

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 604

By: Rader

AS INTRODUCED

An Act relating to tax compliance; amending 68 O.S. 2021, Sections 225 and 2385.3, which relate to appeals and withholdings; requiring certain hearings to be confidential; requiring certain information submitted to court to be sealed and strictly controlled; authorizing penalty for failure of an employer to provide certain reconciliation; limiting penalty; providing for collection of penalty; amending 68 O.S. 2021, Section 3131, which relates to resale return; requiring the county treasurer to notify the Oklahoma Tax Commission within certain period of certain information to determine existence of lien; requiring the Commission to notify the county treasurer within certain period of any outstanding tax liabilities; requiring the county treasurer to remit certain proceeds; requiring remaining proceeds be held in certain fund; 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 225, is amended to read as follows:

Section 225. A. Any taxpayer aggrieved by any order, ruling, or finding of the Oklahoma Tax Commission directly affecting the

1 taxpayer or aggrieved by a final order of the Tax Commission issued
2 pursuant to subsection G of Section 221 of this title may appeal
3 therefrom directly to the Supreme Court of Oklahoma. Provided, any
4 taxpayer appealing from a final order of the Tax Commission
5 assessing a tax or an additional tax or denial of a claim for refund
6 may opt to file an appeal in district court as provided in
7 subsection D of this section.

8 B. Within thirty (30) days after the date of mailing to the
9 taxpayer of the order, ruling, or finding complained of, the
10 taxpayer desiring to appeal shall:

11 1. File a petition in error in the office of the Clerk of the
12 Supreme Court; and

13 2. Request that the Tax Commission prepare for filing with the
14 Supreme Court, within thirty (30) days, the record of the appeal,
15 certified by the Secretary of the Tax Commission, and consisting of
16 any citations, findings, judgments, motions, orders, pleadings, and
17 rulings, together with a transcript of all evidence introduced at
18 any hearing relative thereto, or such portion of such citations,
19 findings, judgments, motions, orders, pleadings, rulings, and
20 evidence as the appealing parties and the Tax Commission may agree
21 to be sufficient to present fully to the Court the questions
22 involved.

1 C. Upon request of the taxpayer, the Tax Commission shall
2 furnish the taxpayer a copy of the proceedings had in connection
3 with the matter complained of.

4 D. In lieu of an appeal to the Supreme Court, any taxpayer
5 aggrieved by a final order of the Tax Commission assessing a tax or
6 an additional tax or denial of a claim for refund may opt to file an
7 appeal for a trial de novo in the district court of Oklahoma County
8 or the county in which the taxpayer resides. If the amount in
9 dispute exceeds Ten Thousand Dollars (\$10,000.00), the appeal shall
10 be heard by a district or associate district judge sitting without a
11 jury. If the amount in dispute does not exceed Ten Thousand Dollars
12 (\$10,000.00), the appeal may be heard by a special judge sitting
13 without a jury. An order resulting from a trial provided pursuant
14 to this subsection shall be appealable directly to the Supreme Court
15 of Oklahoma by either party. Such appeal shall be taken in the
16 manner and time provided by law for appeal to the Supreme Court from
17 the district court in civil actions. Upon the filing of an appeal,
18 the order of the district court shall be superseded and neither
19 party shall be required to give bond. The provisions of this
20 subsection shall be applicable for tax periods beginning after the
21 effective date of this act. Provided, if the order applies to
22 multiple tax periods which begin before and after the effective date
23 of this act, the appeal provided by this subsection shall be
24 available to the aggrieved taxpayer.

1 E. If the appeal is from an order of the Tax Commission or a
2 district court denying a refund of taxes previously paid and if upon
3 final determination of the appeal, the order denying the refund is
4 reversed or modified, the taxes previously paid, together with
5 interest thereon from the date of the filing of the petition in
6 error at the rate provided in subsection A of Section 217 of this
7 title, shall be refunded to the taxpayer by the Tax Commission.

