

CS for SB 822

THE STATE SENATE  
Tuesday, February 25, 2003

Committee Substitute for  
Senate Bill No. 822

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 822 - By: WILKERSON of the Senate and INGMIRE of the House.

[ revenue and taxation - state income tax refunds - effective date ]

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Criminal Justice Information Systems Improvement Act".

SECTION 2. AMENDATORY 68 O.S. 2001, Section 205.2, is amended to read as follows:

Section 205.2 A. A state agency or a district court seeking to collect a debt or final judgment of at least Fifty Dollars (\$50.00) from an individual who has filed a state income tax return may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the agency or a district court be deducted from any state income tax refund due to that individual. The claim shall be in a form prescribed by the ~~Oklahoma~~ Tax Commission and shall contain information necessary to identify the person owing the debt, including the full name and Social Security number of the debtor.

1           1. Upon receiving a claim from a state agency or a district  
2 court, the Tax Commission shall notify the agency or the district  
3 court whether there are sufficient funds available to pay the claim.  
4 Provided, the Tax Commission need not report available funds of less  
5 than Fifty Dollars (\$50.00).

6           2. The state agency or the district court shall send notice to  
7 the debtor by regular mail at the last-known address of the debtor  
8 as shown by the records of the Tax Commission when seeking to  
9 collect a debt not reduced to final judgment. The state agency or  
10 the district court shall send notice to the judgment debtor by first  
11 class mail at the last-known address of the judgment debtor as shown  
12 by the records of the Tax Commission when seeking to collect a final  
13 judgment. The notice shall state:

- 14           a. that a claim has been filed,
- 15           b. the basis for the claim,
- 16           c. that such state agency or district court has applied  
17           to the Tax Commission for any portion of the tax  
18           refund due to the debtor which would satisfy the debt  
19           or final judgment in full or in part,
- 20           d. that the debtor has the right to contest the claim by  
21           sending a written request to the state agency or the  
22           district court for a hearing to protest the claim and  
23           if the debtor fails to apply for a hearing within

1 thirty (30) days after the receipt of the notice, the  
2 debtor shall be deemed to have waived his or her  
3 opportunity to contest the claim,  
4 e. that a collection expense of ~~five percent (5%)~~ fifteen  
5 percent (15%) of the gross proceeds owed to the state  
6 agency or district court shall be charged to the  
7 debtor and withheld from the refund upon final  
8 determination of the debt or final judgment at the  
9 hearing or upon failure of the debtor to request a  
10 hearing, and  
11 f. if the taxpayer settles the outstanding debt or final  
12 judgment with the agency or district court before the  
13 thirty (30) days expire, the agency or the district  
14 court shall notify the Tax Commission in writing or by  
15 electronic media that the claim has been released.  
16 3. In the case of a joint return, the notice shall state:  
17 a. the name of any taxpayer named in the return against  
18 whom no debt or final judgment is claimed,  
19 b. the fact that a debt or final judgment is not claimed  
20 against the taxpayer,  
21 c. the fact that the taxpayer is entitled to receive a  
22 refund if it is due regardless of the debt or final  
23 judgment asserted against the debtor,

- 1           d.    that in order to obtain the refund due, the taxpayer  
2                    must apply, in writing, for a hearing with the  
3                    district court or the agency named in the notice  
4                    within thirty (30) days after the date of the mailing  
5                    of the notice, and
- 6           e.    if the taxpayer against whom no debt or final judgment  
7                    is claimed fails to apply in writing for a hearing  
8                    within thirty (30) days after the mailing of the  
9                    notice, the taxpayer shall have waived his or her  
10                  right to a refund.

