

SENATE FLOOR VERSION

April 7, 2025

ENGROSSED HOUSE
BILL NO. 1279

By: Caldwell (Chad) of the House

and

Daniels of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2021, Section 221, as amended by Section 1, Chapter 113, O.S.L. 2023 (68 O.S. Supp. 2024, Section 221), which relates to the Uniform Tax Procedure Code; modifying provisions related to protest process; modifying provisions related to taxpayer protest; prescribing procedures for protest with respect to denial of certain tax credit; providing for oral hearing before the Oklahoma Tax Commission; requiring written order; prescribing procedures for appeal; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 221, as amended by Section 1, Chapter 113, O.S.L. 2023 (68 O.S. Supp. 2024, Section 221), is amended to read as follows:

Section 221. A. If any taxpayer shall fail to make any report or return as required by any state tax law, the Oklahoma Tax Commission, from any information in its possession or obtainable by it, may determine the correct amount of tax for the taxable period.

1 If a report or return has been filed, the Tax Commission shall
2 examine such report or return and make such audit or investigation
3 as it may deem necessary. If, in cases where no report or return
4 has been filed, the Tax Commission determines that there is a tax
5 due for the taxable period, or if, in cases where a report or return
6 has been filed, the Tax Commission shall determine that the tax
7 disclosed by such report or return is less than the tax disclosed by
8 its examination, it shall in writing propose the assessment of taxes
9 or additional taxes, as the case may be, and shall mail a copy of
10 the proposed assessment to the taxpayer at the taxpayer's last-known
11 address. Proposed assessments made in the name of the "Oklahoma Tax
12 Commission" by its authorized agents shall be considered as the
13 action of the Tax Commission.

14 B. Any assessment, correction or adjustment made as a result of
15 an office audit shall be presumed to be the result of an audit of
16 the report or return only, and such office audit shall not be deemed
17 a verification of any item in the report or return unless the item
18 shall have been made the subject of a hearing before the Tax
19 Commission, and the correctness and amount of such item determined
20 at such hearing; and such office audit shall not preclude the Tax
21 Commission from subsequently making further adjustment, correction
22 or assessment as a result of a field audit of the books and records
23 of the taxpayer, wherever located, or upon disclosures from any
24 source other than the return. In cases where no report or return

1 has been filed, the assessment of the tax on any information
2 available shall in no event preclude the assessment at any time on
3 subsequently disclosed information.

4 C. Within sixty (60) days after the date indicated on the
5 aforesaid proposed assessment, the taxpayer may file with the Tax
6 Commission a written protest under oath, signed by the taxpayer or
7 the taxpayer's duly authorized agent, on such a form as the Tax
Commission may prescribe, setting out therein:

8 1. A statement of the amount of deficiency as determined by the
9 Tax Commission, the nature of the tax and the amount thereof in
10 controversy;

11 2. A clear and concise assignment of each error alleged to have
12 been committed by the Tax Commission;

13 3. The argument and legal authority upon which each assignment
14 of error is made; provided, that the applicant shall not be bound or
15 restricted in such hearing, or on appeal, to the arguments and legal
16 authorities contained and cited in the application;

17 4. A statement of relief sought by the taxpayer; and

18 5. A verification by the taxpayer or the taxpayer's duly
19 authorized agent that the statements and facts contained therein are
20 true.

21 D. If in such written protest the taxpayer shall request an
22 oral hearing, the Tax Commission shall grant such hearing, and
23 shall, by written notice, advise the taxpayer of a date, which shall

1 not be less than ten (10) days from the date of mailing of such
2 written notice, when such taxpayer may appear before the Tax
3 Commission and present arguments and evidence, oral or written, in
4 support of the protest. Hearings shall be held as soon as
5 practicable. In the event an oral hearing is not requested, the Tax
6 Commission shall proceed without further notice to examine into the
7 merits of the protest and enter an order in accordance with its
8 findings. Upon request of any taxpayer and upon proper showing that
9 the principle of law involved in the assessment of any tax is
10 already pending before the courts for judicial determination, the
11 taxpayer, upon agreement to abide by the decision of the court, may
12 pay the tax so assessed under protest and such protest shall be
13 resolved in accordance with the agreement to abide.

14 E. If the taxpayer fails to file a written protest within the
15 sixty-day period herein provided for or within the period as
16 extended by the Tax Commission, or if the taxpayer fails to file the
17 notice required by Section 226 of this title within thirty (30) days
18 from the date indicated on the proposed assessment, then the
19 proposed assessment, without further action of the Tax Commission,
20 shall become final and absolute. A taxpayer who fails to file a
21 protest to an assessment of taxes within the time period prescribed
22 by this section may, within one (1) year of the date the assessment
23 becomes final, request the Tax Commission to adjust or abate the
24 assessment if the taxpayer can demonstrate, by a preponderance of

1 the evidence, that the assessment or some portion thereof is clearly
2 erroneous. If the Tax Commission determines that the proper showing
3 has been made, the assessment or portion thereof determined to be
4 clearly erroneous shall be deemed not to have become final and
5 absolute. No hearing to adjust or abate a clearly erroneous
6 assessment may be granted after the Tax Commission's denial of such
7 a request. An order of the Tax Commission denying a taxpayer's
8 request to adjust or abate an assessment alleged to be clearly
9 erroneous is not an appealable order under Section 225 of this
10 title. No proceeding instituted by the Tax Commission to collect a
11 tax liability may be stayed because of a request made by a taxpayer
12 to adjust or abate an assessment alleged to be clearly erroneous.

