

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 14, 2009

Committee Substitute for  
ENGROSSED  
Senate Bill No. 11

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 11 - By: GUMM AND SPARKS of the Senate and TERRILL AND SHERRER of the House.

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 217, as last amended by Section 1, Chapter 535, O.S.L. 2004 (68 O.S. Supp. 2008, Section 217), which relates to income tax refunds; modifying procedures relating to interest payments by the Oklahoma Tax Commission; and providing an effective date.

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

1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 217, as last amended by  
2 Section 1, Chapter 535, O.S.L. 2004 (68 O.S. Supp. 2008, Section 217), is amended to  
3 read as follows:

4 Section 217. A. If any amount of tax imposed or levied by any state tax law, or any  
5 part of such amount, is not paid before such tax becomes delinquent, there shall be  
6 collected on the total delinquent tax interest at the rate of one and one-quarter percent (1  
7 1/4%) per month from the date of the delinquency until paid.

8 B. Interest upon any amount of state tax determined as a deficiency, under the  
9 provisions of Section 221 of this title, shall be assessed at the same time as the deficiency  
10 and shall be paid upon notice and demand of the Oklahoma Tax Commission at the rate

1 of one and one-quarter percent (1 1/4%) per month from the date prescribed in the state  
2 tax law levying such tax for the payment thereof to the date the deficiency is assessed.

3 C. If any tax due under state sales, use, tourism, mixed beverage gross receipts, or  
4 motor fuel tax laws, or any part thereof, is not paid within fifteen (15) days after such tax  
5 becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and  
6 delinquent shall be added thereto, collected and paid. However, the Tax Commission  
7 shall not collect the penalty assessed if the taxpayer remits the tax within thirty (30)  
8 days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing  
9 of an amended return.

10 D. If any tax due under any state tax law other than those specified in subsection C  
11 of this section, or any part thereof, is not paid within thirty (30) days after such tax  
12 becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and  
13 delinquent shall be added thereto, collected and paid. However, the Tax Commission  
14 shall not collect the penalty assessed if the taxpayer remits the tax and interest within  
15 sixty (60) days of the mailing of a proposed assessment or voluntarily pays the tax upon  
16 the filing of an amended return.

17 E. If any part of any deficiency, arbitrary or jeopardy assessment made by the Tax  
18 Commission is based upon or occasioned by the taxpayer's negligence or by the failure or  
19 refusal of any taxpayer to file with the Tax Commission any report or return, as required  
20 by this title, or by any state tax law, within ten (10) days after a written demand for such  
21 report or return has been served upon any taxpayer by the Tax Commission by letter, the  
22 Tax Commission may assess and collect, as a penalty, twenty-five percent (25%) of the

1 amount of the assessment. For purposes of this subsection, “negligence” shall mean the  
2 consistent understatement of income, consistent understatement of receipts or a system  
3 of recordkeeping by the taxpayer that consistently results in an inaccurate reporting of  
4 tax liability.

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

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

13 H. 1. Whenever an income tax refund is not paid to the taxpayer within ninety (90)  
14 days after the return is filed or due, whichever is later, with all documents as required by  
15 the Tax Commission, entitling the taxpayer to a refund, then the Tax Commission shall  
16 pay interest on the refund, at the same rate specified for interest on delinquent tax  
17 payments. The payment of interest on refunds provided for by this section shall apply to  
18 tax year 1987 and subsequent tax years. The Tax Commission shall not be required to  
19 pay interest on an income tax refund which is applied, in whole or in part, to a prior year  
20 tax liability pursuant to Section 2385.17 of this title or upon an income tax refund  
21 applied, in whole or in part, to satisfy a debt owed to the Internal Revenue Service of the

1 United States or to a state agency, including the Oklahoma Tax Commission, as provided  
2 by Section 205.2 of this title.

3 2. For tax returns filed after January 1, 2004, and before January 2, 2010,  
4 whenever an income tax refund is not paid to the taxpayer within the following number  
5 of days after the income tax return is filed with all documents as required by the Tax  
6 Commission or after the income tax return is due, whichever is later, entitling the  
7 taxpayer to a refund, then the Tax Commission shall pay interest on the refund at the  
8 same rate specified for interest on delinquent tax payments:

9 ~~1. For~~  
10 a. for returns filed electronically, thirty (30) days; and

11 ~~2. For~~  
12 b. for all other returns, one hundred fifty (150) days.

13 3. For tax returns filed after January 1, 2010, whenever an income tax refund is  
14 not paid to the taxpayer within the following number of days after the income tax return  
15 is filed with all documents as required by the Tax Commission entitling the taxpayer to a  
16 refund, then the Tax Commission shall pay interest on the refund at the same rate  
17 specified for interest on delinquent tax payments:

18 a. for returns filed electronically, twenty (20) days, and  
19 b. for all other returns, ninety (90) days.

20 SECTION 2. This act shall become effective January 1, 2010.

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,  
22 dated 04-13-09 - DO PASS, As Amended and Coauthored.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.