

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1019

By: Garrison of the Senate

4 and

5 McDaniel (Jeannie) of the  
6 House

7  
8 AS INTRODUCED

9  
10 An Act relating to tax administration; amending 68  
11 O.S. 2011, Section 205.2, which relates to claims  
12 against income tax refunds; authorizing certain  
13 public housing authorities to collect certain debts  
14 by filing a claim against income tax refunds;  
15 modifying claims process to include certain public  
16 housing authorities; providing for distribution of  
17 proceeds deducted; and providing an effective date.

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

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

21 Section 205.2. A. A state agency, a municipal court ~~or~~, a  
22 district court or a public housing authority operating pursuant to  
23 Section 1062 of Title 63 of the Oklahoma Statutes seeking to collect  
24 a debt, unpaid fines and cost or final judgment of at least Fifty  
Dollars (\$50.00) from an individual who has filed a state income tax  
return may file a claim with the Oklahoma Tax Commission requesting

1 that the amount owed to the agency, a municipal court ~~or~~, a district  
2 court or a public housing authority operating pursuant to Section  
3 1062 of Title 63 of the Oklahoma Statutes, 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 or a public housing authority operating  
11 pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, the  
12 Tax Commission shall deduct the claim amount, plus collection  
13 expenses as provided in this section, from the tax refund due to the  
14 debtor and transfer the amount to the municipal court, the district  
15 court ~~or~~, the agency or the public housing authority. Provided, the  
16 Tax Commission need not report available funds of less than Fifty  
17 Dollars (\$50.00).

18 2. The state agency, the municipal court ~~or the~~, a district  
19 court or a public housing authority operating pursuant to Section  
20 1062 of Title 63 of the Oklahoma Statutes, shall send notice to the  
21 debtor by regular mail at the last-known address of the debtor as  
22 shown by the records of the Tax Commission when seeking to collect a  
23 debt not reduced to final judgment. The state agency, the municipal  
24 court ~~or the~~, a district court or a public housing authority

1 operating pursuant to Section 1062 of Title 63 of the Oklahoma  
2 Statutes, shall send notice to the judgment debtor or municipal  
3 court defendant by first class mail at the last-known address of the  
4 judgment debtor or municipal court defendant as shown by the records  
5 of the Tax Commission when seeking to collect a final judgment or  
6 unpaid municipal fines and cost. The notice shall state:

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

12 b. the basis for the claim,

13 c. that the Tax Commission has deducted an amount from  
14 the refund and remitted it to such state agency,  
15 municipal court ~~or~~, district court or public housing  
16 authority,

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

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

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

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

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

- 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  
24 refund. Provided, if the claim was filed by the

1 Department of Human Services, the notice shall state  
2 that if the taxpayer fails to apply in writing for a  
3 hearing with the Department within thirty (30) days  
4 after the date of the mailing of the notice, the  
5 taxpayer shall have waived his or her right to a  
6 refund.

7 B. If the municipal court, district court ~~or~~, agency or public  
8 housing authority operating pursuant to Section 1062 of Title 63 of  
9 the Oklahoma Statutes asserting the claim receives a written request  
10 for a hearing from the debtor or taxpayer against whom no debt, no  
11 municipal fines and cost, or final judgment is claimed, the agency,  
12 the municipal court ~~or~~, the district court or public housing  
13 authority operating pursuant to Section 1062 of Title 63 of the  
14 Oklahoma Statutes, shall grant a hearing according to the provisions  
15 of the Administrative Procedures Act, ~~Section 250 et seq. of Title~~  
16 ~~75 of the Oklahoma Statutes~~. It shall be determined at the hearing  
17 whether the claimed sum is correct or whether an adjustment to the  
18 claim shall be made. Pending final determination at the hearing of  
19 the validity of the debt, unpaid fines and cost, or final judgment  
20 asserted by the municipal court, the district court ~~or the~~, agency  
21 or public housing authority operating pursuant to Section 1062 of  
22 Title 63 of the Oklahoma Statutes, no action shall be taken in  
23 furtherance of the collection of the debt, unpaid fines and cost, or  
24 final judgment. Appeals from actions taken at the hearing shall be

1 in accordance with the provisions of the Administrative Procedures  
2 Act.

