

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1097

BY: WEBB

AS INTRODUCED

AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING
PROCEDURE FOR THE WITHHOLDING OF INCOME TAXES FOR
CERTAIN SEIZED OR FORFEITED MONEY; REQUIRING
CERTAIN NOTIFICATION TO THE OKLAHOMA TAX
COMMISSION; PROVIDING FOR CERTAIN PROOF THAT INCOME
TAXES HAVE ALREADY BEEN PAID; PROVIDING FOR THE
RETURN OF THE WITHHELD AMOUNT OR A PORTION THEREOF
UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR DEPOSIT
OF MONIES; DEFINING TERMS; PROVIDING FOR
CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND
DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2385.25 of Title 68, unless
there is created a duplication in numbering, reads as follows:

A. Any law enforcement agency in this state, which obtains
possession of any money from any person, whether a resident or
nonresident of this state through any lawful seizure or criminal
forfeiture procedure, shall deduct and withhold from such money a
tax in the amount equal to twenty-five percent (25%) of the amount
of such money. Any law enforcement agency in this state which

obtains possession of any money pursuant to this subsection shall immediately withhold twenty-five percent (25%) of the value of such money and shall notify the Oklahoma Tax Commission of such action within twenty-four (24) hours of such seizure or forfeiture.

B. Any money obtained by a law enforcement agency, in the manner provided for in subsection A of this section, shall be deemed to be income derived from sources within the State of Oklahoma unless the person from whom the money was obtained can furnish documented proof, satisfactory to the Oklahoma Tax Commission, that such person has already paid income taxes on such money in this state or any other state. Such person shall have thirty (30) days from the date of the forfeiture or seizure to furnish such documented proof.

C. If the Oklahoma Tax Commission determines that there is sufficient proof evidencing that such person paid income taxes on the seized or forfeited money in this state or any other state, the Commission shall return the amount withheld pursuant to subsection A of this section to the law enforcement agency in possession of the money. If the Tax Commission determines that any portion of the amount withheld from a person pursuant to subsection A of this section is in excess of the total amount of tax due under the Oklahoma Income Tax Act from such person, then the Commission shall return such excess amount to the law enforcement agency in possession of the money.

D. If the Tax Commission determines that there is not sufficient proof of the payment of income taxes to this state or any other state on the seized or forfeited money or the person fails to respond within thirty (30) days as provided in subsection B of this section, then the total amount withheld from such person pursuant to subsection A of this section shall be distributed as follows:

1. Fifty percent (50%) of such amount shall be deposited in the General Revenue Fund of this state; and

2. Fifty percent (50%) of such amount shall be forwarded to the Department of Mental Health and Substance Abuse Services for deposit in the Drug Abuse Education and Treatment Fund.

E. For purposes of this section:

1. "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency;

2. " Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation; and

3. "Person" means any individual, corporation, association or other entity capable of holding an interest in money.

SECTION 2. This act shall become effective July 1, 1991.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-5140

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