

An Act

ENROLLED SENATE
BILL NO. 864

By: Sykes, Sparks, Shortey and
Mazzei of the Senate

and

Johnson and Sherrer of the
House

An Act relating to tax administration; amending 68 O.S. 2011, Section 225, which relates to appeal procedures; providing for exception; expanding methods of appeal of Oklahoma Tax Commission decision; providing appeal for trial de novo in district court; describing which judge will hear the appeal; providing for direct appeal to the Supreme Court of Oklahoma; and providing an effective date.

SUBJECT: Tax appeal procedures

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

SECTION 1. AMENDATORY 68 O.S. 2011, 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 taxpayer or aggrieved by a final order of the Tax Commission issued pursuant to subsection G of Section 221 of this title may appeal therefrom directly to the Supreme Court of Oklahoma. Provided, any taxpayer appealing from a final order of the Tax Commission assessing a tax or an additional tax or denial of a claim for refund may opt to file an appeal in district court as provided in subsection D of this section.

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

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

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

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

~~D. If the appeal is from an order of the Tax Commission assessing a tax or an additional tax, a penalty, or interest, the Tax Commission, within thirty (30) days from the date of the filing of the petition in error, may request the Court to order the taxpayer to pay to the Tax Commission the amounts of tax, additional tax, any penalty assessed, and interest accrued through the date of the payment, as a condition precedent to the right of the taxpayer to make and prosecute an appeal, and a jurisdictional prerequisite to the Supreme Court having jurisdiction to hear and determine the appeal. If, upon a final determination of the appeal the order assessing a tax, penalty, or interest is reversed or modified and it is determined that the tax or part thereof was erroneously or illegally assessed, the amounts paid by the taxpayer, together with the interest thereon at the rate of three percent (3%) per annum, shall be refunded to the taxpayer by the Tax Commission. In lieu of an appeal to the Supreme Court, any taxpayer aggrieved by a final order of the Tax Commission assessing a tax or an additional tax or denial of a claim for refund may opt to file an appeal for a trial de novo in the district court of Oklahoma County or the county in~~

which the taxpayer resides. If the amount in dispute exceeds Ten Thousand Dollars (\$10,000.00), the appeal shall be heard by a district or associate district judge sitting without a jury. If the amount in dispute does not exceed Ten Thousand Dollars (\$10,000.00), the appeal may be heard by a 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 of Oklahoma 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.

E. If the appeal is from an order of the Tax Commission or a district court denying a refund of taxes previously paid and if upon final determination of the appeal, the order denying the refund is reversed or modified, the taxes previously paid, together with interest thereon from the date of the filing of the petition in error at the rate of ~~three percent (3%) per annum~~ provided in subsection A of Section 217 of this title, shall be refunded to the taxpayer by the Tax Commission.

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

~~G. In lieu of the cash payment provided for in subsection D of this section, the taxpayer may file with the Tax Commission, pursuant to Section 210 of this title, a bond in double the amount of the tax, additional tax, penalties and interest so assessed, conditioned that the taxpayer will faithfully and diligently prosecute such appeal to a final determination, and in the event the order of the Tax Commission be affirmed on appeal, will pay such tax, additional tax, penalties and interest, and costs so assessed against the taxpayer. Any bond submitted pursuant to this subsection must be approved by the Tax Commission as to form and amount and accepted within the time prescribed by the Court.~~

~~H. If the appeal be from an order, judgment, finding, or ruling of the Tax Commission other than one assessing a tax and from which a right of appeal is not otherwise specifically provided for in this article the Uniform Tax Procedure Code, any aggrieved taxpayer may appeal from that order, judgment, finding, or ruling as provided in this section and may. The filing of such an appeal shall supersede the effect of such order, judgment, ruling, or finding by filing with of the Tax Commission a bond in an amount fixed by the Tax Commission payable to the State of Oklahoma conditioned that the appeal will faithfully and diligently be prosecuted to a final determination, and in the event the order, judgment, ruling, or finding of the Tax Commission be affirmed on appeal, that such person will immediately conform thereto.~~

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

SECTION 2. This act shall become effective January 1, 2014.

Passed the Senate the 7th day of May, 2013.

Kim Daniel
Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2013.

DeAnn
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 8th

day of May, 20 13, at 2:46 o'clock P M.

By: *Audrey Lockwell*

Approved by the Governor of the State of Oklahoma this 14th

day of May, 20 13, at 2:56 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 14th

day of May, 20 13, at 4:02 o'clock P M.

By: *Chris Trevis*