

1 ENGROSSED SENATE
2 BILL NO. 577

By: David of the Senate

and

Nelson of the House

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6 An Act relating to tax administration; amending 68
7 O.S. 2011, Section 205.2, as last amended by Section
8 1, Chapter 47, O.S.L. 2013 (68 O.S. Supp. 2014,
9 Section 205.2), which relates to claims against state
10 tax refunds; defining term; modifying entities
11 qualified to file certain claim; conforming language;
12 repealing Section 1, Chapter 266, O.S.L. 2013 (68
13 O.S. Supp. 2013, Section 205.2), which is a duplicate
14 section which relates to claims against state tax
15 refunds; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 205.2, as
last amended by Section 1, Chapter 47, O.S.L. 2013 (68 O.S. Supp.
2014, Section 205.2), is amended to read as follows:

Section 205.2. A. For purposes of this section, a "qualified
entity" shall mean a:

1. State agency;

2. Municipal court;

3. District court;

4. Public housing authority operating pursuant to Section 1062

of Title 63 of the Oklahoma Statutes; or

1 5. District attorney seeking to collect unpaid court-ordered
2 monetary obligations.

3 B. A ~~state agency, a municipal court, a district court or, a~~
4 ~~public housing authority operating pursuant to Section 1062 of Title~~
5 ~~63 of the Oklahoma Statutes~~ qualified entity seeking to collect a
6 debt, unpaid fines and cost or final judgment of at least Fifty
7 Dollars (\$50.00) from an individual who has filed a state income tax
8 return may file a claim with the Oklahoma Tax Commission requesting
9 that the amount owed to the ~~agency, a municipal court, a district~~
10 ~~court or a public housing authority operating pursuant to Section~~
11 ~~1062 of Title 63 of the Oklahoma Statutes~~ qualified entity be
12 deducted from any state income tax refund due to that individual.
13 The claim shall be filed electronically in a form prescribed by the
14 Tax Commission and shall contain information necessary to identify
15 the person owing the debt, including the full name and Social
16 Security number of the debtor.

17 1. Upon receiving a claim from a ~~state agency, the municipal~~
18 ~~court, a district court or a public housing authority operating~~
19 ~~pursuant to Section 1062 of Title 63 of the Oklahoma Statutes~~
20 qualified entity, the Tax Commission shall deduct the claim amount,
21 plus collection expenses as provided in this section, from the tax
22 refund due to the debtor and transfer the amount to the ~~municipal~~
23 ~~court, the district court, the agency or the public housing~~

1 ~~authority~~ qualified entity. Provided, the Tax Commission need not
2 report available funds of less than Fifty Dollars (\$50.00).

3 2. ~~The state agency, the municipal court, a district court or a~~
4 ~~public housing authority operating pursuant to Section 1062 of Title~~
5 ~~63 of the Oklahoma Statutes~~ qualified entity shall send notice to
6 the debtor by regular mail at the last-known address of the debtor
7 as shown by the records of the Tax Commission when seeking to
8 collect a debt not reduced to final judgment. ~~The state agency, the~~
9 ~~municipal court, a district court or a public housing authority~~
10 ~~operating pursuant to Section 1062 of Title 63 of the Oklahoma~~
11 ~~Statutes~~ qualified entity shall send notice to the judgment debtor
12 or municipal court defendant by first class mail at the last-known
13 address of the judgment debtor or municipal court defendant as shown
14 by the records of the Tax Commission when seeking to collect a final
15 judgment or unpaid municipal fines and cost. The Tax Commission
16 shall provide in an agreed electronic format to the Department of
17 Human Services the amount withheld by the Tax Commission, the home
18 address and the Social Security number of the taxpayer. The notice
19 shall state:

- 20 a. that a claim has been filed with the Tax Commission
21 for any portion of the tax refund due to the debtor or
22 municipal court defendant which would satisfy the
23 debt, unpaid municipal fines and cost, or final
24 judgment in full or in part,

- 1 b. the basis for the claim,
- 2 c. that the Tax Commission has deducted an amount from
- 3 the refund and remitted it to ~~such state agency,~~
- 4 ~~municipal court, district court or public housing~~
- 5 ~~authority~~ the qualified entity,
- 6 d. that the debtor or municipal court defendant has the
- 7 right to contest the claim by sending a written
- 8 request to the ~~state agency, the municipal court, the~~
- 9 ~~district court or the public housing authority~~
- 10 qualified entity for a hearing to protest the claim,
- 11 and if the debtor or municipal court defendant fails
- 12 to apply for a hearing within sixty (60) days after
- 13 the date of the mailing of the notice, the debtor or
- 14 municipal court defendant shall be deemed to have
- 15 waived his or her opportunity to contest the claim.
- 16 Provided, if the claim was filed by the Department of
- 17 Human Services, the notice shall state that the debtor
- 18 must contest the claim by sending a written request to
- 19 the Department within thirty (30) days after the date
- 20 of the mailing of the notice, and
- 21 e. that a collection expense of five percent (5%) of the
- 22 gross proceeds owed to the ~~state agency, municipal~~
- 23 ~~court or district court~~ qualified entity has been
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1 charged to the debtor or municipal court defendant and
2 withheld from the refund.

