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February 8, 2022

By: Rader

An Act relating to sales tax; amending 68 O.S. 2021, Sections 227 and 1364.1, which relate to refund of erroneous payments and permit to directly remit taxes; prohibiting refund of certain erroneous tax payment; requiring certain individuals to apply for direct pay permit; authorizing claim for refund of taxes paid under certain circumstance; conforming language; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 227, is amended to read as follows:

Section 227. A. Except as provided in subsection B of Section 1361.2 and subsection D of Section 1364.1 of this title, any taxpayer who has paid to ~~the State of Oklahoma~~ this state, through error of fact, or computation, or misinterpretation of law, any tax collected by the Oklahoma Tax Commission may, as ~~hereinafter~~ provided, be refunded the amount of ~~such~~ the tax ~~so~~ erroneously paid, without interest.

B. 1. Except as otherwise provided by paragraph 2 of this subsection, any taxpayer who has ~~so~~ paid any such tax may, within

1 three (3) years from the date of payment thereof file with the Tax
2 Commission a verified claim for refund of ~~such~~ the tax ~~so~~
3 erroneously paid. The Tax Commission may accept an amended
4 withholding tax or other report or return as a verified claim for
5 refund if the amended report or return establishes a liability less
6 than the original report or return previously filed.

7 2. Upon August 26, 2016, with respect to the sales tax imposed
8 by Section 1354 of this title and with respect to the use tax
9 imposed by Section 1402 of this title, any taxpayer who has ~~so~~ paid
10 ~~such~~ the sales or use tax may, within two (2) years from the date of
11 payment thereof file with the Tax Commission a verified claim for
12 refund of ~~such~~ the tax ~~so~~ erroneously paid. The Tax Commission may
13 accept an amended sales or use tax report or return as a verified
14 claim for refund if the amended report or return establishes a
15 liability less than the original report or return previously filed.

16 C. The claim ~~so~~ filed with the Tax Commission, except for an
17 amended report or return, shall specify the name of the taxpayer,
18 the time when and period for which the tax was paid, the nature and
19 kind of tax ~~so~~ paid, the amount of the tax which the taxpayer
20 claimed was erroneously paid, the grounds upon which a refund is
21 sought, and such other information or data relative to ~~such~~ payment
22 as may be necessary to an adjustment thereof by the Tax Commission.
23 It shall be the duty of the Commission to determine what amount of
24 refund, if any, is due as soon as practicable after such claim has

1 been filed and advise the taxpayer about the correctness of his
2 claim and the claim for refund shall be approved or denied by
3 written notice to the taxpayer.

4 D. If the claim for refund is denied, the taxpayer may file a
5 demand for hearing with the Commission. The demand for hearing must
6 be filed on or before the sixtieth day after the date the notice of
7 denial was mailed. If the taxpayer fails to file a demand for
8 hearing, the claim for refund shall be barred.

9 E. Upon the taxpayer's timely filing of a demand for hearing,
10 the Commission shall set a date for hearing upon the claim for
11 refund which date shall not be later than sixty (60) days from the
12 date the demand for hearing was mailed. The taxpayer shall be
13 notified of the time and place of the hearing. The hearing may be
14 held after the sixty-day period provided by this subsection upon
15 agreement of the taxpayer.

16 F. The provisions of this section shall not apply:

17 1. To refunds of income tax erroneously paid, refunds of which
18 tax shall be payable out of the income tax adjustment fund as
19 provided by law;

20 2. To estate tax because the payment of such tax is covered by
21 an order of the Tax Commission and the estate and interested parties
22 are given notice that the Commission's position and computation of
23 the tax will become final unless they protest and resist the payment
24 thereof as provided by statute; nor

1 3. In any case where the tax was paid after an assessment
2 thereof was made by the Tax Commission which assessment became final
3 under the law.

