

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 963

6 By: Brown

7 COMMITTEE SUBSTITUTE

8 [ repayment of debts - tax refunds - effective date ]

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

12 SECTION 1. AMENDATORY 68 O.S. 2011, Section 205.2, is  
13 amended to read as follows:

14 Section 205.2. A. A state agency, a municipal court or a  
15 district court seeking to collect a debt, unpaid fines and cost or  
16 final judgment of at least Fifty Dollars (\$50.00) from an individual  
17 who has filed a state income tax return may file a claim with the  
18 Oklahoma Tax Commission requesting that the amount owed to the  
19 agency, a municipal court or a district court be deducted from any  
20 state income tax refund due to that individual. Provided, however,  
21 that an individual that is remitting scheduled payments to a state  
22 agency, municipal court or a district court for any debt, fines or  
23 costs owed and the individual makes such payments in a timely manner  
24 shall not have a claim filed on a state income tax return, unless

1 such individual is ten (10) or more days delinquent from the day  
2 payment is due on any one scheduled payment. Such delinquency shall  
3 authorize the state agency, municipal court or district court to  
4 exercise the provisions of this section until all such debts, fines  
5 and costs are paid in full. The claim shall be filed electronically  
6 in a form prescribed by the Tax Commission and shall contain  
7 information necessary to identify the person owing the debt,  
8 including the full name and Social Security number of the debtor.

9 1. Upon receiving a claim from a state agency, the municipal  
10 court or a district court, the Tax Commission shall deduct the claim  
11 amount, plus collection expenses as provided in this section, from  
12 the tax refund due to the debtor and transfer the amount to the  
13 municipal court, the district court or the agency. Provided, the  
14 Tax Commission need not report available funds of less than Fifty  
15 Dollars (\$50.00).

16 2. The state agency, the municipal court or the district court  
17 shall send notice to the debtor by regular mail at the last-known  
18 address of the debtor as shown by the records of the Tax Commission  
19 when seeking to collect a debt not reduced to final judgment. The  
20 state agency, the municipal court or the district court shall send  
21 notice to the judgment debtor or municipal court defendant by first  
22 class mail at the last-known address of the judgment debtor or  
23 municipal court defendant as shown by the records of the Tax  
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1 Commission when seeking to collect a final judgment or unpaid  
2 municipal fines and cost. The notice shall state:

- 3 a. that a claim has been filed with the Tax Commission  
4 for any portion of the tax refund due to the debtor or  
5 municipal court defendant which would satisfy the  
6 debt, unpaid municipal fines and cost, or final  
7 judgment in full or in part,
- 8 b. the basis for the claim,
- 9 c. that the Tax Commission has deducted an amount from  
10 the refund and remitted it to such state agency,  
11 municipal court or district court,
- 12 d. that the debtor or municipal court defendant has the  
13 right to contest the claim by sending a written  
14 request to the state agency, the municipal court or  
15 the district court for a hearing to protest the claim,  
16 and if the debtor or municipal court defendant fails  
17 to apply for a hearing within sixty (60) days after  
18 the date of the mailing of the notice, the debtor or  
19 municipal court defendant shall be deemed to have  
20 waived his or her opportunity to contest the claim.  
21 Provided, if the claim was filed by the Department of  
22 Human Services, the notice shall state that the debtor  
23 must contest the claim by sending a written request to  
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1 the Department within thirty (30) days after the date  
2 of the mailing of the notice,

3 e. that a collection expense of five percent (5%) of the  
4 gross proceeds owed to the state agency, municipal  
5 court or district court has been charged to the debtor  
6 or municipal court defendant and withheld from the  
7 refund.

8 3. If the state agency, municipal court or district court  
9 determines that a refund is due to the taxpayer, the state agency,  
10 municipal court or district court shall reimburse the amount claimed  
11 plus the five-percent collection expense to the taxpayer. The state  
12 agency, municipal court or district court may request reimbursement  
13 of the two-percent collection expense retained by the Tax  
14 Commission. Such request must be made within ninety (90) days of  
15 reimbursement to the taxpayer. If timely requested, the Tax  
16 Commission shall make such reimbursement to the state agency,  
17 municipal court or district court within ninety (90) days of the  
18 request.

