



# Oklahoma State Senate

# Legislative Brief July 1998

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## Changes in State Laws on Tax Administration

### Issue Background

The Oklahoma Legislature made a specific effort in the 1998 session to change tax laws and policies which have proven to be burdensome, inconvenient or unfair to taxpayers. The Oklahoma Tax Commission, after studying historical data from audits and other administrative actions, identified several laws under which penalties and interest were often waived or assessments overturned administratively or through litigation. The Tax Commission recommended changes to these laws in order to eliminate those audits, penalties and interest charges which have often ultimately been waived or overturned, thereby inconveniencing taxpayers and inefficiently using limited resources of the Tax Commission. To address situations in which taxpayers may have objectionable experiences in spite of these changes, the Legislature also enacted HJR 1082, which created the Committee on Tax Enforcement and Administrative Review to review the organizational structure and administration of the Tax Commission and to hear and evaluate taxpayer complaints and concerns.

### Actions

The following legislative measures are cited in this brief:

SB 1179, authored by Senator Dick Wilkerson and Representative Jack Begley  
SB 1222, authored by Senator Dave Herbert and Representative Mark Seikel  
HB 2426, authored by Representative Mike Ervin and Senator Dick Wilkerson  
HB 2622, authored by Representative Terry Matlock and Senator Rick Littlefield  
HB 2669, authored by Representative Clay Pope and Senator Paul Muegge  
HB 2754, authored by Representative Ron Langmacher and Senator Dick Wilkerson  
HB 2833, authored by Representative Mark Seikel and Senator Dave Herbert  
HB 2846, authored by Representative Don Kinnamon and Senator Jim Maddox  
HB 3304, authored by Representative Don Kinnamon and Senator Ted Fisher  
HJR 1082, authored by Representative Danny Hilliard and Senator Dick Wilkerson

### **Voluntary Payments**

**HB 2426 (Section 2)**

Prohibits the Tax Commission from collecting a penalty for delinquent state taxes if the taxpayer remits the tax within thirty days of the mailing of a proposed assessment or voluntarily pays the tax upon filing an amended return.

### **Roth IRA Protection**

**HB 2426 (Section 12)**

Exempts interest in Roth individual retirement accounts from attachment, execution or other forced sale. Under the previous law, only IRAs with tax-exempt contributions were protected. Contributions to Roth IRAs, created under federal law in 1997, are not tax-exempt and these IRAs were therefore not protected.

### **Audit Expenses**

**HB 2754 (Section 1)**

Eliminates the authority of the Tax Commission to charge taxpayers for certain out-of-state travel expenses in connection with audits.

### **Gifts Made in Contemplation of Death**

**HB 2754 (Section 2)**

Provides that gifts for which federal gift tax returns are not required (gifts under \$10,000 per year per recipient) are not included in an estate for state estate tax purposes. Under the previous law, any gifts made within three years of death were considered to be made in contemplation of death and were therefore taxable. The federal law provides that gifts under \$10,000 per year per recipient are not deemed to be made in contemplation of death and are therefore not taxable, so many taxpayers did not include these gifts in state estates either.

### **Definition of "Manufacturing"**

**HB 2754 (Section 3, 7, 8, 10, 13, and 15)**

Amends the definition of "manufacturing" for purposes of sales, income and ad valorem taxes. The previous law attempted to define the manufacturing process, and items used therein received favorable tax treatment. The new law attempts to better define "manufacturing" and exempt those items purchased by manufacturers even if not used or consumed directly in the manufacturing process.

**Homestead Exemption Claims**

**SB 1179 (Section 11)**

Allows taxpayers to apply for homestead exemptions at any time. Under the previous law, such applications had to be received by March 15. Under the new law, if an application is filed after March 15, the exemption will be granted for the following year.

**Motor Fuel Refunds**

**HB 2669**

Provides that interest will be paid on motor fuel tax refunds not issued within twenty days (rather than sixty days) after filing.

**Notice of Appeals**

**HB 2426 (Section 3)**

Deletes the requirement that a taxpayer appealing a ruling from the Tax Commission to the Oklahoma Supreme Court file a notice of intention to appeal with the Tax Commission.

**Penalty Amounts**

**HB 2425 (Section 4)**

Specifies that amounts of penalties for tax warrants are calculated on the total amount as stated on the face of the warrant, unless the actual liability is a lesser amount. Under current law, the amounts of these penalties change daily. This provision will make the penalties fixed amounts determined at the time that warrants are filed. This will also lower the penalty for most taxpayers.

**Tax Collection Contingency Fees**

**HB 2846**

Prohibits the Tax Commission from entering into certain audit contracts if based on a percentage of amounts collected.

**Ad Valorem/Gross Production Distinction**

**HB 3304**

Modifies definitions for purposes of determining property exempt from ad valorem taxation by reason of payment of gross production taxes to refer to production of payment of gross production taxes during any of the three previous years, rather than the previous year.

**County Penalties and Interest**

**SB 1222**

Allows county treasurers to waive penalties or interest if incurred through no fault of the taxpayer. Each waiver must be audited by the State Auditor and Inspector each year during the annual county audit.

**Homestead Property Notice**

**HB 2833**

Requires notice to be posted on the front door of homestead property sold at a tax sale. This requirement is in addition to all other notification requirements for such sales.

**Agricultural Exemption Permits**

**HB 2622**

Provides that agricultural exemption permits will be valid for a period of three years, rather than only one year.

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