

SHORT TITLE: Revenue and taxation; providing that Tax Commission must pay interest on tax refund from amended tax return if not paid within 90 days from date of filing amended return; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)
SENATE BILL NO. 1043 By: Williams (Don)

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 217, as amended by Section 8, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 1993, Section 217), which relates to the Uniform Tax Procedure Code; modifying time period for which Tax Commission required to pay interest on certain refunds resulting from amended tax returns; and providing an 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) 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) 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) 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) If any tax due under any state tax law other than those specified in subsection (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) 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) 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) 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; provided, for tax year 1994 and subsequent tax years, if an amended return is

filed, with all documents as required by the Commission, entitling the taxpayer to a refund to which he or she was not entitled as a result of the filing of the original return and such refund is not paid to the taxpayer within ninety (90) days after the amended return is filed, the Tax Commission shall pay interest on such refund from the date the amended return was filed, 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. This act shall become effective September 1, 1994.

44-2-2034

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