

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 207

By: Standridge

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6 AS INTRODUCED

7 An Act relating to taxpayer donations; amending 68
8 O.S. 2011, Section 205, as last amended by Section
9 37, Chapter 210, O.S.L. 2016 (68 O.S. Supp. 2018,
10 Section 205), which relates to confidentiality of
11 Oklahoma Tax Commission records; allowing the posting
12 of certain specific information on the Oklahoma Tax
13 Commission's website; amending 70 O.S. 2011, Section
14 1-122, as amended by Section 1, Chapter 93, O.S.L.
15 2018 (70 O.S. Supp. 2018, Section 1-122), which
16 relates to contributions to the Public School
17 Classroom Support Revolving Fund; requiring
18 instructions accompanying certain form to include
19 certain notification; requiring certain form to
20 include a place to opt out of certain public
21 identification; directing the Oklahoma Tax Commission
22 to publish on its website the names of taxpayers with
23 the largest two donations to the fund; providing for
24 identification of a taxpayer with the next largest
25 donation if certain taxpayer does not agree to
26 certain identification; and providing an effective
27 date.

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

31 SECTION 1. AMENDATORY 68 O.S. 2011, Section 205, as last
32 amended by Section 37, Chapter 210, O.S.L. 2016 (68 O.S. Supp. 2018,
33 Section 205), is amended to read as follows:
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1 Section 205. A. The records and files of the Oklahoma Tax
2 Commission concerning the administration of the Uniform Tax
3 Procedure Code or of any state tax law shall be considered
4 confidential and privileged, except as otherwise provided for by
5 law, and neither the Tax Commission nor any employee engaged in the
6 administration of the Tax Commission or charged with the custody of
7 any such records or files nor any person who may have secured
8 information from the Tax Commission shall disclose any information
9 obtained from the records or files or from any examination or
10 inspection of the premises or property of any person.

11 B. Except as provided in paragraph 26 of subsection C of this
12 section, neither the Tax Commission nor any employee engaged in the
13 administration of the Tax Commission or charged with the custody of
14 any such records or files shall be required by any court of this
15 state to produce any of the records or files for the inspection of
16 any person or for use in any action or proceeding, except when the
17 records or files or the facts shown thereby are directly involved in
18 an action or proceeding pursuant to the provisions of the Uniform
19 Tax Procedure Code or of the state tax law, or when the
20 determination of the action or proceeding will affect the validity
21 or the amount of the claim of the state pursuant to any state tax
22 law, or when the information contained in the records or files
23 constitutes evidence of violation of the provisions of the Uniform
24 Tax Procedure Code or of any state tax law.

1 C. The provisions of this section shall not prevent the Tax
2 Commission from disclosing the following information and no
3 liability whatsoever, civil or criminal, shall attach to any member
4 of the Tax Commission or any employee thereof for any error or
5 omission in the disclosure of such information:

6 1. The delivery to a taxpayer or a duly authorized
7 representative of the taxpayer of a copy of any report or any other
8 paper filed by the taxpayer pursuant to the provisions of the
9 Uniform Tax Procedure Code or of any state tax law;

10 2. The exchange of information that is not protected by the
11 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
12 pursuant to reciprocal agreements entered into by the Tax Commission
13 and other state agencies or agencies of the federal government;

14 3. The publication of statistics so classified as to prevent
15 the identification of a particular report and the items thereof;

16 4. The examination of records and files by the State Auditor
17 and Inspector or the duly authorized agents of the State Auditor and
18 Inspector;

19 5. The disclosing of information or evidence to the Oklahoma
20 State Bureau of Investigation, Attorney General, Oklahoma State
21 Bureau of Narcotics and Dangerous Drugs Control, any district
22 attorney, or agent of any federal law enforcement agency when the
23 information or evidence is to be used by such officials to
24 investigate or prosecute violations of the criminal provisions of

