

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2691

By: Brumbaugh

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 217, as amended by Section 1, Chapter 274, O.S.L. 2014 (68 O.S. Supp. 2015, Section 217), which relates to computation of interest on delinquent tax liabilities; providing for modification of interest rate based on London Interbank Offered Rate (LIBOR); and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 217, as amended by Section 1, Chapter 274, O.S.L. 2014 (68 O.S. Supp. 2015, Section 217), is amended to read as follows:

Section 217. A. If any amount of tax imposed or levied by any state tax law, or any part of such amount, is not paid before such 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 equal to the London Interbank Offered Rate (LIBOR) for the immediately preceding month from the date of the delinquency until paid.

1 B. Interest upon any amount of state tax determined as a  
2 deficiency, under the provisions of Section 221 of this title, shall  
3 be assessed at the same time as the deficiency and shall be paid  
4 upon notice and demand of the Oklahoma Tax Commission at ~~the~~ a rate  
5 ~~of one and one-quarter percent (1 1/4%)~~ per month of the London  
6 Interbank Offered Rate (LIBOR) for the immediately preceding month  
7 from the date prescribed in the state tax law levying such tax for  
8 the payment thereof to the date the deficiency is assessed.

9 C. If any tax due under state sales, use, tourism, mixed  
10 beverage gross receipts, or motor fuel tax laws, or any part  
11 thereof, is not paid within fifteen (15) days after such tax becomes  
12 delinquent a penalty of ten percent (10%) on the total amount of tax  
13 due and delinquent shall be added thereto, collected and paid.  
14 However, the Tax Commission shall not collect the penalty assessed  
15 if the taxpayer remits the tax and interest within sixty (60) days  
16 of the mailing of a proposed assessment or voluntarily pays the tax  
17 upon the filing of an amended return.

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

1 mailing of a proposed assessment or voluntarily pays the tax upon  
2 the filing of an amended return.

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

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

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

1 appportionment of the tax on which such penalties or interest are  
2 collected.

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

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

1 a. for returns filed electronically, thirty (30) days,  
2 and

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

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

11 a. for returns filed electronically, twenty (20) days,  
12 and

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

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

15  
16 55-2-8173 MAH 01/20/16  
17  
18  
19  
20  
21  
22  
23  
24