4 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1364.1, is
5 amended to read as follows:

6 Section 1364.1. A. Every person who qualifies pursuant to
7 subsection B of this section ~~and desires to~~ shall apply to the Tax
8 Commission for a direct pay permit and directly remit the taxes due
9 under Section 1350 et seq. of this title or Section 1401 et seq. of
10 this title to the Oklahoma Tax Commission rather than remit such
11 taxes to the vendor ~~may apply to the Tax Commission for a direct~~
12 ~~payment permit~~. The permit shall be valid for three (3) years.

13 Each ~~such~~ person shall file with the Tax Commission an application
14 for a direct payment permit, setting forth such information as the
15 Tax Commission may require, including but not limited to:

16 1. An agreement that is signed by the owner of the business or
17 representative of the business entity and as a natural person, and,
18 in the case of a corporation, as a legally constituted officer
19 thereof, that provides that the applicant agrees to:

20 a. accrue and remit all taxes imposed by Section 1350 et
21 seq. of this title or Section 1401 et seq. of this
22 title on the sale or use of all taxable personal
23 property or services sold to or leased or rented by
24 the applicant. Provided, no tax shall be due from the

holder of a direct payment permit on tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to such other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service,

b. pay such taxes as required by Section 1365 of this title. Provided, in lieu of monthly reports, persons qualifying pursuant to paragraph 2 of subsection B of this section owing an average per month of Five Hundred Dollars (\$500.00) or less may file quarterly reports and remit taxes due ~~thereunder~~ to the Tax Commission on or before the twentieth day of the month following the calendar quarter. If not paid on or before the twentieth day of such month, the tax shall be delinquent, and

c. waive the discount permitted by Section 1367.1 of this title on the payment of all taxes remitted directly to the Tax Commission; and

2. A description of the accounting method by which the applicant proposes to differentiate between taxable and exempt transactions.

Upon verification that the applicant is eligible to receive a direct payment permit, the Tax Commission shall issue a direct

1 payment permit for the place of business set forth in the
2 application for the permit. The Tax Commission shall be the sole
3 judge of the applicant's qualifications and may refuse to issue a
4 direct payment permit to an applicant. An applicant who has been
5 denied the issuance of a permit may submit an amended application or
6 may submit a new application after a reasonable period of time after
7 the denial of the original application.

8 B. The following persons shall qualify for a direct payment
9 permit as provided in subsection A of this section:

10 1. Every person who makes purchases of Eight Hundred Thousand
11 Dollars (\$800,000.00) or more annually in taxable items for use in
12 Oklahoma enterprises; or

13 2. Every person who makes purchases of drugs for the treatment
14 of human beings, medical appliances, medical devices and other
15 medical equipment including but not limited to corrective
16 eyeglasses, contact lenses, hearing aids, prosthetic devices,
17 durable medical equipment, and mobility-enhancing equipment for
18 administration or distribution by a practitioner, as defined in
19 subsection B of Section 1357.6 of this title, who is authorized by
20 law to administer or distribute such items and the cost of such
21 items will be reimbursed under the Medicare or Medicaid program.

22 C. For exempt purchases made by persons that have been issued a
23 permit under paragraph 2 of subsection B of this section, the Tax
24 Commission shall accept the following information, maintained

1 separate from confidential patient records, as an acceptable
2 accounting method by which the applicant documents the purchase of
3 items exempt under Section 1357.6 of this title:

4 1. Patient case number or account number;

5 2. Type of insurance; and

6 3. Item description or product number.

7 D. A claim for refund of sales taxes erroneously paid may only
8 be made to the Tax Commission if a vendor refuses to honor the proof
9 of eligibility issued by the Commission for the exemption authorized
10 pursuant to subsection B of this section, and the person eligible
11 for the exemption submits to the Commission a signed notification of
12 the vendor's denial of exemption on a form prescribed by the
13 Commission.

14 SECTION 3. This act shall become effective November 1, 2022.

15 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
16 February 8, 2022 - DO PASS
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