

SB 11

1 THE STATE SENATE  
2 Tuesday, February 10, 2009

3 Senate Bill No. 11  
4 As Amended

5 SENATE BILL NO. 11 - By: Gumm and Sparks of the Senate and Terrill  
6 of the House.

7 [ revenue and taxation - interest on tax refunds - effective  
8 date ]

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

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

13 Section 217. A. If any amount of tax imposed or levied by any  
14 state tax law, or any part of such amount, is not paid before such  
15 tax becomes delinquent, there shall be collected on the total  
16 delinquent tax interest at the rate of one and one-quarter percent  
17 (1 1/4%) per month from the date of the delinquency until paid.

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

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

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

19 E. If any part of any deficiency, arbitrary or jeopardy  
20 assessment made by the Tax Commission is based upon or occasioned by  
21 the taxpayer's negligence or by the failure or refusal of any  
22 taxpayer to file with the Tax Commission any report or return, as  
23 required by this title, or by any state tax law, within ten (10)

1 days after a written demand for such report or return has been  
2 served upon any taxpayer by the Tax Commission by letter, the Tax  
3 Commission may assess and collect, as a penalty, twenty-five percent  
4 (25%) of the amount of the assessment. For purposes of this  
5 subsection, "negligence" shall mean the consistent understatement of  
6 income, consistent understatement of receipts or a system of  
7 recordkeeping by the taxpayer that consistently results in an  
8 inaccurate reporting of tax liability.

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

13 G. All penalties or interest imposed by this title, or any  
14 state tax law, shall be recoverable by the Tax Commission as a part  
15 of the tax with respect to which they are imposed, the penalties  
16 bearing interest as provided in this section for the tax, and all  
17 penalties and interest shall be apportioned as provided for the  
18 apportionment of the tax on which such penalties or interest are  
19 collected.

20 H. 1. Whenever an income tax refund is not paid to the  
21 taxpayer within ninety (90) days after the return is filed or due,  
22 whichever is later, with all documents as required by the Tax  
23 Commission, entitling the taxpayer to a refund, then the Tax

1 Commission shall pay interest on the refund, at the same rate  
2 specified for interest on delinquent tax payments. The payment of  
3 interest on refunds provided for by this section shall apply to tax  
4 year 1987 and subsequent tax years. The Tax Commission shall not be  
5 required to pay interest on an income tax refund which is applied,  
6 in whole or in part, to a prior year tax liability pursuant to  
7 Section 2385.17 of this title or upon an income tax refund applied,  
8 in whole or in part, to satisfy a debt owed to the Internal Revenue  
9 Service of the United States or to a state agency, including the  
10 Oklahoma Tax Commission, as provided by Section 205.2 of this title.

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

19 ~~1. For~~

20 a. for returns filed electronically, thirty (30) days~~7,~~  
21 and

22 ~~2. For~~

23 b. for all other returns, one hundred fifty (150) days.

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

8            a. for returns filed electronically, thirty (30) days,  
9            and

10           b. for all other returns, sixty (60) days.

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

12        COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-3-09 - DO PASS,  
13        As Amended and Coauthored.