19 4. In the case of a joint return, the notice shall state:

20 a. the name of any taxpayer named in the return against  
21 whom no debt, no unpaid fines and cost, or final  
22 judgment is claimed,

23 b. the fact that a debt, unpaid municipal fines and cost,  
24 or final judgment is not claimed against the taxpayer,

- 1           c.    the fact that the taxpayer is entitled to receive a  
2               refund if it is due regardless of the debt, municipal  
3               fines and cost, or final judgment asserted against the  
4               debtor or municipal court defendant,
- 5           d.    that in order to obtain the refund due, the taxpayer  
6               must apply, in writing, for a hearing with the  
7               municipal court, district court, or the agency named  
8               in the notice within sixty (60) days after the date of  
9               the mailing of the notice.  Provided, if the claim was  
10              filed by the Department of Human Services, the notice  
11              shall state that the taxpayer must apply, in writing,  
12              for a hearing with the Department within thirty (30)  
13              days after the date of the mailing of the notice, and
- 14           e.    if the taxpayer against whom no debt, no unpaid  
15               municipal fines and cost, or final judgment is claimed  
16               fails to apply in writing for a hearing within sixty  
17               (60) days after the mailing of the notice, the  
18               taxpayer shall have waived his or her right to a  
19               refund.  Provided, if the claim was filed by the  
20               Department of Human Services, the notice shall state  
21               that if the taxpayer fails to apply in writing for a  
22               hearing with the Department within thirty (30) days  
23               after the date of the mailing of the notice, the  
24

1 taxpayer shall have waived his or her right to a  
2 refund.

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

18 C. Upon final determination at a hearing, as provided for in  
19 subsection B of this section, of the amount of the debt, unpaid  
20 fines and cost, or final judgment, or upon failure of the debtor or  
21 taxpayer against whom no debt, no unpaid fines and cost, or final  
22 judgment is claimed to request such a hearing, the municipal court,  
23 the district court or the agency shall apply the amount of the claim  
24 to the debt owed. Any amounts held by the municipal court, district

1 court, or agency in excess of the final determination of the debt  
2 and collection expense shall be refunded by the municipal court,  
3 district court, or agency to the taxpayer. However, if the tax  
4 refund due is inadequate to pay the collection expense and debt,  
5 unpaid fines and cost, or final judgment, the balance due the state  
6 agency, the municipal court, or the district court shall be a  
7 continuing debt or final judgment until paid in full.

8 D. Upon receipt of a claim as provided in subsection A of this  
9 section, the Tax Commission shall:

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

17 2. Transfer the amount of the claimed debt, unpaid fines and  
18 cost, or final judgment or so much thereof as is available to the  
19 state agency, municipal court or the district court;

20 3. Notify the debtor in writing as to how the refund was  
21 applied; and

22 4. Refund to the debtor any balance remaining after deducting  
23 the collection expense and debt, unpaid fines and cost, or final  
24 judgment.

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

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

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

17 H. The information obtained by an agency, municipal court or by  
18 the district court from the Tax Commission pursuant to the  
19 provisions of this section shall be used only to aid in collection  
20 of the debt, unpaid fines and cost, or final judgment owed to the  
21 agency, municipal court or a district court. Disclosure of the  
22 information for any other purpose shall constitute a misdemeanor.  
23 Any agency or court employee or person convicted of violating this  
24 provision shall be subject to a fine not exceeding One Thousand

1 Dollars (\$1,000.00) or imprisonment in the county jail for a term  
2 not exceeding one (1) year, or both ~~said~~ the fine and imprisonment  
3 and, if still employed by the agency or the courts, shall be  
4 dismissed from employment.

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

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

13 SECTION 2. This act shall become effective November 1, 2012.

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