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February 2, 2021

By: Rader

An Act relating to tax procedure; amending 68 O.S. 2011, Section 255, which relates to contracts with debt collection agencies; modifying time frame for remittance; clarifying statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 255, is amended to read as follows:

Section 255. A. In order to facilitate and expedite the collection of taxes more than ninety (90) days overdue from any taxpayer, the Oklahoma Tax Commission may enter into a contract with a debt collection agency doing business ~~in the State of Oklahoma~~ in this state or in any other state for the collection of such delinquent taxes in addition to all other taxes accrued or accruing, including penalties and interest thereon, from the taxpayer. The contract shall only authorize the debt collection agency to collect tax liabilities which are already established and the Tax Commission shall not refer accounts to the debt collection agency unless the

1 Tax Commission has notified the taxpayer, by first class mail, of
2 the liability and has made additional efforts to collect the debt.
3 Provided, if a sales tax permit holder fails to file two or more
4 sales tax returns, as required under Section 1365 of this title, or
5 a taxpayer required to remit withholding taxes fails to file two or
6 more withholding tax returns, as required under Section 2385.3 of
7 this title, the Tax Commission may refer the accounts to the debt
8 collection agency prior to the establishment of the tax liability,
9 but only after the Commission has notified the taxpayer as required
10 under this subsection.

11 B. If an account has been referred to a debt collection agency,
12 the Tax Commission shall review all payments posted by the
13 collection agency prior to commencing any further collection
14 activity against the taxpayer. Further, the collection agency shall
15 review all payments posted by the Tax Commission prior to commencing
16 any collection activity. The Tax Commission or the collection
17 agency shall, within ten (10) business days, provide the taxpayer
18 with a written confirmation of all payments received and any balance
19 due. In addition, the contract shall not authorize the debt
20 collection agency to conduct audits or examine the books and records
21 of a taxpayer in any manner. The Tax Commission may also enter into
22 a contract with a person doing business in ~~the State of Oklahoma~~
23 this state or in any other state for the purpose of identifying and
24 locating the assets of such delinquent taxpayer. ~~Such~~ The contracts

1 authorized by this section shall be subject to the provisions of The
2 Oklahoma Central Purchasing Act.

3 C. In addition to the authority provided in subsection A of
4 this section, the Tax Commission may enter into a contract for the
5 purpose of identifying nonresident businesses and individuals who
6 are required by law to file and pay Oklahoma state taxes and who are
7 presently unknown to the Tax Commission.

8 D. Prior to entering into such a contract with a debt
9 collection agency, the Tax Commission shall require that the debt
10 collection agency file a bond in the amount of One Hundred Thousand
11 Dollars (\$100,000.00). The bond shall be a bond from a surety
12 company chartered or authorized to do business in this state, cash
13 bond, certificates of deposits, certificates of savings or U.S.
14 Treasury bonds, as the Tax Commission may deem necessary to
15 guarantee compliance with the terms of the contract.

16 E. Each contract entered into by the Tax Commission with a debt
17 collection agency, pursuant to the provisions of this section, shall
18 specify that fees for services rendered, reimbursements or other
19 remuneration shall be based on the total amount of delinquent taxes,
20 including accrued penalties and interest, which is actually
21 collected. No costs shall be reimbursed unless authorized in the
22 contract. Each contract entered into between the Tax Commission and
23 a debt collection agency shall provide for the payment of fees for
24 such services, reimbursements or other remuneration not in excess of

1 thirty-five percent (35%) of the total amount of delinquent taxes,
2 penalty and interest actually collected. The debt collection agency
3 contract fee shall be added to the amount of the delinquent taxes,
4 accrued penalties and interest collected from the taxpayer. The
5 total amount of the delinquent tax, accrued penalties and interest,
6 and the debt collection agency contract fee shall be owed and
7 collected from the taxpayer.

8 F. Each contract entered into by the Tax Commission with a
9 person for the purpose of identifying and locating assets of
10 delinquent taxpayers shall specify the amount of money to be paid
11 for the performance of such services. No costs shall be reimbursed
12 unless authorized in the contract.

13 G. All such funds collected by a debt collection agency,
14 including the fees for collection services as provided for in such
15 contract, shall be remitted to the Tax Commission within ~~five (5)~~
16 ~~days~~ fifteen (15) days from the date of collection from a taxpayer.
17 The Tax Commission shall pay from such remitted fees the amount of
18 fees to which ~~such~~ the debt collecting agency is entitled for
19 services performed pursuant to the provisions of ~~such~~ the contract.
20 All assets of ~~such~~ the delinquent taxpayers which are identified and
21 located shall be reported to the Tax Commission within five (5) days
22 from the date of identification and location. Forms to be used for
23 ~~such~~ the remittances and reports shall be prescribed by the Tax
24 Commission.

1 H. A debt collection agency entering into a contract with the
2 Tax Commission or a person entering into a contract with the Tax
3 Commission for asset location purposes pursuant to this section
4 shall agree that it is receiving income from sources within this
5 state or doing business in this state for purposes of the Oklahoma
6 tax laws. Debt collection agency employees ~~and/or~~ and their agents
7 shall not disclose confidential tax information except as authorized
8 by Section 205 of this title, subject to the penalties contained
9 therein.

10 SECTION 2. This act shall become effective November 1, 2021.

11 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
12 February 2, 2021 - DO PASS
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