

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1043

By: Williams (Don)

COMMITTEE SUBSTITUTE

( Revenue and taxation - interest on income tax refunds -  
codification -

effective date)

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 217, as amended by Section 8, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 1993, Section 217), is amended to read as follows:

Section 217. ~~(a)~~ A. If any amount of tax imposed or levied by any state tax law, or any part of such amount, is not paid before such tax becomes delinquent, there shall be collected on the total delinquent tax interest at the rate of one and one-quarter percent (1 1/4%) per month from the date of the delinquency until paid.

~~(b)~~ B. Interest upon any amount of state tax determined as a deficiency, under the provisions of Section 221 of this title, shall be assessed at the same time as the deficiency and shall be paid upon notice and demand of the Tax Commission at the rate of one and one-quarter percent (1 1/4%) per month from the date prescribed in the state tax law levying such tax for the payment thereof to the date the deficiency is assessed.

~~(c)~~ C. If any tax due under state sales, use, tourism, mixed beverage gross receipts, or motor fuel tax laws, or any part thereof, is not paid within fifteen (15) days after such tax becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and delinquent shall be added thereto, collected and paid.

~~(d)~~ D. If any tax due under any state tax law other than those specified in subsection ~~(c)~~ C of this section, or any part thereof, is not paid within thirty (30) days after such tax becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and delinquent shall be added thereto, collected and paid.

~~(e)~~ E. If any part of any deficiency, arbitrary or jeopardy assessment made by the Tax Commission, is based upon or occasioned by the taxpayer's negligence or by the failure or refusal of any taxpayer to file with the Tax Commission any report or return, as required by this title, or by any state tax law, within ten (10) days after a written demand for such report or return has been served upon any taxpayer by the Tax Commission by letter, the said Commission may assess and collect, as a penalty, twenty-five percent (25%) of the amount of the assessment. For purposes of this subsection, "negligence" shall mean the consistent understatement of income, consistent understatement of receipts or a system of recordkeeping by the taxpayer that consistently results in an inaccurate reporting of tax liability.

~~(f)~~ F. If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency, in addition to such deficiency, including interest as herein provided, shall be added, collected and paid.

~~(g)~~ G. All penalties or interest imposed by this title, or any state tax law, shall be recoverable by the Tax Commission as a part of the tax with respect to which they are imposed, the penalties bearing interest as provided in this section for the tax, and all penalties and interest shall be apportioned as provided for the apportionment of the tax on which such penalties or interest are collected.

~~(h) Whenever an income tax refund is not paid to the taxpayer within ninety (90) days after the return is filed or due, whichever is later, with all documents as required by the Commission, entitling the taxpayer to a refund, then the Tax Commission shall pay interest on the refund, at the same rate specified for interest on delinquent tax payments. The payment of~~

~~interest on refunds provided for by this section shall apply to tax year 1987 and subsequent tax years. The Tax Commission shall not be required to pay interest on an income tax refund which is applied, in whole or in part, to a prior year tax liability pursuant to Section 2385.17 of this title or upon an income tax refund applied, in whole or in part, to satisfy a debt owed to the Internal Revenue Service of the United States or to a state agency, including the Oklahoma Tax Commission, as provided by Section 205.2 of this title.~~

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2374.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Unless the Tax Commission notifies the taxpayer in writing that a refund shown or claimed due on an income tax return filed with the Commission has been disallowed, interest at the rate specified by law for interest on delinquent tax payments shall be allowed and paid on such income tax refund if such refund is not issued within ninety (90) days after the date the return is filed or is due, whichever is later. Interest payable hereunder shall begin after the expiration of said ninety-day period.

B. If the Commission, as soon as practicable after the date the return is due or is filed, whichever is later, notifies the taxpayer that the refund claimed has been disallowed, no interest shall be allowed or paid on such refund until ninety (90) days after the date the amount of refund due the taxpayer, if any, is finally determined by the Commission.

C. No interest shall be allowed or paid for any period of time prior to the date the return is filed. For purposes of this section, a return shall not be treated as filed until it is filed in a form that may be processed by the Commission. To be in such form, the return, in addition to satisfying any other requirements that the Commission shall by rule prescribe, shall:

1. Be filed on a form prescribed by the Commission;
2. Contain the taxpayer's name, address, identifying number and the required signature; and

3. Contain or be accompanied by all information required by the Commission sufficient to enable the verification of the tax liability shown on the return.

D. No interest shall be allowed or paid on an income tax refund which is applied, in whole or in part, to a prior or subsequent year tax liability or as a credit against tax pursuant to Section 2385.17 of Title 68 of the Oklahoma Statutes or upon an income tax refund applied, in whole or in part, to satisfy a debt owed to the Internal Revenue Service of the United States or to a state agency, including the Oklahoma Tax Commission, as provided by Section 205.2 of Title 68 of the Oklahoma Statutes.

E. No interest shall be allowed or paid under the provisions of this section where a refund has been denied by an order of the Commission. In the event of an appeal from an order of the Commission denying a refund of income taxes previously paid, the payment of interest, if any, shall be governed by and made in accordance with the provisions of Section 225 of Title 68 of the Oklahoma Statutes.

F. The payment of interest on refunds provided for by this section shall apply to tax year 1987 and subsequent tax years only.

SECTION 3. REPEALER 68 O.S. 1991, Section 2374, is hereby repealed.

SECTION 4. This act shall become effective September 1, 1994.

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