1 the Uniform Tax Procedure Code or of any state tax law or of any
2 federal crime committed against this state. Any information
3 disclosed to the Oklahoma State Bureau of Investigation, Attorney
4 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
5 Control, any district attorney, or agent of any federal law
6 enforcement agency shall be kept confidential by such person and not
7 be disclosed except when presented to a court in a prosecution for
8 violation of the tax laws of this state or except as specifically
9 authorized by law, and a violation by the Oklahoma State Bureau of
10 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
11 and Dangerous Drugs Control, district attorney, or agent of any
12 federal law enforcement agency by otherwise releasing the
13 information shall be a felony;

14 6. The use by any division of the Tax Commission of any
15 information or evidence in the possession of or contained in any
16 report or return filed with any other division of the Tax
17 Commission;

18 7. The furnishing, at the discretion of the Tax Commission, of
19 any information disclosed by its records or files to any official
20 person or body of this state, any other state, the United States, or
21 foreign country who is concerned with the administration or
22 assessment of any similar tax in this state, any other state or the
23 United States. The provisions of this paragraph shall include the
24 furnishing of information by the Tax Commission to a county assessor

1 to determine the amount of gross household income pursuant to the
2 provisions of Section 8C of Article X of the Oklahoma Constitution
3 or Section 2890 of this title. The Tax Commission shall promulgate
4 rules to give guidance to the county assessors regarding the type of
5 information which may be used by the county assessors in determining
6 the amount of gross household income pursuant to Section 8C of
7 Article X of the Oklahoma Constitution or Section 2890 of this
8 title. The provisions of this paragraph shall also include the
9 furnishing of information to the State Treasurer for the purpose of
10 administration of the Uniform Unclaimed Property Act;

11 8. The furnishing of information to other state agencies for
12 the limited purpose of aiding in the collection of debts owed by
13 individuals to such requesting agencies;

14 9. The furnishing of information requested by any member of the
15 general public and stated in the sworn lists or schedules of taxable
16 property of public service corporations organized, existing, or
17 doing business in this state which are submitted to and certified by
18 the State Board of Equalization pursuant to the provisions of
19 Section 2858 of this title and Section 21 of Article X of the
20 Oklahoma Constitution, provided such information would be a public
21 record if filed pursuant to Sections 2838 and 2839 of this title on
22 behalf of a corporation other than a public service corporation;

23 10. The furnishing of information requested by any member of
24 the general public and stated in the findings of the Tax Commission

1 as to the adjustment and equalization of the valuation of real and
2 personal property of the counties of the state, which are submitted
3 to and certified by the State Board of Equalization pursuant to the
4 provisions of Section 2865 of this title and Section 21 of Article X
5 of the Oklahoma Constitution;

6 11. The furnishing of information to an Oklahoma wholesaler of
7 low-point beer, licensed under the provisions of Section 163.1 et
8 seq. of Title 37 of the Oklahoma Statutes, or an association or
9 organization whose membership is comprised of such wholesalers, of
10 the licensed retailers authorized by law to purchase low-point beer
11 in this state or the furnishing of information to a licensed
12 Oklahoma wholesaler of low-point beer of shipments by licensed
13 manufacturers into this state;

14 12. The furnishing of information as to the issuance or
15 revocation of any tax permit, license or exemption by the Tax
16 Commission as provided for by law. Such information shall be
17 limited to the name of the person issued the permit, license or
18 exemption, the name of the business entity authorized to engage in
19 business pursuant to the permit, license or exemption, the address
20 of the business entity, and the grounds for revocation;

21 13. The posting of notice of revocation of any tax permit or
22 license upon the premises of the place of business of any business
23 entity which has had any tax permit or license revoked by the Tax
24 Commission as provided for by law. Such notice shall be limited to

1 the name of the person issued the permit or license, the name of the
2 business entity authorized to engage in business pursuant to the
3 permit or license, the address of the business entity, and the
4 grounds for revocation;

5 14. The furnishing of information upon written request by any
6 member of the general public as to the outstanding and unpaid amount
7 due and owing by any taxpayer of this state for any delinquent tax,
8 together with penalty and interest, for which a tax warrant or a
9 certificate of indebtedness has been filed pursuant to law;

10 15. After the filing of a tax warrant pursuant to law, the
11 furnishing of information upon written request by any member of the
12 general public as to any agreement entered into by the Tax
13 Commission concerning a compromise of tax liability for an amount
14 less than the amount of tax liability stated on such warrant;

