

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1568

By: Sykes

6 AS INTRODUCED

7 An Act relating to appellate procedures; amending 68
8 O.S. 2011, Section 238.2, as amended by Section 534,
Chapter 304, O.S.L. 2012 (68 O.S. Supp. 2017, Section
9 238.2), which relates to compliance of state
employees with income tax laws; providing appeal for
10 trial de novo in district court; establishing
procedures for certain appeals; and providing an
11 effective date.

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

14 SECTION 1. AMENDATORY 68 O.S. 2011, Section 238.2, as
15 amended by Section 534, Chapter 304, O.S.L. 2012 (68 O.S. Supp.
16 2017, Section 238.2), is amended to read as follows:

17 Section 238.2. A. It is the intent of the Legislature that the
18 provisions of this section operate to provide for the collection of
19 income taxes due to the State of Oklahoma by state employees in a
20 manner that will maximize flexibility for state employees to pay any
21 such taxes due while minimizing disruption to operations of state
22 agencies. It is the further intent of the Legislature that the
23 Oklahoma Tax Commission provide notice to state employees pursuant
24 to the provisions of subsection C of this section and that the Tax

1 Commission provide such notice to state employees at least six (6)
2 months prior to notification of noncompliance to a state agency.

3 B. The Office of Management and Enterprise Services shall, not
4 later than August 1, 2003, and August 1 of each year thereafter,
5 provide to the Tax Commission a list of all state employees as of
6 the preceding July 1 and such identifying information as may be
7 required by the Tax Commission. Such list and information shall be
8 used by the Tax Commission exclusively for the purpose of collection
9 of income taxes due to the State of Oklahoma. The provisions of any
10 laws making information confidential shall not apply with respect to
11 information supplied to the Tax Commission pursuant to the
12 provisions of this section; provided, such information shall be
13 subject to the provisions of Section 205 of this title.

14 C. The Tax Commission shall, not later than November 1, 2003,
15 and November 1 of each year thereafter, notify any state employee
16 who is not in compliance with the income tax laws of this state.
17 Such notification shall include:

18 1. A statement that the employee will be subject to
19 disciplinary action by the appointing authority unless the taxpayer
20 is deemed by the Tax Commission to be in compliance with the income
21 tax laws of this state;

22 2. The reasons that the taxpayer is considered to be out of
23 compliance with the income tax laws of this state, including a
24 statement of the amount of any tax, penalties and interest due or a

1 list of the tax years for which income tax returns have not been
2 filed as required by law;

3 3. An explanation of the rights of the taxpayer and the
4 procedures which must be followed by the taxpayer in order to come
5 into compliance with the income tax laws of this state; and

6 4. Such other information as may be deemed necessary by the Tax
7 Commission.

8 D. A state employee who has entered into and is abiding by a
9 payment agreement, or who has requested relief as an innocent spouse
10 which is pending or has been granted, shall be deemed to be in
11 compliance with the state income tax laws for purposes of this
12 section.

13 E. If the Tax Commission notifies a state employee who is not
14 in compliance with the income tax laws of this state as required in
15 this section and such state employee does not respond to such
16 notification or fails to come into compliance with the income tax
17 laws of this state after an assessment has been made final or after
18 the Tax Commission determines that every reasonable effort has been
19 made to assist the state employee to come into compliance with the
20 income tax laws of this state, the Tax Commission, notwithstanding
21 the provisions of Section 205 of this title, shall so notify the
22 appointing authority, which shall commence disciplinary action with
23 respect to the state employee and shall notify the state employee of
24 the reason for such action; provided, if a state agency receives a

1 notification with respect to a state employee who has failed to come
2 into compliance with the income tax laws, and the notification is
3 the employee's third notification as a state employee, regardless of
4 which agency the employee was employed by at the time of the first
5 and second notices, such employee shall be terminated by the state
6 agency according to the procedures provided by law. If a state
7 employee who has been previously reported by the Tax Commission to a
8 state agency as being out of compliance comes into compliance, the
9 Tax Commission shall immediately notify the appointing authority.
10 Neither a state agency nor an appointing authority shall be held
11 liable for any action with respect to a state employee pursuant to
12 the provisions of this section.

13 F. The Tax Commission shall promulgate rules for the
14 implementation of the provisions of this section.

15 G. In lieu of an appeal to the Supreme Court of Oklahoma, any
16 taxpayer aggrieved by a final order of the Tax Commission assessing
17 a tax or an additional tax or denial of a claim for refund may opt
18 to file an appeal for a trial de novo in the district court of
19 Oklahoma County or the county in which the taxpayer resides. If the
20 amount in dispute exceeds Ten Thousand Dollars (\$10,000.00), the
21 appeal shall be heard by a district or associate district judge
22 sitting without a jury. If the amount in dispute does not exceed
23 Ten Thousand Dollars (\$10,000.00), the appeal may be heard by a
24 special judge sitting without a jury. An order resulting from a

trial provided pursuant to this subsection shall be appealable
directly to the Supreme Court by either party. Such appeal shall be
taken in the manner and time provided by law for appeal to the
Supreme Court from the district court in civil actions. Upon the
filing of an appeal, the order of the district court shall be
superseded and neither party shall be required to give bond. The
provisions of this subsection shall be applicable for tax periods
beginning after the effective date of this act. Provided, if the
order applies to multiple tax periods, which begin before and after
the effective date of this act, the appeal provided by this
subsection shall be available to the aggrieved taxpayer.

H. As used in this section:

1. "State agency" means any office, department, board, commission or institution of the executive, legislative or judicial branch of state government;

2. "Employee" or "state employee" means an appointed officer or employee of a state agency; provided, the term employee or state employee shall not include an elected official or an employee of a local governmental entity; and

3. "Appointing authority" means the chief administrative officer of a state agency.

SECTION 2. This act shall become effective November 1, 2018.

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