

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 945

By: Standridge

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 205.2, as amended by Section 1,
9 Chapter 256, O.S.L. 2012 (68 O.S. Supp. 2012, Section
10 205.2), which relates to interception of tax refunds;
11 applicability of provision; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 68 O.S. 2011, Section 205.2, as
15 amended by Section 1, Chapter 256, O.S.L. 2012 (68 O.S. Supp. 2012,
16 Section 205.2), is amended to read as follows:

17 Section 205.2. A. A state agency, a municipal court or a
18 district court seeking to collect a debt, unpaid fines and cost or
19 final judgment of at least Fifty Dollars (\$50.00) from an individual
20 who has filed a state income tax return may file a claim with the
21 Oklahoma Tax Commission requesting that the amount owed to the
22 agency, a municipal court or a district court be deducted from any
23 state income tax refund due to that individual. The claim shall be
24 filed electronically in a form prescribed by the Tax Commission and
shall contain information necessary to identify the person owing the

1 debt, including the full name and Social Security number of the
2 debtor.

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

10 2. The state agency, the municipal court or the district court
11 shall send notice to the debtor by regular mail at the last-known
12 address of the debtor as shown by the records of the Tax Commission
13 when seeking to collect a debt not reduced to final judgment. The
14 state agency, the municipal court or the district court shall send
15 notice to the judgment debtor or municipal court defendant by first
16 class mail at the last-known address of the judgment debtor or
17 municipal court defendant as shown by the records of the Tax
18 Commission when seeking to collect a final judgment or unpaid
19 municipal fines and cost. The Tax Commission shall provide in an
20 agreed electronic format to the Department of Human Services the
21 amount withheld by the Tax Commission, the home address and the
22 Social Security number of the taxpayer. The notice shall state:

23 a. that a claim has been filed with the Tax Commission
24 for any portion of the tax refund due to the debtor or

1 municipal court defendant which would satisfy the
2 debt, unpaid municipal fines and cost, or final
3 judgment in full or in part,

4 b. the basis for the claim,

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

8 d. that the debtor or municipal court defendant has the
9 right to contest the claim by sending a written
10 request to the state agency, the municipal court or
11 the district court for a hearing to protest the claim,
12 and if the debtor or municipal court defendant fails
13 to apply for a hearing within sixty (60) days after
14 the date of the mailing of the notice, the debtor or
15 municipal court defendant shall be deemed to have
16 waived his or her opportunity to contest the claim.

17 Provided, if the claim was filed by the Department of
18 Human Services, the notice shall state that the debtor
19 must contest the claim by sending a written request to
20 the Department within thirty (30) days after the date
21 of the mailing of the notice,

22 e. that a collection expense of five percent (5%) of the
23 gross proceeds owed to the state agency, municipal
24 court or district court has been charged to the debtor

1 or municipal court defendant and withheld from the
2 refund.

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

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

- 15 a. the name of any taxpayer named in the return against
16 whom no debt, no unpaid fines and cost, or final
17 judgment is claimed,
- 18 b. the fact that a debt, unpaid municipal fines and cost,
19 or final judgment is not claimed against the taxpayer,
- 20 c. the fact that the taxpayer is entitled to receive a
21 refund if it is due regardless of the debt, municipal
22 fines and cost, or final judgment asserted against the
23 debtor or municipal court defendant,

1 d. that in order to obtain the refund due, the taxpayer
2 must apply, in writing, for a hearing with the
3 municipal court, district court, or the agency named
4 in the notice within sixty (60) days after the date of
5 the mailing of the notice. Provided, if the claim was
6 filed by the Department of Human Services, the notice
7 shall state that the taxpayer must apply, in writing,
8 for a hearing with the Department within thirty (30)
9 days after the date of the mailing of the notice, and

10 e. if the taxpayer against whom no debt, no unpaid
11 municipal fines and cost, or final judgment is claimed
12 fails to apply in writing for a hearing within sixty
13 (60) days after the mailing of the notice, the
14 taxpayer shall have waived his or her right to a
15 refund. Provided, if the claim was filed by the
16 Department of Human Services, the notice shall state
17 that if the taxpayer fails to apply in writing for a
18 hearing with the Department within thirty (30) days
19 after the date of the mailing of the notice, the
20 taxpayer shall have waived his or her right to a
21 refund.

22 B. If the municipal court, district court or agency asserting
23 the claim receives a written request for a hearing from the debtor
24 or taxpayer against whom no debt, no municipal fines and cost, or

1 final judgment is claimed, the agency, the municipal court or the
2 district court shall grant a hearing according to the provisions of
3 the Administrative Procedures Act, Section 250 et seq. of Title 75
4 of the Oklahoma Statutes. It shall be determined at the hearing
5 whether the claimed sum is correct or whether an adjustment to the
6 claim shall be made. Pending final determination at the hearing of
7 the validity of the debt, unpaid fines and cost, or final judgment
8 asserted by the municipal court, the district court or the agency,
9 no action shall be taken in furtherance of the collection of the
10 debt, unpaid fines and cost, or final judgment. Appeals from
11 actions taken at the hearing shall be in accordance with the
12 provisions of the Administrative Procedures Act.

13 C. Upon final determination at a hearing, as provided for in
14 subsection B of this section, of the amount of the debt, unpaid
15 fines and cost, or final judgment, or upon failure of the debtor or
16 taxpayer against whom no debt, no unpaid fines and cost, or final
17 judgment is claimed to request such a hearing, the municipal court,
18 the district court or the agency shall apply the amount of the claim
19 to the debt owed. Any amounts held by the municipal court, district
20 court, or agency in excess of the final determination of the debt
21 and collection expense shall be refunded by the municipal court,
22 district court, or agency to the taxpayer. However, if the tax
23 refund due is inadequate to pay the collection expense and debt,
24 unpaid fines and cost, or final judgment, the balance due the state

1 agency, the municipal court, or the district court shall be a
2 continuing debt or final judgment until paid in full.

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

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

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

15 3. Notify the debtor in writing as to how the refund was
16 applied; and

17 4. Refund to the debtor any balance remaining after deducting
18 the collection expense and debt, unpaid fines and cost, or final
19 judgment.

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

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1 F. The Tax Commission shall have first priority over all other
2 agencies, municipal courts or district courts when the Tax
3 Commission is collecting a debt, municipal court fines and cost, or
4 final judgment pursuant to the provisions of this section.
5 Subsequent to the Tax Commission priority, a claim filed by the
6 Department of Human Services for the collection of child support and
7 spousal support shall have priority over all other claims filed
8 pursuant to this section. Priority in multiple claims by other
9 agencies, municipal courts or district courts pursuant to the
10 provisions of this section shall be in the order in time, in which
11 the Tax Commission receives the claim from the agencies, municipal
12 courts and district courts required by the provisions of subsection
13 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 fine and imprisonment and,
3 if still employed by the agency or the courts, shall be dismissed
4 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. The provisions of this section shall apply to all other
13 claims, regardless of the original source or underlying nature of
14 the debt, unpaid fine, cost or final judgment of at least Fifty
15 Dollars (\$50.00) submitted to the Oklahoma Tax Commission by a state
16 agency, municipal court, district court or a public housing
17 authority operating pursuant to Section 1062 of Title 63 of the
18 Oklahoma Statutes.

19 SECTION 2. This act shall become effective November 1, 2013.

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