15 16. The disclosure of information necessary to complete the
16 performance of any contract authorized by this title to any person
17 with whom the Tax Commission has contracted;

18 17. The disclosure of information to any person for a purpose
19 as authorized by the taxpayer pursuant to a waiver of
20 confidentiality. The waiver shall be in writing and shall be made
21 upon such form as the Tax Commission may prescribe;

22 18. The disclosure of information required in order to comply
23 with the provisions of Section 2369 of this title;

1 19. The disclosure to an employer, as defined in Sections
2 2385.1 and 2385.3 of this title, of information required in order to
3 collect the tax imposed by Section 2385.2 of this title;

4 20. The disclosure to a plaintiff of a corporation's last-known
5 address shown on the records of the Franchise Tax Division of the
6 Tax Commission in order for such plaintiff to comply with the
7 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

8 21. The disclosure of information directly involved in the
9 resolution of the protest by a taxpayer to an assessment of tax or
10 additional tax or the resolution of a claim for refund filed by a
11 taxpayer, including the disclosure of the pendency of an
12 administrative proceeding involving such protest or claim, to a
13 person called by the Tax Commission as an expert witness or as a
14 witness whose area of knowledge or expertise specifically addresses
15 the issue addressed in the protest or claim for refund. Such
16 disclosure to a witness shall be limited to information pertaining
17 to the specific knowledge of that witness as to the transaction or
18 relationship between taxpayer and witness;

19 22. The disclosure of information necessary to implement an
20 agreement authorized by Section 2702 of this title when such
21 information is directly involved in the resolution of issues arising
22 out of the enforcement of a municipal sales tax ordinance. Such
23 disclosure shall be to the governing body or to the municipal
24 attorney, if so designated by the governing body;

1 23. The furnishing of information regarding incentive payments
2 made pursuant to the provisions of Sections 3601 through 3609 of
3 this title or incentive payments made pursuant to the provisions of
4 Sections 3501 through 3508 of this title;

5 24. The furnishing to a prospective purchaser of any business,
6 or his or her authorized representative, of information relating to
7 any liabilities, delinquencies, assessments or warrants of the
8 prospective seller of the business which have not been filed of
9 record, established, or become final and which relate solely to the
10 seller's business. Any disclosure under this paragraph shall only
11 be allowed upon the presentment by the prospective buyer, or the
12 buyer's authorized representative, of the purchase contract and a
13 written authorization between the parties;

14 25. The furnishing of information as to the amount of state
15 revenue affected by the issuance or granting of any tax permit,
16 license, exemption, deduction, credit or other tax preference by the
17 Tax Commission as provided for by law. Such information shall be
18 limited to the type of permit, license, exemption, deduction, credit
19 or other tax preference issued or granted, the date and duration of
20 such permit, license, exemption, deduction, credit or other tax
21 preference and the amount of such revenue. The provisions of this
22 paragraph shall not authorize the disclosure of the name of the
23 person issued such permit, license, exemption, deduction, credit or
24 other tax preference, or the name of the business entity authorized

1 to engage in business pursuant to the permit, license, exemption,
2 deduction, credit or other tax preference;

3 26. The examination of records and files of a person or entity
4 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
5 Control pursuant to a court order by a magistrate in whose
6 territorial jurisdiction the person or entity resides, or where the
7 Tax Commission records and files are physically located. Such an
8 order may only be issued upon a sworn application by an agent of the
9 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
10 certifying that the person or entity whose records and files are to
11 be examined is the target of an ongoing investigation of a felony
12 violation of the Uniform Controlled Dangerous Substances Act and
13 that information resulting from such an examination would likely be
14 relevant to that investigation. Any records or information obtained
15 pursuant to such an order may only be used by the Oklahoma State
16 Bureau of Narcotics and Dangerous Drugs Control in the investigation
17 and prosecution of a felony violation of the Uniform Controlled
18 Dangerous Substances Act. Any such order issued pursuant to this
19 paragraph, along with the underlying application, shall be sealed
20 and not disclosed to the person or entity whose records were
21 examined, for a period of ninety (90) days. The issuing magistrate
22 may grant extensions of such period upon a showing of good cause in
23 furtherance of the investigation. Upon the expiration of ninety
24 (90) days and any extensions granted by the magistrate, a copy of

