

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1183

By: Corn

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 205.2, as last amended by Section
9 1, Chapter 135, O.S.L. 2007 (68 O.S. Supp. 2008,
10 Section 205.2), which relates to claims against state
11 income tax refunds; providing for certain claims by
12 certain landlords; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 68 O.S. 2001, Section 205.2, as
15 last amended by Section 1, Chapter 135, O.S.L. 2007 (68 O.S. Supp.
16 2008, Section 205.2), is amended to read as follows:

17 Section 205.2 A. A state agency ~~or~~, a district court, or a
18 landlord who is granted a final judgment against a tenant for
19 property damages, seeking to collect a debt or final judgment of at
20 least Fifty Dollars (\$50.00) from an individual who has filed a
21 state income tax return may file a claim with the Oklahoma Tax
22 Commission requesting that the amount owed to the agency ~~or a~~,
23 district court or landlord be deducted from any state income tax
24 refund due to that individual. The claim shall be filed
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 or landlord, the Tax Commission shall notify the agency ~~or~~
5 ~~the~~, district court or landlord whether there are funds available to
6 pay the claim. Provided, the Tax Commission need not report
7 available funds of less than Fifty Dollars (\$50.00).

8 2. The state agency ~~or the~~, district court or landlord shall
9 send notice to the debtor by regular mail at the last-known address
10 of the debtor as shown by the records of the Tax Commission when
11 seeking to collect a debt not reduced to final judgment. The state
12 agency ~~or the~~, district court or landlord shall send notice to the
13 judgment debtor by first class mail at the last-known address of the
14 judgment debtor as shown by the records of the Tax Commission when
15 seeking to collect a final 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 or landlord
19 has applied to the Tax Commission for any portion of
20 the tax refund due to the debtor which would satisfy
21 the debt 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 or landlord for a hearing to protest

1 the claim and if the debtor fails to apply for a
2 hearing within sixty (60) days after the date of the
3 mailing of the notice, the debtor shall be deemed to
4 have waived his or her opportunity to contest the
5 claim. Provided, if the claim was filed by the
6 Department of Human Services, the notice shall state
7 that the debtor must contest the claim by sending a
8 written request to the Department within thirty (30)
9 days after the date 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 or landlord shall be charged to the debtor and
13 withheld from the refund upon final determination of
14 the debt or final judgment at the hearing or upon
15 failure of the 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 or
18 landlord before the time to contest the claim expires,
19 the agency ~~or the~~, district court or landlord shall
20 notify the Tax Commission in writing or by electronic
21 media 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 or landlord named in the
9 notice within sixty (60) days after the date of the
10 mailing of the notice. Provided, if the claim was
11 filed by the Department of Human Services, the notice
12 shall state that the taxpayer must apply, in writing,
13 for a hearing with the Department within thirty (30)
14 days 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 or landlord asserting the
4 claim receives a written request from the debtor or taxpayer against
5 whom no debt or final judgment is claimed requesting a hearing, the
6 agency ~~or the~~, district court or landlord shall grant a hearing
7 according to the provisions of the Administrative Procedures Act,
8 ~~Section 250 et seq. of Title 75 of the Oklahoma Statutes.~~ It shall
9 be determined at the hearing whether the claimed sum is correct or
10 whether an adjustment to the claim shall be made. Pending final
11 determination at the hearing of the validity of the debt or final
12 judgment asserted by the district court ~~or the~~, agency or landlord,
13 no action shall be taken in furtherance of the collection of the
14 debt or final judgment. Appeals from actions taken at the hearing
15 shall be in accordance with the provisions of the Administrative
16 Procedures Act.

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

1 and transferred to the district court ~~or the,~~ agency or landlord.
2 However, if the tax refund due is inadequate to pay the collection
3 expense and debt or final judgment, the balance due the state agency
4 ~~or the,~~ district court or landlord shall be a continuing debt or
5 final judgment until paid in full.

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

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

15 2. Transfer the amount of debt or final judgment or so much
16 thereof as is available to the state agency ~~or the,~~ district court
17 or landlord;

18 3. Notify the debtor in writing as to how the refund was
19 applied; and

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

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

3 F. The Tax Commission shall have first priority over all other
4 agencies ~~or~~, district courts or landlords when the Tax Commission is
5 collecting a debt or final judgment pursuant to the provisions of
6 this section. Priority in multiple claims by other agencies ~~or~~,
7 district courts or landlords pursuant to the provisions of this
8 section shall be in the order in time, in which the Tax Commission
9 receives the claim from the agencies ~~and~~, district courts and
10 landlords required by the provisions of subsection A of this
11 section.

12 G. The Tax Commission shall prescribe or approve forms and
13 promulgate rules and regulations for implementing the provisions of
14 this section.

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

3 I. The Tax Commission may employ the procedures provided by
4 this section in order to collect a debt owed to the Internal Revenue
5 Service if the Internal Revenue Service requires such procedure as a
6 condition to providing information to the Commission concerning
7 federal income tax.

8 J. The provisions of this section shall not apply to claims
9 filed under the provisions of Section 2906 or Section 5011 of this
10 title.

11 SECTION 2. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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