8 F. Such refunds and interest thereon shall be paid by the Tax
9 Commission out of monies in the Tax Commission clearing account from
10 subsequent collections from the same source as the original tax
11 assessment, provided that in the event there are insufficient funds
12 for refunds from subsequent collections from the same source, the
13 refund shall be paid by the Tax Commission from monies appropriated
14 by the Legislature to the special refund reserve account for such
15 purposes as hereinafter provided. There is hereby created within
16 the official depository of the State Treasury an agency special
17 account for the Tax Commission for the purpose of making such
18 refunds as may be required under this section, not otherwise
19 provided. This account shall consist of monies appropriated by the
20 Legislature for the purpose of making refunds under this section.

21 G. If the appeal be from an order, judgment, finding, or ruling
22 of the Tax Commission other than one assessing a tax and from which
23 a right of appeal is not otherwise specifically provided for in this
24 article the Uniform Tax Procedure Code, any aggrieved taxpayer may

1 appeal from that order, judgment, finding, or ruling as provided in
2 this section. The filing of such an appeal shall supersede the
3 effect of such order, judgment, ruling, or finding of the Tax
4 Commission .

5 H. This section shall be construed to provide to the taxpayer a
6 legal remedy by action at law in any case where a tax, or the method
7 of collection or enforcement thereof, or any order, ruling, finding,
8 or judgment of the Tax Commission is complained of, or is sought to
9 be enjoined in any action in any court of this state or the United
10 States of America.

11 I. All hearings held in proceedings pursuant to this section
12 shall be confidential and shall be held in closed court without
13 admittance of any person other than interested parties, their
14 counsel, and employees of the Oklahoma Tax Commission and its
15 counsel. Confidential information filed with or submitted to the
16 Supreme Court or district court in conjunction with any proceeding
17 pursuant to this section shall not constitute a public record and
18 shall be sealed by the court. Access to confidential information
19 shall be strictly controlled.

20 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2385.3, is
21 amended to read as follows:

22 Section 2385.3. A. Every employer required to deduct and
23 withhold taxes under Section 2385.2 of this title shall pay over the
24 amount so withheld as taxes to the Oklahoma Tax Commission pursuant

1 to the schedule outlined in paragraphs 1 through 3 of this
2 subsection, and shall file a quarterly return in such form as the
3 Tax Commission shall prescribe on or before the twentieth day of the
4 month following the close of each calendar quarter:

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

10 2. Every employer owing an average of Five Hundred Dollars
11 (\$500.00) or more per quarter in taxes in the previous fiscal year
12 who is not subject to the provisions of paragraph 1 of this
13 subsection shall pay over the amount so withheld on or before the
14 twentieth day of each succeeding month; and

15 3. Every employer owing an average of less than Five Hundred
16 Dollars (\$500.00) per quarter in taxes in the previous fiscal year
17 shall pay over the amount so withheld on or before the twentieth day
18 of the month following the close of each succeeding quarterly
19 period.

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

23 C. Every employer required under Section 2385.2 of this title
24 to deduct and withhold a tax from the wages paid an employee shall,

1 as to the total wages paid to each employee during the calendar
2 year, furnish to such employee, on or before January 31 of the
3 succeeding year, a written statement showing the name of the
4 employer, the name of the employee and the employee's Social
5 Security account number, if any, the total amount of wages subject
6 to taxation, and the total amount deducted and withheld as tax and
7 such other information as the Tax Commission may require. If an
8 employee's employment is terminated before the close of a calendar
9 year, the written statement must be furnished within thirty (30)
10 days of the date of which the last payment of wages is made.

11 D. Every employer required under Section 2385.2 of this title
12 to deduct and withhold a tax from the wages paid an employee shall
13 furnish to the Oklahoma Tax Commission, on or before January 31 of
14 the succeeding year, an annual reconciliation and such other
15 information as the Tax Commission may require pursuant to the Tax
16 Commission's electronic data interchange program. Failure of an
17 employer to provide an annual reconciliation within thirty (30) days
18 of the due date may result in a penalty to be imposed on the
19 employer in an amount not to exceed One Thousand Dollars
20 (\$1,000.00). The penalty may be collected in the same manner as
21 provided by law for collection of delinquent taxes.