3 C. Upon final determination at a hearing, as provided for in  
4 subsection B of this section, of the amount of the debt, unpaid  
5 fines and cost, or final judgment, or upon failure of the debtor or  
6 taxpayer against whom no debt, no unpaid fines and cost, or final  
7 judgment is claimed to request such a hearing, the municipal court,  
8 the district court ~~or the~~, agency or public housing authority  
9 operating pursuant to Section 1062 of Title 63 of the Oklahoma  
10 Statutes, shall apply the amount of the claim to the debt owed. Any  
11 amounts held by the municipal court, district court, ~~or~~ agency or  
12 public housing authority operating pursuant to Section 1062 of Title  
13 63 of the Oklahoma Statutes in excess of the final determination of  
14 the debt and collection expense, shall be refunded by the municipal  
15 court, district court, ~~or~~ agency or public housing authority  
16 operating pursuant to Section 1062 of Title 63 of the Oklahoma  
17 Statutes to the taxpayer. However, if the tax refund due is  
18 inadequate to pay the collection expense and debt, unpaid fines and  
19 cost, or final judgment, the balance due the state agency, the  
20 municipal court, ~~or~~ the district court or public housing authority  
21 operating pursuant to Section 1062 of Title 63 of the Oklahoma  
22 Statutes, shall be a continuing debt or final judgment until paid in  
23 full.

24

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

3 1. Deduct from the refund five percent (5%) of the gross  
4 proceeds owed to the state agency, the municipal court ~~or~~, district  
5 court or public housing authority operating pursuant to Section 1062  
6 of Title 63 of the Oklahoma Statutes, and distribute it by retaining  
7 two percent (2%) and transferring three percent (3%) to the  
8 municipal court, the district court ~~or~~, the state agency or public  
9 housing authority operating pursuant to Section 1062 of Title 63 of  
10 the Oklahoma Statutes, as an expense of collection. The two percent  
11 (2%) retained by the Tax Commission shall be deposited in the  
12 Oklahoma Tax Commission Fund;

13 2. Transfer the amount of the claimed debt, unpaid fines and  
14 cost, or final judgment or so much thereof as is available to the  
15 state agency, municipal court ~~or~~, the district court or public  
16 housing authority operating pursuant to Section 1062 of Title 63 of  
17 the Oklahoma Statutes;

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, unpaid fines and cost, or final  
22 judgment.

23 E. The Tax Commission shall deduct from any state tax refund  
24 due to a taxpayer the amount of delinquent state tax and penalty and

1 interest thereon, which such taxpayer owes pursuant to any state tax  
2 law prior to payment of such refund.

3 F. The Tax Commission shall have first priority over all other  
4 agencies, municipal courts ~~or~~, district courts or public housing  
5 authority operating pursuant to Section 1062 of Title 63 of the  
6 Oklahoma Statutes, when the Tax Commission is collecting a debt,  
7 municipal court fines and cost, or final judgment pursuant to the  
8 provisions of this section. Priority in multiple claims by other  
9 agencies, authorities, municipal courts or district courts pursuant  
10 to the provisions of this section shall be in the order in time, in  
11 which the Tax Commission receives the claim from the agencies,  
12 authorities, 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, authority, municipal  
18 court or by the district court from the Tax Commission pursuant to  
19 the provisions of this section shall be used only to aid in  
20 collection of the debt, unpaid fines and cost, or final judgment  
21 owed to the agency, authority, municipal court or a district court.  
22 Disclosure of the information for any other purpose shall constitute  
23 a misdemeanor. Any agency, authority or court employee or person  
24 convicted of violating this provision shall be subject to a fine not

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