfeited to the State of~~
12 ~~Oklahoma, it shall make an order forfeiting the tobacco products to~~
13 ~~the State of Oklahoma and directing the destruction of such tobacco~~
14 ~~products~~ If no request for hearing is filed within the time
15 provided, the property seized will be forfeited and destroyed.

16 D. The seizure of such tobacco products shall not relieve the
17 person from whom such tobacco products were seized from prosecution
18 or the payment of penalties.

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

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

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

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

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

3. Every employer owing an average of less than Five Hundred Dollars (\$500.00) per quarter in taxes in the previous fiscal year shall pay over the amount so withheld on or before the twentieth day

1 of the month following the close of each succeeding quarterly
2 period.

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

6 C. Every employer required under Section 2385.2 of this title
7 to deduct and withhold a tax from the wages paid an employee shall,
8 as to the total wages paid to each employee during the calendar
9 year, furnish to such employee, on or before January 31 of the
10 succeeding year, a written statement showing the name of the
11 employer, the name of the employee and the employee's Social
12 Security account number, if any, the total amount of wages subject
13 to taxation, and the total amount deducted and withheld as tax and
14 such other information as the Tax Commission may require. If an
15 employee's employment is terminated before the close of a calendar
16 year, the written statement must be furnished within thirty (30)
17 days of the date of which the last payment of wages is made.

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

1 E. If the Tax Commission, in any case, has justifiable reason
2 to believe that the collection of the tax provided for in Section
3 2385.2 of this title is in jeopardy, the Tax Commission may require
4 the employer to file a return and pay the tax at any time.

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

10 G. If any employer fails to withhold the tax required to be
11 withheld by Section 2385.2 of this title and thereafter the income
12 tax is paid by the employee, the tax so required to be withheld
13 shall not be collected from the employer but such employer shall not
14 be relieved from the liability for penalties or interest otherwise
15 applicable because of such failure to withhold the tax.

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

21 I. Every person making payments of winnings subject to
22 withholding shall furnish to each recipient on or before January 31
23 of the succeeding year a written statement in a form as prescribed
24 by the Tax Commission. Every person making such reports shall also

1 furnish a copy of such report to the Tax Commission in a manner and
2 at a time as shall be prescribed by the Tax Commission.

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
9 April 4, 2018 - DO PASS AS AMENDED
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