

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 984

By: Bergstrom

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5  
6 AS INTRODUCED

7 An Act relating to sales tax; amending Section 1,  
8 Chapter 338, O.S.L. 2012, as amended by Section 1,  
9 Chapter 184, O.S.L. 2017 (68 O.S. Supp. 2017, Section  
10 1368.3), which relates to tax administration;  
11 modifying reference; and providing an effective date.

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

13 SECTION 1. AMENDATORY Section 1, Chapter 338, O.S.L.  
14 2012, as amended by Section 1, Chapter 184, O.S.L. 2017 (68 O.S.  
15 Supp. 2017, Section 1368.3), is amended to read as follows:

16 Section 1368.3. A. As used in this section, "noncompliant  
17 taxpayer" means any taxpayer operating under a sales tax permit who,  
18 within any consecutive twenty-four-month period, has failed to file  
19 two reports or remit tax due for any two (2) months, as required  
20 under the provisions of any Oklahoma tax law. Provided, a taxpayer  
21 shall not be deemed noncompliant for nonpayment of income taxes.

22 B. In addition to all other remedies provided by law for the  
23 collection of unpaid taxes, the Oklahoma Tax Commission may close  
24 the business of a noncompliant taxpayer, subject to the

1 administrative and judicial appeal procedures provided in this  
2 section, if the noncompliant taxpayer, within any consecutive  
3 twenty-four-month period, fails to file three reports or remit tax  
4 due for any three (3) months, as required under the provisions of  
5 any Oklahoma tax law.

6 C. 1. The Tax Commission shall give notice to a noncompliant  
7 taxpayer that the third delinquency in reporting or remitting tax in  
8 any consecutive twenty-four-month period will result in the closure  
9 of the business. The notice must be in writing and delivered to the  
10 noncompliant taxpayer by the United States Postal Service or by hand  
11 delivery.

12 2. If the noncompliant taxpayer has a third delinquency in  
13 reporting or remitting tax in any consecutive twenty-four-month  
14 period after the issuance of the notice provided in paragraph 1 of  
15 this subsection, the Tax Commission shall notify the noncompliant  
16 taxpayer by certified mail or by hand delivery that the business  
17 will be closed within five (5) business days from the date of the  
18 delivery or attempted delivery of the notice unless the noncompliant  
19 taxpayer makes arrangements with the Tax Commission to satisfy the  
20 tax delinquency. When the fifth day falls on a Saturday, Sunday, or  
21 legal holiday, the performance of the act is considered timely if it  
22 is performed on the next succeeding business day that is not a  
23 Saturday, Sunday, or legal holiday.

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1 D. A noncompliant taxpayer may avoid closure of the business  
2 by:

3 1. Filing all delinquent reports and remitting the delinquent  
4 tax including any interest and penalty; or

5 2. Entering into a payment agreement approved by the Tax  
6 Commission to satisfy the tax delinquency.

7 E. The decision to close the business of a noncompliant  
8 taxpayer will be final and absolute if the noncompliant taxpayer  
9 fails to request an administrative hearing as provided in subsection  
10 F of this section.

11 F. 1. A noncompliant taxpayer may request an administrative  
12 hearing concerning the decision of the Tax Commission to close the  
13 business of a noncompliant taxpayer by filing with the Tax  
14 Commission a written protest, signed by the noncompliant taxpayer or  
15 the authorized agent of the noncompliant taxpayer, stating the  
16 reasons for opposing the closure of the business and requesting an  
17 administrative hearing. The protest shall be timely if filed within  
18 five (5) business days after the delivery or attempted delivery of  
19 the notice required by paragraph 2 of subsection C of this section.

20 2. A noncompliant taxpayer may request that an administrative  
21 hearing be held in person, by telephone, upon written documents  
22 furnished by the noncompliant taxpayer, or upon written documents  
23 and any evidence produced by the noncompliant taxpayer at an  
24 administrative hearing. The Tax Commission shall have the

1 discretion to determine whether an administrative hearing at which  
2 testimony is to be presented will be conducted in person or by  
3 telephone. A noncompliant taxpayer who requests an administrative  
4 hearing based upon written documents is not entitled to any other  
5 administrative hearing prior to the date a decision is rendered by  
6 the hearing officer.

7 3. The administrative hearing will be conducted by a hearing  
8 officer appointed by the Tax Commission. The hearing officer will  
9 set the time and place for a hearing and will give the noncompliant  
10 taxpayer notice of the hearing. The noncompliant taxpayer may be  
11 represented by an authorized representative and may present evidence  
12 in support of the position of the noncompliant taxpayer.

13 4. The administrative hearing will be held within fourteen (14)  
14 calendar days of receipt by the Tax Commission of the request for  
15 hearing, as required in paragraph 1 of this subsection. The Tax  
16 Commission shall give the noncompliant taxpayer at least five (5)  
17 days' notice of the hearing.

18 G. The defense or defenses to the closure of a business under  
19 this section include written proof that the noncompliant taxpayer:

20 1. Filed all delinquent returns and paid the delinquent tax due  
21 including interest and penalty; or

22 2. Has entered into a written payment agreement, approved by  
23 the Tax Commission prior to the hearing, to satisfy the tax  
24 delinquency.

1 H. 1. The decision of the hearing officer must be rendered in  
2 writing with copies delivered to the noncompliant taxpayer by the  
3 United States Postal Service or by hand delivery.

4 2. If the decision of the hearing officer is to affirm the  
5 closure of the business, the decision shall be submitted in writing  
6 and delivered by the United States Postal Service or by hand to the  
7 noncompliant taxpayer.

8 3. The noncompliant taxpayer may seek judicial relief from the  
9 decision of a hearing officer as provided in Section 225 of Title 68  
10 of the Oklahoma Statutes for relief from a final order of the Tax  
11 Commission.

12 I. The procedures established by this section are the sole  
13 methods for seeking relief from a written decision to close the  
14 business of a noncompliant taxpayer.

15 J. After being given notice of an order of closure of a  
16 business pursuant to this section, it shall be unlawful for any  
17 person to continue to operate the business. If a person continues  
18 or threatens to continue the unlawful operation of the business  
19 after having received proper notice of the closure, upon complaint  
20 of the Tax Commission, the person shall be enjoined from further  
21 operating or conducting the unlawful business. In all cases where  
22 injunction proceedings are brought under this subsection, the Tax  
23 Commission shall not be required to furnish bond. Where notice of  
24 closure has been given in accordance with the provisions of this

1 section, no further notice shall be required before the issuance of  
2 a temporary restraining order.

3 K. If a noncompliant taxpayer fails to timely seek  
4 administrative or judicial review of a business closure decision  
5 pursuant to this section, or if the business closure decision is  
6 affirmed after administrative or judicial review, the Tax Commission  
7 shall affix a written notice to all entrances of the business that:

8 1. Identifies the business as being subject to a business  
9 closure order; and

10 2. States that the business is prohibited from further  
11 operation.

12 SECTION 2. This act shall become effective November 1, 2018.

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