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

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

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

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

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

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

21 ~~C. D.~~ Upon final determination at a hearing, as provided for in
22 subsection ~~B C~~ of this section, of the amount of the debt, unpaid
23 fines and cost, or final judgment, or upon failure of the debtor or
24 taxpayer against whom no debt, no unpaid fines and cost, or final

1 judgment is claimed to request such a hearing, the ~~municipal court,~~
2 ~~the district court, agency or public housing authority operating~~
3 ~~pursuant to Section 1062 of Title 63 of the Oklahoma Statutes~~
4 qualified entity shall apply the amount of the claim to the debt
5 owed. Any amounts held by the ~~municipal court, district court,~~
6 ~~agency or public housing authority operating pursuant to Section~~
7 ~~1062 of Title 63 of the Oklahoma Statutes~~ qualified entity in excess
8 of the final determination of the debt and collection expense shall
9 be refunded by the ~~municipal court, district court, agency or public~~
10 ~~housing authority operating pursuant to Section 1062 of Title 63 of~~
11 ~~the Oklahoma Statutes~~ qualified entity to the taxpayer. However, if
12 the tax refund due is inadequate to pay the collection expense and
13 debt, unpaid fines and cost, or final judgment, the balance due the
14 ~~state agency, the municipal court, the district court or public~~
15 ~~housing authority operating pursuant to Section 1062 of Title 63 of~~
16 ~~the Oklahoma Statutes~~ qualified entity shall be a continuing debt or
17 final judgment until paid in full.

18 ~~D.~~ E. Upon receipt of a claim as provided in subsection A B of
19 this section, the Tax Commission shall:

20 1. Deduct from the refund five percent (5%) of the gross
21 proceeds owed to the ~~state agency, the municipal court, district~~
22 ~~court or public housing authority operating pursuant to Section 1062~~
23 ~~of Title 63 of the Oklahoma Statutes,~~ qualified entity and
24 distribute it by retaining two percent (2%) and transferring three

1 percent (3%) to the ~~municipal court, the district court, the state~~
2 ~~agency or public housing authority operating pursuant to Section~~
3 ~~1062 of Title 63 of the Oklahoma Statutes, qualified entity as an~~
4 expense of collection. The two percent (2%) retained by the Tax
5 Commission shall be deposited in the Oklahoma Tax Commission Fund;

6 2. Transfer the amount of the claimed debt, unpaid fines and
7 cost, or final judgment or so much thereof as is available to the
8 ~~state agency, municipal court, the district court or public housing~~
9 ~~authority operating pursuant to Section 1062 of Title 63 of the~~
10 ~~Oklahoma Statutes qualified entity;~~

11 3. Notify the debtor in writing as to how the refund was
12 applied; and

13 4. Refund to the debtor any balance remaining after deducting
14 the collection expense and debt, unpaid fines and cost, or final
15 judgment.

16 ~~E.~~ F. The Tax Commission shall deduct from any state tax refund
17 due to a taxpayer the amount of delinquent state tax and penalty and
18 interest thereon, which such taxpayer owes pursuant to any state tax
19 law prior to payment of such refund.

20 ~~F.~~ G. The Tax Commission shall have first priority over all
21 other ~~agencies, municipal courts, district courts or public housing~~
22 ~~authorities operating pursuant to Section 1062 of Title 63 of the~~
23 ~~Oklahoma Statutes, qualified entities when the Tax Commission is~~
24 collecting a debt, municipal court fines and cost, or final judgment

1 pursuant to the provisions of this section. Subsequent to the Tax
2 Commission priority, a claim filed by the Department of Human
3 Services for the collection of child support and spousal support
4 shall have priority over all other claims filed pursuant to this
5 section. Priority in multiple claims by other ~~agencies,~~
6 ~~authorities, municipal courts or district courts~~ qualified entities
7 pursuant to the provisions of this section shall be in the order in
8 time, in which the Tax Commission receives the claim from the
9 ~~agencies, authorities, municipal courts and district courts~~
10 qualified entities required by the provisions of subsection A B of
11 this section.

12 ~~G.~~ H. The Tax Commission shall prescribe or approve forms and
13 promulgate rules and regulations for implementing the provisions of
14 this section.

15 ~~H.~~ I. The information obtained by ~~an agency, authority,~~
16 ~~municipal court or by the district court~~ a qualified entity from the
17 Tax Commission pursuant to the provisions of this section shall be
18 used only to aid in collection of the debt, unpaid fines and cost,
19 or final judgment owed to the ~~agency, authority, municipal court or~~
20 ~~a district court~~ qualified entity. Disclosure of the information
21 for any other purpose shall constitute a misdemeanor. Any ~~agency,~~
22 ~~authority or court~~ employee of a qualified entity or person
23 convicted of violating this provision shall be subject to a fine not
24 exceeding One Thousand Dollars (\$1,000.00) or imprisonment in the

1 county jail for a term not exceeding one (1) year, or both fine and
2 imprisonment and, if still employed by the ~~agency, authority or the~~
3 ~~courts~~ qualified entity, shall be dismissed from employment.

4 ~~I.~~ J. The Tax Commission may employ the procedures provided by
5 this section in order to collect a debt owed to the Internal Revenue
6 Service if the Internal Revenue Service requires such procedure as a
7 condition to providing information to the Commission concerning
8 federal income tax.

9 ~~J.~~ K. The provisions of this section shall not apply to claims
10 filed under the provisions of Section 2906 or Section 5011 of this
11 title.

12 SECTION 2. REPEALER Section 1, Chapter 266, O.S.L. 2013
13 (68 O.S. Supp. 2013, Section 205.2), is hereby repealed.

14 SECTION 3. This act shall become effective November 1, 2015.

15 Passed the Senate the 11th day of March, 2015.

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18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2015.

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22 _____
23 Presiding Officer of the House
24 of Representatives