11           B.  If the district court or agency asserting the claim receives  
12   a written request from the debtor or taxpayer against whom no debt  
13   or final judgment is claimed requesting a hearing, the agency or the  
14   district court shall grant a hearing according to the provisions of  
15   the Administrative Procedures Act, ~~Section 250 et seq. of Title 75~~  
16   ~~of the Oklahoma Statutes~~.  It shall be determined at the hearing  
17   whether the claimed sum is correct or whether an adjustment to the  
18   claim shall be made.  Pending final determination at the hearing of  
19   the validity of the debt or final judgment asserted by the district  
20   court or the agency, no action shall be taken in furtherance of the  
21   collection of the debt or final judgment.  Appeals from actions  
22   taken at the hearing shall be in accordance with the provisions of  
23   the Administrative Procedures Act.

1 C. Upon final determination at a hearing, as provided for in  
2 subsection B of this section, of the amount of the debt or final  
3 judgment or upon failure of the debtor or taxpayer against whom no  
4 debt or final judgment is claimed to request such a hearing, the  
5 district court or the agency shall submit in the manner prescribed  
6 by the Tax Commission notification of the action taken on the claim  
7 and a request that the amount owed including the collection expense  
8 be deducted from the tax refund due to the debtor and transferred to  
9 the district court or the agency. However, if the tax refund due is  
10 inadequate to pay the collection expense and debt or final judgment,  
11 the balance due the state agency or the district court shall be a  
12 continuing debt or final judgment until paid in full.

13 D. Upon receipt of notification provided in subsection C of  
14 this section, the Tax Commission shall:

15 1. Deduct from the refund ~~five percent (5%)~~ fifteen percent  
16 (15%) of the gross proceeds owed to the state agency or district  
17 court and distribute it by retaining two percent (2%) ~~and,~~  
18 transferring ~~three percent (3%)~~ eight percent (8%) to the district  
19 court or the state agency as an expense of collection and  
20 transferring five percent (5%) to the Oklahoma Criminal Justice  
21 Resource Center Revolving Fund created pursuant to Section 508.2b of  
22 Title 57 of the Oklahoma Statutes. The two percent (2%) retained by

1 the Tax Commission shall be deposited in the Oklahoma Tax Commission  
2 Fund;

3 2. Transfer the amount of debt or final judgment or so much  
4 thereof as is available to the state agency or the district court;

5 3. Notify the debtor in writing as to how the refund was  
6 applied; and

7 4. Refund to the debtor any balance remaining after deducting  
8 the collection expense and debt or final judgment.

9 E. The Tax Commission shall deduct from any state tax refund  
10 due to a taxpayer the amount of delinquent state tax, and penalty  
11 and interest thereon, which such taxpayer owes pursuant to any state  
12 tax law prior to payment of such refund.

13 F. The Tax Commission shall have first priority over all other  
14 agencies or district courts when the Tax Commission is collecting a  
15 debt or final judgment pursuant to the provisions of this section.  
16 Priority in multiple claims by other agencies or district courts  
17 pursuant to the provisions of this section shall be in the order in  
18 time, in which the Tax Commission receives the claim from the  
19 agencies and district courts required by the provisions of  
20 subsection A of this section.

21 G. The Tax Commission shall prescribe or approve forms and  
22 promulgate rules ~~and regulations~~ for implementing the provisions of  
23 this section.

1           H. The information obtained by an agency or by the district  
2 court from the Tax Commission pursuant to the provisions of this  
3 section shall be used only to aid in collection of the debt or final  
4 judgment owed to the agency or a district court. Disclosure of the  
5 information for any other purpose shall constitute a misdemeanor.  
6 Any agency or court employee or person convicted of violating this  
7 provision shall be subject to a fine not exceeding One Thousand  
8 Dollars (\$1,000.00) or imprisonment in the county jail for a term  
9 not exceeding one (1) year, or both said fine and imprisonment and,  
10 if still employed by the agency or the courts, shall be dismissed  
11 from employment.

12           I. The ~~Oklahoma~~ Tax Commission may employ the procedures  
13 provided by this section in order to collect a debt owed to the  
14 Internal Revenue Service if the Internal Revenue Service requires  
15 such procedure as a condition to providing information to the Tax  
16 Commission concerning federal income tax.

17           SECTION 3. This act shall become effective November 1, 2003.

18 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-18-03 - DO PASS,  
19 As Amended and Coauthored.