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

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

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

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

20 I. Every person making payments of winnings subject to
21 withholding shall furnish to each recipient on or before January 31
22 of the succeeding year a written statement in a form as prescribed
23 by the Tax Commission. Every person making such reports shall also
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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 3. AMENDATORY 68 O.S. 2021, Section 3131, is
4 amended to read as follows:

5 Section 3131. A. Within thirty (30) days after resale of
6 property, the county treasurer shall file in the office of the
7 county clerk a return, and retain a copy thereof in the county
8 treasurer's office, which shall show or include, as appropriate:

9 1. Each tract or parcel of real estate so sold;

10 2. The date upon which it was resold;

11 3. The name of the purchaser;

12 4. The price paid therefor;

13 5. A copy of the notice of such resale with an affidavit of its
14 publication or posting; and

15 6. The complete minutes of sale, and that the same was
16 adjourned from day to day until the sale was completed.

17 Such notice and return shall be presumptive evidence of the
18 regularity, legality, and validity of all the official acts leading
19 up to and constituting such resale. Within such thirty (30) days,
20 the county treasurer shall execute, acknowledge, and deliver to the
21 purchaser or the purchaser's assigns, or to the board of county
22 commissioners where such property has been bid off in the name of
23 the county, a deed conveying the real estate thus resold. The
24 issuance of such deed shall effect the cancellation and setting

1 aside of all delinquent taxes, assessments, penalties, and costs
2 previously assessed or existing against the real estate, and of all
3 outstanding individual and county tax sale certificates, and shall
4 vest in the grantee an absolute and perfect title in fee simple to
5 the real estate, subject to all claims which the state may have had
6 on the real estate for taxes or other liens or encumbrances;
7 provided, that all such claims which the state, municipality, or
8 both the state and the municipality may have had on the real estate
9 for taxes or other liens or encumbrances shall be canceled and
10 extinguished with respect to any deed conveying title to the board
11 of county commissioners where such property was bid off in the name
12 of the county. Twelve (12) months after the deed shall have been
13 filed for record in the county clerk's office, no action shall be
14 commenced to avoid or set aside the deed. Provided, that persons
15 under legal disability shall have one (1) year after removal of such
16 disability within which to redeem the real estate.

17 B. Any number of lots or tracts of land may be included in one
18 deed, for which deed the county treasurer shall collect from the
19 purchaser the fees provided for in Section 43 of Title 28 of the
20 Oklahoma Statutes. The county treasurer shall also charge and
21 collect from the purchaser at such sale an amount in addition to the
22 bid placed on such real estate, sufficient to pay all expenses
23 incurred by the county in preparing, listing, and advertising the
24 lot or tract purchased by such bidder, which sums shall be credited

1 and paid into the resale property fund hereinafter provided, to be
2 used to defray to that extent the costs of resale.

3 C. When any tract or lot of land sells for more than the taxes,
4 penalties, interest, and cost due thereon, ~~the excess shall be held~~
5 ~~in a separate fund~~ the county treasurer shall notify the Oklahoma
6 Tax Commission within thirty (30) days after the resale and shall
7 include in the notification all information necessary for the
8 Commission to determine whether a tax lien exists on the subject
9 property.

10 D. Within sixty (60) days of receipt of the notification
11 described in Subsection C of this section, the Commission shall
12 provide notice to the county treasurer of any outstanding tax
13 liabilities, including tax, penalty, and interest, attached to each
14 tract or lot of land, regardless of whether a tax warrant has been
15 filed. Upon timely notice of a liability from the Commission, the
16 county treasurer shall remit to the Commission the amount of the
17 outstanding tax liabilities or the excess proceeds, whichever is
18 less. Any remaining proceeds shall be held in the separate fund for
19 the record owner of such land, as shown by the county records as of
20 the date the county resale begins, to be withdrawn any time within
21 one (1) year. No assignment of this right to excess proceeds shall
22 be valid which occurs on or after the date on which the county
23 resale began. At the end of one (1) year, if such money has not
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been withdrawn or collected from the county, it shall be credited to
the county resale property fund.

SECTION 4. This act shall become effective November 1, 2023.

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