13 F. The Tax Commission may in its discretion extend the time for
14 filing a protest for any period of time not to exceed an additional
15 ninety (90) days. Any extension granted shall not extend the period
16 of time within which the notice required by Section 226 of this
17 title may be filed.

18 G. Within a reasonable time after the hearing herein provided
19 for, the Tax Commission shall make and enter an order in writing in
20 which it shall set forth the disposition made of the protest and a
21 copy of such order shall forthwith be mailed to the taxpayer. The
22 order shall contain findings of fact and conclusions of law. After
23 removing the identity of the taxpayer, the Tax Commission shall make
24 the order available for public inspection and shall publish those

1 orders the Tax Commission deems to be of precedential value. The
2 taxpayer may appeal the order within the time and in the manner
3 provided for by Section 225 of this title, ~~appeal to the Supreme~~
4 ~~Court~~, but in the event the taxpayer fails to so proceed, the order
5 shall, within thirty (30) days from the date a certified copy
6 thereof is mailed to the taxpayer, become final. The provisions of
7 Section 226 of this title shall not apply where a proposed
8 assessment or an assessment of taxes has been permitted to become
9 final.

10 H. In all instances where the proposed assessment or the
11 assessment of taxes or additional taxes has been permitted to become
12 final, a certified copy of the assessment may be filed in the office
13 of the county clerk of any county in this state, and upon being so
14 filed, the county clerk shall enter same upon the judgment docket in
15 the same manner as provided for in connection with judgments of
16 district courts. When an assessment is so filed and docketed, it
17 shall have the same force and be subject to the same law as a
18 judgment of the district court, and accordingly it shall constitute
19 a lien on any real estate of the taxpayer located in the county
20 wherein filed; and execution may issue and proceedings in aid of
21 execution may be had the same as on judgments of district courts.
22 Such lien is hereby released and extinguished upon the payment of
23 such assessment, or, except as otherwise provided herein, upon the
24 expiration of ten (10) years after the date upon which the

1 assessment was filed in the office of the county clerk; provided,
2 the Tax Commission may, prior to the release and extinguishment of
3 such lien, refile the assessment one time in the office of the
4 county clerk. An assessment so refiled shall continue the lien
5 until payment of the assessment, or upon the expiration of ten (10)
6 years after the date upon which the assessment was refiled in the
7 office of the county clerk. The remedies provided in this
8 subsection shall be in addition to other remedies provided by law.
9 All active liens evidenced by an assessment filed with a county
10 clerk's office prior to November 1, 1989, shall be released and
11 extinguished if the assessment is not refiled prior to November 1,
12 2001.

13 I. In order to make more definite the intention of the
14 Legislature in connection with the applicability or lack of
15 applicability of the refund provisions of the tax statutes to those
16 treating with proposed assessments and assessments that have become
17 final, the Legislature being cognizant of the fact that such intent
18 has been questioned, it is declared to be the intent of the
19 Legislature that the refund provisions shall be without application
20 to taxes where the amount thereof has been determined by an
21 assessment, other than an assessment designated as an "office
22 audit", that has become final.

23 J. Within fifteen (15) days after electronic notification of
24 the denial of a tax credit authorized by Section 28-101 of Title 70

1 of the Oklahoma Statutes, a taxpayer may file with the Tax
2 Commission a written protest under oath, signed by the taxpayer or
3 the taxpayer's duly authorized agent, on such a form as the Tax
4 Commission may prescribe. If the taxpayer fails to file a written
5 protest within the fifteen-day period, then the denial shall become
6 final and absolute.

7 1. If in such timely written protest the taxpayer shall request
8 an oral hearing, the Tax Commission shall set a date for hearing
9 upon the protest. The Tax Commission shall, by written notice,
10 advise the taxpayer of the time and place of the hearing, which
11 shall not be less than ten (10) days from the date of mailing of
12 such written notice, when such taxpayer may appear before the Tax
13 Commission and present arguments and evidence, oral or written, in
14 support of the protest.

15 2. Within sixty (60) days after the written protest is filed,
16 the Tax Commission shall make and enter an order in writing in which
17 it shall set forth the disposition made of the protest and a copy of
18 such order shall forthwith be mailed to the taxpayer. The order
19 shall contain findings of fact and conclusions of law. The taxpayer
20 may appeal the order within the time and in the manner provided for
21 by Section 225 of this title, but in the event the taxpayer fails to
22 so proceed, the order shall, within thirty (30) days from the date a
23 certified copy thereof is mailed to the taxpayer, become final.

1 SECTION 2. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON REVENUE AND TAXATION
April 7, 2025 - DO PASS

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