

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1471

By: Anderson of the Senate

and

Grau of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to collection of child support;
12 amending 68 O.S. 2011, Section 205.2, which relates
13 to claims against state income tax refunds; requiring
14 Oklahoma Tax Commission to provide certain
15 information to Department of Human Services;
16 establishing priority of certain claims; repealing 68
17 O.S. 2011, Section 205.3, which relates to claims for
18 collection of child support; and providing an
19 effective date.

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

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

23 Section 205.2 A. A state agency, a municipal court or a
24 district court seeking to collect a debt, unpaid fines and cost or
25 final judgment of at least Fifty Dollars (\$50.00) from an individual

1 who has filed a state income tax return may file a claim with the
2 Oklahoma Tax Commission requesting that the amount owed to the
3 agency, a municipal court or a district court be deducted from any
4 state income tax refund due to that individual. The claim shall be
5 filed electronically in a form prescribed by the Tax Commission and
6 shall contain information necessary to identify the person owing the
7 debt, including the full name and Social Security number of the
8 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 Tax Commission shall provide in an
3 agreed electronic format to the Department of Human Services the
4 amount withheld by the Tax Commission, the home address and the
5 Social Security number of the taxpayer. The notice shall state:

6 a. that a claim has been filed with the Tax Commission
7 for any portion of the tax refund due to the debtor or
8 municipal court defendant which would satisfy the
9 debt, unpaid municipal fines and cost, or final
10 judgment in full or in part,

11 b. the basis for the claim,

12 c. that the Tax Commission has deducted an amount from
13 the refund and remitted it to such state agency,
14 municipal court or district court,

15 d. that the debtor or municipal court defendant has the
16 right to contest the claim by sending a written
17 request to the state agency, the municipal court or
18 the district court for a hearing to protest the claim,
19 and if the debtor or municipal court defendant fails
20 to apply for a hearing within sixty (60) days after
21 the date of the mailing of the notice, the debtor or
22 municipal court defendant shall be deemed to have
23 waived his or her opportunity to contest the claim.

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

1 Provided, if the claim was filed by the Department of
2 Human Services, the notice shall state that the debtor
3 must contest the claim by sending a written request to
4 the Department within thirty (30) days after the date
5 of the mailing of the notice,

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

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

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

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

1 C. Upon final determination at a hearing, as provided for in
2 subsection B of this section, of the amount of the debt, unpaid
3 fines and cost, or final judgment, or upon failure of the debtor or
4 taxpayer against whom no debt, no unpaid fines and cost, or final
5 judgment is claimed to request such a hearing, the municipal court,
6 the district court or the agency shall apply the amount of the claim
7 to the debt owed. Any amounts held by the municipal court, district
8 court, or agency in excess of the final determination of the debt
9 and collection expense shall be refunded by the municipal court,
10 district court, or agency to the taxpayer. However, if the tax
11 refund due is inadequate to pay the collection expense and debt,
12 unpaid fines and cost, or final judgment, the balance due the state
13 agency, the municipal court, or the district court shall be a
14 continuing debt or final judgment until paid in full.

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

17 1. Deduct from the refund five percent (5%) of the gross
18 proceeds owed to the state agency, the municipal court or district
19 court and distribute it by retaining two percent (2%) and
20 transferring three percent (3%) to the municipal court, the district
21 court or the state agency as an expense of collection. The two
22 percent (2%) retained by the Tax Commission shall be deposited in
23 the Oklahoma Tax Commission Fund;

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

4 3. Notify the debtor in writing as to how the refund was
5 applied; and

6 4. Refund to the debtor any balance remaining after deducting
7 the collection expense and debt, unpaid fines and cost, or final
8 judgment.

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

13 F. The Tax Commission shall have first priority over all other
14 agencies, municipal courts or district courts when the Tax
15 Commission is collecting a debt, municipal court fines and cost, or
16 final judgment pursuant to the provisions of this section.

17 Subsequent to the Tax Commission priority, a claim filed by the
18 Department of Human Services for the collection of child support and
19 spousal support shall have priority over all other claims filed
20 pursuant to this section. Priority in multiple claims by other
21 agencies, municipal courts or district courts pursuant to the
22 provisions of this section shall be in the order in time, in which
23 the Tax Commission receives the claim from the agencies, municipal

1 courts and district courts required by the provisions of subsection
2 A of this section.

3 G. The Tax Commission shall prescribe or approve forms and
4 promulgate rules and regulations for implementing the provisions of
5 this section.

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

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

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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. REPEALER 68 O.S. 2011, Section 205.3, is
5 hereby repealed.

6 SECTION 3. This act shall become effective November 1, 2012.
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8 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 04/03/2012 -
9 DO PASS, As Amended.
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