

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL NO. 2691

By: Brumbaugh of the House

and

Mazzei of the Senate

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9 COMMITTEE SUBSTITUTE

10 An Act relating to revenue and taxation; amending 68  
11 O.S. 2011, Section 217, as amended by Section 1,  
12 Chapter 274, O.S.L. 2014 (68 O.S. Supp. 2015, Section  
13 217), which relates to computation of interest on  
14 delinquent tax liabilities; providing for  
15 modification of interest rate based on New York  
16 Federal Reserve Bank prime rate; prescribing method  
17 for rounding; 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 217, as  
20 amended by Section 1, Chapter 274, O.S.L. 2014 (68 O.S. Supp. 2015,  
21 Section 217), is amended to read as follows:

22 Section 217. A. If any amount of tax imposed or levied by any  
23 state tax law, or any part of such amount, is not paid before such  
24 tax becomes delinquent, there shall be collected on the total  
delinquent tax interest at the a rate of one and one-quarter percent  
~~(1 1/4%)~~ per month of the calendar year equal to the New York

1 Federal Reserve Bank prime rate determined to be in effect on  
2 December 1 each year rounded up to the nearest whole number if the  
3 rate is not a whole number and regardless of whether the fractional  
4 amount is less than five-tenths (0.5), plus four percentage points  
5 and the result of such sum divided by the whole number twelve (12)  
6 from the date of the delinquency until paid.

7 B. Interest upon any amount of state tax determined as a  
8 deficiency, under the provisions of Section 221 of this title, shall  
9 be assessed at the same time as the deficiency and shall be paid  
10 upon notice and demand of the Oklahoma Tax Commission at ~~the~~ a rate  
11 ~~of one and one-quarter percent (1 1/4%)~~ per month equal to the New  
12 York Federal Reserve Bank prime rate determined to be in effect on  
13 December 1 each year rounded up to the nearest whole number if the  
14 rate is not a whole number and regardless of whether the fractional  
15 amount is less than five-tenths (0.5), plus four percentage points  
16 and the result of such sum divided by the whole number twelve (12)  
17 from the date prescribed in the state tax law levying such tax for  
18 the payment thereof to the date the deficiency is assessed.

19 C. If any tax due under state sales, use, tourism, mixed  
20 beverage gross receipts, or motor fuel tax laws, or any part  
21 thereof, is not paid within fifteen (15) days after such tax becomes  
22 delinquent a penalty of ten percent (10%) on the total amount of tax  
23 due and delinquent shall be added thereto, collected and paid.  
24 However, the Tax Commission shall not collect the penalty assessed

1 if the taxpayer remits the tax and interest within sixty (60) days  
2 of the mailing of a proposed assessment or voluntarily pays the tax  
3 upon the filing of an amended return.

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

13 E. If any part of any deficiency, arbitrary or jeopardy  
14 assessment made by the Tax Commission is based upon or occasioned by  
15 the taxpayer's negligence or by the failure or refusal of any  
16 taxpayer to file with the Tax Commission any report or return, as  
17 required by this title, or by any state tax law, within ten (10)  
18 days after a written demand for such report or return has been  
19 served upon any taxpayer by the Tax Commission by letter, the Tax  
20 Commission may assess and collect, as a penalty, twenty-five percent  
21 (25%) of the amount of the assessment. For purposes of this  
22 subsection, "negligence" shall mean the consistent understatement of  
23 income, consistent understatement of receipts or a system of  
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1 recordkeeping by the taxpayer that consistently results in an  
2 inaccurate reporting of tax liability.

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

7 G. All penalties or interest imposed by this title, or any  
8 state tax law, shall be recoverable by the Tax Commission as a part  
9 of the tax with respect to which they are imposed, the penalties  
10 bearing interest as provided in this section for the tax, and all  
11 penalties and interest shall be apportioned as provided for the  
12 apportionment of the tax on which such penalties or interest are  
13 collected.

14 H. 1. Whenever an income tax refund is not paid to the  
15 taxpayer within ninety (90) days after the return is filed or due,  
16 whichever is later, with all documents as required by the Tax  
17 Commission, entitling the taxpayer to a refund, then the Tax  
18 Commission shall pay interest on the refund, at the same rate  
19 specified for interest on delinquent tax payments. The payment of  
20 interest on refunds provided for by this section shall apply to tax  
21 year 1987 and subsequent tax years. The Tax Commission shall not be  
22 required to pay interest on an income tax refund which is applied,  
23 in whole or in part, to a prior year tax liability pursuant to  
24 Section 2385.17 of this title or upon an income tax refund applied,

1 in whole or in part, to satisfy a debt owed to the Internal Revenue  
2 Service of the United States or to a state agency, including the  
3 Oklahoma Tax Commission, as provided by Section 205.2 of this title.

4 2. For tax returns filed after January 1, 2004, and before  
5 January 2, 2010, whenever an income tax refund is not paid to the  
6 taxpayer within the following number of days after the income tax  
7 return is filed with all documents as required by the Tax Commission  
8 or after the income tax return is due, whichever is later, entitling  
9 the taxpayer to a refund, then the Tax Commission shall pay interest  
10 on the refund at the same rate specified for interest on delinquent  
11 tax payments:

- 12 a. for returns filed electronically, thirty (30) days,
- 13 and
- 14 b. for all other returns, one hundred fifty (150) days.

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

- 22 a. for returns filed electronically, twenty (20) days,
- 23 and
- 24 b. for all other returns, ninety (90) days.

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SECTION 2. This act shall become effective November 1, 2016.

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