

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 814

By: Williamson of the Senate

and

(Sullivan) of the House

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8  
9 COMMITTEE SUBSTITUTE

10 [ revenue and taxation - claims against state income  
11 tax refunds - effective date - emergency ]

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

15 SECTION 1. AMENDATORY 68 O.S. 2001, Section 205.2, as  
16 amended by Section 3, Chapter 472, O.S.L. 2003 (68 O.S. Supp. 2006,  
17 Section 205.2), is amended to read as follows:

18 Section 205.2 A. A state agency or a district court seeking to  
19 collect a debt or final judgment of at least Fifty Dollars (\$50.00)  
20 from an individual who has filed a state income tax return may file  
21 a claim with the Oklahoma Tax Commission requesting that the amount  
22 owed to the agency or a district court be deducted from any state  
23 income tax refund due to that individual. The claim shall be filed  
24 electronically in a form prescribed by the Tax Commission and shall

1 contain information necessary to identify the person owing the debt,  
2 including the full name and Social Security number of the debtor.

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

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

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

1 if the debtor fails to apply for a hearing within  
2 sixty (60) days after the ~~receipt~~ date of the mailing  
3 of the notice, the debtor shall be deemed to have  
4 waived his or her opportunity to contest the claim.  
5 Provided, if the claim was filed by the Department of  
6 Human Services, the notice shall state that the debtor  
7 must contest the claim by sending a written request to  
8 the Department within thirty (30) days after the date  
9 of the mailing of the notice,

10 e. that a collection expense of five percent (5%) of the  
11 gross proceeds owed to the state agency or district  
12 court shall be charged to the debtor and withheld from  
13 the refund upon final determination of the debt or  
14 final judgment at the hearing or upon failure of the  
15 debtor to request a hearing, and

16 f. if the taxpayer settles the outstanding debt or final  
17 judgment with the agency or district court before the  
18 ~~sixty (60) days expire~~ time to contest the claim  
19 expires, the agency or the district court shall notify  
20 the Tax Commission in writing or by electronic media  
21 that the claim has been released.

22 3. In the case of a joint return, the notice shall state:

23 a. the name of any taxpayer named in the return against  
24 whom no debt or final judgment is claimed,

- 1           b.    the fact that a debt or final judgment is not claimed  
2                    against the taxpayer,
- 3           c.    the fact that the taxpayer is entitled to receive a  
4                    refund if it is due regardless of the debt or final  
5                    judgment asserted against the debtor,
- 6           d.    that in order to obtain the refund due, the taxpayer  
7                    must apply, in writing, for a hearing with the  
8                    district court or the agency named in the notice  
9                    within sixty (60) days after the date of the mailing  
10                  of the notice. Provided, if the claim was filed by  
11                  the Department of Human Services, the notice shall  
12                  state that the taxpayer must apply, in writing, for a  
13                  hearing with the Department within thirty (30) days  
14                  after the date of the mailing of the notice, and
- 15          e.    if the taxpayer against whom no debt or final judgment  
16                    is claimed fails to apply in writing for a hearing  
17                    within sixty (60) days after the mailing of the  
18                    notice, the taxpayer shall have waived his or her  
19                    right to a refund. Provided, if the claim was filed  
20                  by the Department of Human Services, the notice shall  
21                  state that if the taxpayer fails to apply in writing  
22                  for a hearing with the Department within thirty (30)  
23                  days after the date of the mailing of the notice, the
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1           taxpayer shall have waived his or her right to a  
2           refund.

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

16           C. Upon final determination at a hearing, as provided for in  
17 subsection B of this section, of the amount of the debt or final  
18 judgment or upon failure of the debtor or taxpayer against whom no  
19 debt or final judgment is claimed to request such a hearing, the  
20 district court or the agency shall submit in the manner prescribed  
21 by the Tax Commission notification of the action taken on the claim  
22 and a request that the amount owed including the collection expense  
23 be deducted from the tax refund due to the debtor and transferred to  
24 the district court or the agency. However, if the tax refund due is

1 inadequate to pay the collection expense and debt or final judgment,  
2 the balance due the state agency or the district court shall be a  
3 continuing debt or final judgment until paid in full.

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

6 1. Deduct from the refund five percent (5%) of the gross  
7 proceeds owed to the state agency or district court and distribute  
8 it by retaining two percent (2%) and transferring three percent (3%)  
9 to the district court or the state agency as an expense of  
10 collection. The two percent (2%) retained by the Tax Commission  
11 shall be deposited in the Oklahoma Tax Commission Fund;

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

14 3. Notify the debtor in writing as to how the refund was  
15 applied; and

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

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

22 F. The Tax Commission shall have first priority over all other  
23 agencies or district courts when the Tax Commission is collecting a  
24 debt or final judgment pursuant to the provisions of this section.

1 Priority in multiple claims by other agencies or district courts  
2 pursuant to the provisions of this section shall be in the order in  
3 time, in which the Tax Commission receives the claim from the  
4 agencies and district courts required by the provisions of  
5 subsection A of this section.

6 G. The Tax Commission shall prescribe or approve forms and  
7 promulgate rules and regulations for implementing the provisions of  
8 this section.

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

20 I. The Tax Commission may employ the procedures provided by  
21 this section in order to collect a debt owed to the Internal Revenue  
22 Service if the Internal Revenue Service requires such procedure as a  
23 condition to providing information to the Commission concerning  
24 federal income tax.

1 J. The provisions of this section shall not apply to claims  
2 filed under the provisions of Section 2906 or Section 5011 of this  
3 title.

4 SECTION 2. This act shall become effective July 1, 2007.

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

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