

1 ENGROSSED SENATE
BILL NO. 1390

By: Mazzei of the Senate

and

McCall of the House

7 [income tax - withholding - annual reconciliation -
8 effective date]

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

12 SECTION 1. AMENDATORY 68 O.S. 2011, Section 2385.3, as
13 last amended by Section 3, Chapter 273, O.S.L. 2014 (68 O.S. Supp.
14 2015, Section 2385.3), is amended to read as follows:

15 Section 2385.3. A. Every employer required to deduct and
16 withhold taxes under Section 2385.2 of this title shall pay over the
17 amount so withheld as taxes to the Oklahoma Tax Commission pursuant
18 to the schedule outlined in paragraphs 1 through 3 of this
19 subsection, and shall file a quarterly return in such form as the
20 Tax Commission shall prescribe on or before the twentieth day of the
21 month following the close of each calendar quarter:

22 1. Every employer required to remit federal withholding under
23 the Federal Semiweekly Deposit Schedule shall pay over the amount so
24 withheld under subsection A of this section on the same dates as

1 required under the Federal Semiweekly Deposit Schedule for federal
2 withholding taxes;

3 2. Every employer owing an average of Five Hundred Dollars
4 (\$500.00) or more per quarter in taxes in the previous fiscal year
5 who is not subject to the provisions of paragraph 1 of this
6 subsection shall pay over the amount so withheld on or before the
7 twentieth day of each succeeding month; and

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

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

16 C. Every employer required under Section 2385.2 of this title
17 to deduct and withhold a tax from the wages paid an employee shall,
18 as to the total wages paid to each employee during the calendar
19 year, furnish to such employee, on or before January 31 of the
20 succeeding year, a written statement showing the name of the
21 employer, the name of the employee and the employee's social
22 security account number, if any, the total amount of wages subject
23 to taxation, and the total amount deducted and withheld as tax and
24 such other information as the Tax Commission may require. If an

1 employee's employment is terminated before the close of a calendar
2 year, the written statement must be furnished within thirty (30)
3 days of the date of which the last payment of wages is made.

4 D. Every employer required pursuant to Section 2385.2 of this
5 title to deduct and withhold a tax from the wages paid an employee
6 shall furnish to the Tax Commission, on or before February 28 of the
7 succeeding year, an annual reconciliation and such other information
8 as the Tax Commission may require pursuant to the Tax Commission's
9 electronic data interchange program.

10 E. If the Tax Commission, in any case, has justifiable reason
11 to believe that the collection of the tax provided for in Section
12 2385.2 of this title is in jeopardy, the Tax Commission may require
13 the employer to file a return and pay the tax at any time.

14 ~~E.~~ F. Any sum or sums withheld in accordance with the
15 provisions of Section 2385.2 of this title shall be deemed to be
16 held in trust for the State of Oklahoma, and, as trustee, the
17 employer shall have a fiduciary duty to the State of Oklahoma in
18 regard to such sums and shall be subject to the trust laws of this
19 state.

20 ~~F.~~ G. If any employer fails to withhold the tax required to be
21 withheld by Section 2385.2 of this title and thereafter the income
22 tax is paid by the employee, the tax so required to be withheld
23 shall not be collected from the employer but such employer shall not
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1 be relieved from the liability for penalties or interest otherwise
2 applicable because of such failure to withhold the tax.

3 ~~G.~~ H. Every person making payments of winnings subject to
4 withholding shall, for each monthly period, on or before the
5 twentieth day of the month following the payment of such winnings
6 pay over to the Tax Commission the amounts so withheld, and shall
7 file a return, in a form as prescribed by the Tax Commission.

8 ~~H.~~ I. Every person making payments of winnings subject to
9 withholding shall furnish to each recipient on or before January 31
10 of the succeeding year a written statement in a form as prescribed
11 by the Tax Commission. Every person making such reports shall also
12 furnish a copy of such report to the Tax Commission in a manner and
13 at a time as shall be prescribed by the Tax Commission.

14 SECTION 2. This act shall become effective November 1, 2016.

15 Passed the Senate the 1st day of March, 2016.

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Presiding Officer of the Senate

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19 Passed the House of Representatives the ____ day of _____,

20 2016.

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Presiding Officer of the House
of Representatives

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