1 the application and order shall be served upon the person or entity
2 whose records were examined, along with a copy of the records or
3 information actually provided by the Tax Commission;

4 27. The disclosure of information, as prescribed by this
5 paragraph, which is related to the proposed or actual usage of tax
6 credits pursuant to Section 2357.7 of this title, the Small Business
7 Capital Formation Incentive Act or the Rural Venture Capital
8 Formation Incentive Act. Unless the context clearly requires
9 otherwise, the terms used in this paragraph shall have the same
10 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
11 title. The disclosure of information authorized by this paragraph
12 shall include:

- 13 a. the legal name of any qualified venture capital
14 company, qualified small business capital company, or
15 qualified rural small business capital company,
- 16 b. the identity or legal name of any person or entity
17 that is a shareholder or partner of a qualified
18 venture capital company, qualified small business
19 capital company, or qualified rural small business
20 capital company,
- 21 c. the identity or legal name of any Oklahoma business
22 venture, Oklahoma small business venture, or Oklahoma
23 rural small business venture in which a qualified
24 investment has been made by a capital company, or

1 d. the amount of funds invested in a qualified venture
2 capital company, the amount of qualified investments
3 in a qualified small business capital company or
4 qualified rural small business capital company and the
5 amount of investments made by a qualified venture
6 capital company, qualified small business capital
7 company, or qualified rural small business capital
8 company;

9 28. The disclosure of specific information as required by
10 Section 46 of Title 62 of the Oklahoma Statutes;

11 29. The disclosure of specific information as required by
12 Section 205.5 of this title;

13 30. The disclosure of specific information as required by
14 Section 205.6 of this title;

15 31. The disclosure of information to the State Treasurer
16 necessary to implement Section 2368.27 of this title; ~~or~~

17 32. The disclosure of specific information to the Oklahoma
18 Health Care Authority for purposes of determining eligibility for
19 current or potential recipients of assistance from the Oklahoma
20 Medicaid Program; or

21 33. The posting on the Oklahoma Tax Commission's website of
22 specific information as required by subsection E of Section 1-122 of
23 Title 70 of the Oklahoma Statutes.

1 D. The Tax Commission shall cause to be prepared and made
2 available for public inspection in the office of the Tax Commission
3 in such manner as it may determine an annual list containing the
4 name and post office address of each person, whether individual,
5 corporate, or otherwise, making and filing an income tax return with
6 the Tax Commission.

7 It is specifically provided that no liability whatsoever, civil
8 or criminal, shall attach to any member of the Tax Commission or any
9 employee thereof for any error or omission of any name or address in
10 the preparation and publication of the list.

11 E. The Tax Commission shall prepare or cause to be prepared a
12 report on all provisions of state tax law that reduce state revenue
13 through exclusions, deductions, credits, exemptions, deferrals or
14 other preferential tax treatments. The report shall be prepared not
15 later than October 1 of each even-numbered year and shall be
16 submitted to the Governor, the President Pro Tempore of the Senate
17 and the Speaker of the House of Representatives. The Tax Commission
18 may prepare and submit supplements to the report at other times of
19 the year if additional or updated information relevant to the report
20 becomes available. The report shall include, for the previous
21 fiscal year, the Tax Commission's best estimate of the amount of
22 state revenue that would have been collected but for the existence
23 of each such exclusion, deduction, credit, exemption, deferral or
24 other preferential tax treatment allowed by law. The Tax Commission

1 may request the assistance of other state agencies as may be needed
2 to prepare the report. The Tax Commission is authorized to require
3 any recipient of a tax incentive or tax expenditure to report to the
4 Tax Commission such information as requested so that the Tax
5 Commission may fulfill its obligations as required by this
6 subsection. The Tax Commission may require this information to be
7 submitted in an electronic format. The Tax Commission may disallow
8 any claim of a person for a tax incentive due to its failure to file
9 a report as required under the authority of this subsection.

10 F. It is further provided that the provisions of this section
11 shall be strictly interpreted and shall not be construed as
12 permitting the disclosure of any other information contained in the
13 records and files of the Tax Commission relating to income tax or to
14 any other taxes.

