

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1629

By: Bingman of the Senate

and

Sears of the House

8 COMMITTEE SUBSTITUTE

9 An Act relating to income tax; amending 68 O.S. 2011,
10 Section 217, which relates to interest and penalties;
11 modifying amount of interest due; defining term;
12 providing an effective date; and declaring an
13 emergency.

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 217, is
16 amended to read as follows:

17 Section 217. A. If any amount of tax imposed or levied by any
18 state tax law, or any part of such amount, is not paid before such
19 tax becomes delinquent, there shall be collected on the total
20 delinquent tax interest ~~at the rate of one and one-quarter percent~~
~~(1 1/4%) per month~~ equal to an annual rate of the prime rate plus
21 eight percent (8%) from the date of the delinquency until paid.

22 B. Interest upon any amount of state tax determined as a
23 deficiency, under the provisions of Section 221 of this title, shall
24 be assessed at the same time as the deficiency and shall be paid

1 upon notice and demand of the Oklahoma Tax Commission ~~at the rate of~~
2 ~~one and one-quarter percent (1 1/4%) per month~~ in an amount equal to
3 an annual rate of the prime rate plus eight percent (8%) from the
4 date prescribed in the state tax law levying such tax for the
5 payment thereof to the date the deficiency is assessed.

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

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

24

1 E. If any part of any deficiency, arbitrary or jeopardy
2 assessment made by the Tax Commission is based upon or occasioned by
3 the taxpayer's negligence or by the failure or refusal of any
4 taxpayer to file with the Tax Commission any report or return, as
5 required by this title, or by any state tax law, within ten (10)
6 days after a written demand for such report or return has been
7 served upon any taxpayer by the Tax Commission by letter, the Tax
8 Commission may assess and collect, as a penalty, twenty-five percent
9 (25%) of the amount of the assessment. For purposes of this
10 subsection, "negligence" shall mean the consistent understatement of
11 income, consistent understatement of receipts or a system of
12 recordkeeping by the taxpayer that consistently results in an
13 inaccurate reporting of tax liability.

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

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

1 H. 1. Whenever an income tax refund is not paid to the
2 taxpayer within ninety (90) days after the return is filed or due,
3 whichever is later, with all documents as required by the Tax
4 Commission, entitling the taxpayer to a refund, then the Tax
5 Commission shall pay interest on the refund, at the same rate
6 specified for interest on delinquent tax payments. The payment of
7 interest on refunds provided for by this section shall apply to tax
8 year 1987 and subsequent tax years. The Tax Commission shall not be
9 required to pay interest on an income tax refund which is applied,
10 in whole or in part, to a prior year tax liability pursuant to
11 Section 2385.17 of this title or upon an income tax refund applied,
12 in whole or in part, to satisfy a debt owed to the Internal Revenue
13 Service of the United States or to a state agency, including the
14 Oklahoma Tax Commission, as provided by Section 205.2 of this title.

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

23 a. for returns filed electronically, thirty (30) days,
24 and

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

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

9 a. for returns filed electronically, twenty (20) days,
10 and

11 b. for all other returns, ninety (90) days.

12 I. For the purposes of this section , "prime rate" shall mean
13 the prime rate, as listed in the first edition of the Wall Street
14 Journal published for each calendar year and as certified by the
15 State Treasurer on the first regular business day following
16 publication in January of each year.

17 SECTION 2. This act shall become effective July 1, 2014.

18 SECTION 3. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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