

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 57th Legislature (2020)

4   HOUSE BILL 3945

By: **Townley** of the House

5   and

6   **David** of the Senate

7  
8  
9  
10                               AS INTRODUCED

11           An Act relating to revenue and taxation; amending 68  
12           O.S. 2011, Section 217, as last amended by Section 1,  
13           Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2019, Section  
14           217), which relates to computation of interest on  
delinquent taxes; providing for modification of  
interest rate; deleting obsolete language; and  
providing an effective date.

15  
16  
17  
18  
19   BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20           SECTION 1.           AMENDATORY           68 O.S. 2011, Section 217, as last  
21           amended by Section 1, Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2019,  
22           Section 217), is amended to read as follows:

23           Section 217.   A.   If any amount of tax imposed or levied by any  
24           state tax law, or any part of such amount, is not paid before such

1 tax becomes delinquent, there shall be collected on the total  
2 delinquent tax interest ~~at the rate of one and one-quarter percent~~  
3 ~~(1 1/4%) per month~~ from the date of the delinquency until paid. The  
4 rate of interest applicable to such underpayments shall be  
5 determined annually based on the Prime Lending Rate as published in  
6 the Wall Street Journal the first day of December that is not a  
7 Saturday, Sunday or legal holiday for the succeeding year.

8 B. Interest upon any amount of state tax determined as a  
9 deficiency, under the provisions of Section 221 of this title, shall  
10 be assessed at the same time as the deficiency and shall be paid  
11 upon notice and demand of the Oklahoma Tax Commission ~~at the rate of~~  
12 ~~one and one-quarter percent (1 1/4%) per month from the date~~  
13 ~~prescribed in the state tax law levying such tax for the payment~~  
14 ~~thereof to the date the deficiency is assessed.~~ The rate of  
15 interest applicable to such underpayments shall be determined  
16 annually based on the Prime Lending Rate plus two percent (2%) as  
17 published in the Wall Street Journal the first day of December that  
18 is not a Saturday, Sunday or legal holiday for the succeeding year.

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  
24

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

22 a. for returns filed electronically, forty-five (45)  
23 days, and

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

SECTION 2. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/27/2020 - DO PASS,  
As Coauthored.