15 G. Unless otherwise provided for in this section, any violation
16 of the provisions of this section shall constitute a misdemeanor and
17 shall be punishable by the imposition of a fine not exceeding One
18 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
19 for a term not exceeding one (1) year, or by both such fine and
20 imprisonment, and the offender shall be removed or dismissed from
21 office.

22 H. Offenses described in Section 2376 of this title shall be
23 reported to the appropriate district attorney of this state by the
24 Tax Commission as soon as the offenses are discovered by the Tax

1 Commission or its agents or employees. The Tax Commission shall
2 make available to the appropriate district attorney or to the
3 authorized agent of the district attorney its records and files
4 pertinent to prosecutions, and such records and files shall be fully
5 admissible as evidence for the purpose of such prosecutions.

6 SECTION 2. AMENDATORY 70 O.S. 2011, Section 1-122, as
7 amended by Section 1, Chapter 93, O.S.L. 2018 (70 O.S. Supp. 2018,
8 Section 1-122), is amended to read as follows:

9 Section 1-122. A. Each individual taxpayer required to file a
10 state income tax return and each corporation required to file a
11 corporate tax return who desires to contribute to the Public School
12 Classroom Support Revolving Fund created in Section 1-123 of this
13 title may designate the contribution on the appropriate income or
14 corporate tax form. The contribution may not increase or decrease
15 the income or liability of the taxpayer and may be made by reducing
16 the tax refund of a taxpayer by the amount designated or by
17 accepting additional payment from the taxpayer by the amount
18 designated, whichever is appropriate.

19 B. 1. The Oklahoma Tax Commission shall include on each state
20 individual income or corporate tax return form for tax years
21 beginning after December 31, 2011, an opportunity for the taxpayer
22 to donate for the benefit of the Public School Classroom Support
23 Revolving Fund. The instructions accompanying the tax form shall be
24 provided to the Oklahoma Tax Commission by the State Superintendent

1 of Public Instruction and shall contain a description of the purpose
2 for which the Public School Classroom Support Revolving Fund was
3 established and information on the use of monies from the tax
4 contribution. The instructions accompanying the tax form shall
5 include a notification that the Oklahoma Tax Commission will be
6 publicly identifying the taxpayers who make the two largest
7 donations to the Public School Classroom Support Revolving Fund each
8 calendar year. The tax form shall include a place for the taxpayer
9 to opt out of being publicly identified by the Oklahoma Tax
10 Commission.

11 2. Taxpayers who are entitled to refunds shall have the refunds
12 reduced by the amount designated by the taxpayer. The Oklahoma Tax
13 Commission shall annually determine the total amount designated plus
14 the amount received in excess payments and shall report the total
15 amount to the Office of the State Treasurer. The State Treasurer
16 shall credit the total amount to the Public School Classroom Support
17 Revolving Fund created in Section 1-123 of this title at the
18 earliest possible time.

19 C. The incremental cost of administration of contributions
20 shall be paid out of the fund to the Oklahoma Tax Commission from
21 amounts received pursuant to this section before funds are expended
22 for the purposes of the fund.

1 D. Pursuant to Section 2368.18 of Title 68 of the Oklahoma
2 Statutes, the income tax checkoff contained in this section is
3 hereby reauthorized effective January 1, 2019.

4 E. The Oklahoma Tax Commission shall publish on its website the
5 names of taxpayers with the largest two donations to the Public
6 School Classroom Support Revolving Fund for the most recently
7 completed calendar year. The taxpayer with the largest donation for
8 the calendar year shall be designated the "valedictorian", and the
9 taxpayer with the second largest contribution for the calendar year
10 shall be designated the "salutatorian". If a taxpayer has not
11 agreed to the disclosure of his or her name or the name of a
12 donating business entity as provided for in paragraph 1 of
13 subsection B of this section, the Oklahoma Tax Commission shall
14 identify the taxpayer with the next largest donation for the
15 calendar year who has agreed to the disclosure of his or her name or
16 the name of the donating business entity.

17 SECTION 3. This act shall become effective November 1, 2019.

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