

1 **SENATE FLOOR VERSION**

2 February 18, 2020

3 SENATE BILL NO. 1297

By: Paxton

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7 An Act relating to court fines and costs; amending 68
8 O.S. 2011, Section 205.2, as last amended by Section
9 1, Chapter 280, O.S.L. 2015 (68 O.S. Supp. 2019,
10 Section 205.2), which relates to claims against
income tax refunds; clarifying authority of courts to
collect certain fines and costs through tax warrant
intercept; and providing an effective date.

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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 last amended by Section 1, Chapter 280, O.S.L. 2015 (68 O.S. Supp.
16 2019, Section 205.2), is amended to read as follows:

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

- 19 1. State agency;
20 2. Municipal court;
21 3. District court;
22 4. Public housing authority operating pursuant to Section 1062
23 of Title 63 of the Oklahoma Statutes;
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1 5. District attorney seeking to collect unpaid court-ordered
2 monetary obligations; or

3 6. The designee of an entity described in paragraphs 1 through
4 5 of this subsection.

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

15 1. Upon receiving a claim from a qualified entity, the Tax
16 Commission shall deduct the claim amount, plus collection expenses
17 as provided in this section, from the tax refund due to the debtor
18 and transfer the amount to the qualified entity. Provided, the Tax
19 Commission need not report available funds of less than Fifty
20 Dollars (\$50.00).

21 2. The qualified entity shall send notice to the debtor by
22 regular mail at the last-known address of the debtor as shown by the
23 records of the Tax Commission when seeking to collect a debt not
24 reduced to final judgment. The qualified entity shall send notice

1 to the judgment debtor or ~~municipal court~~ defendant by first-class
2 mail at the last-known address of the judgment debtor or ~~municipal~~
3 ~~court~~ defendant as shown by the records of the Tax Commission when
4 seeking to collect a final judgment or unpaid ~~municipal~~ court fines
5 and ~~cost~~ costs. The Tax Commission shall provide in an agreed
6 electronic format to the Department of Human Services the amount
7 withheld by the Tax Commission, the home address and the Social
8 Security number of the taxpayer. The notice shall state:

- 9 a. that a claim has been filed with the Tax Commission
10 for any portion of the tax refund due to the debtor or
11 ~~municipal court~~ defendant which would satisfy the
12 debt, unpaid ~~municipal~~ court fines and ~~cost~~ costs, or
13 final judgment in full or in part,
- 14 b. the basis for the claim,
- 15 c. that the Tax Commission has deducted an amount from
16 the refund and remitted it to such qualified entity,
- 17 d. that the debtor or ~~municipal court~~ defendant has the
18 right to contest the claim by sending a written
19 request to the qualified entity for a hearing to
20 protest the claim, and if the debtor or ~~municipal~~
21 ~~court~~ defendant fails to apply for a hearing within
22 sixty (60) days after the date of the mailing of the
23 notice, the debtor or ~~municipal court~~ defendant shall
24 be deemed to have waived his or her opportunity to

1 contest the claim. Provided, if the claim was filed
2 by the Department of Human Services, the notice shall
3 state that the debtor must contest the claim by
4 sending a written request to the Department within
5 thirty (30) days after the date of the mailing of the
6 notice, and

7 e. that a collection expense of five percent (5%) of the
8 gross proceeds owed to the qualified entity has been
9 charged to the debtor or ~~municipal court~~ defendant and
10 withheld from the refund.

11 3. If the qualified entity determines that a refund is due to
12 the taxpayer, the qualified entity shall reimburse the amount
13 claimed plus the five-percent collection expense to the taxpayer.
14 The qualified entity may request reimbursement of the two-percent
15 collection expense retained by the Tax Commission. Such request
16 must be made within ninety (90) days of reimbursement to the
17 taxpayer. If timely requested, the Tax Commission shall make such
18 reimbursement to the qualified entity within ninety (90) days of the
19 request.

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

21 a. the name of any taxpayer named in the return against
22 whom no debt, no unpaid court fines and ~~cost~~ costs, or
23 final judgment is claimed,
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- b. the fact that a debt, unpaid ~~municipal~~ court fines and ~~cost~~ costs, or final judgment is not claimed against the taxpayer,
- c. the fact that the taxpayer is entitled to receive a refund if it is due regardless of the debt, ~~municipal~~ court fines and ~~cost~~ costs, or final judgment asserted against the debtor or ~~municipal-court~~ defendant,
- d. that in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the qualified entity named in the notice within sixty (60) days after the date of the mailing of the notice. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, and
- e. if the taxpayer against whom no debt, no unpaid ~~municipal~~ court fines and ~~cost~~ costs, or final judgment is claimed fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund. Provided, if the claim was filed by the Department of Human Services, the notice shall state that if the taxpayer fails to apply in writing

1 for a hearing with the Department within thirty (30)
2 days after the date of the mailing of the notice, the
3 taxpayer shall have waived his or her right to a
4 refund.

5 C. If the qualified entity asserting the claim receives a
6 written request for a hearing from the debtor or taxpayer against
7 whom no debt, no ~~municipal~~ court fines and ~~cost~~ costs, or final
8 judgment is claimed, the 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 court fines and ~~cost~~ costs, or final judgment asserted
14 by the qualified entity, no action shall be taken in furtherance of
15 the collection of the debt, unpaid court fines and ~~cost~~ costs, or
16 final judgment. Appeals from actions taken at the hearing shall be
17 in accordance with the provisions of the Administrative Procedures
18 Act.

19 D. Upon final determination at a hearing, as provided for in
20 subsection C of this section, of the amount of the debt, unpaid
21 court fines and ~~cost~~ costs, or final judgment, or upon failure of
22 the debtor or taxpayer against whom no debt, no unpaid court fines
23 and ~~cost~~ costs, or final judgment is claimed to request such a
24 hearing, the qualified entity shall apply the amount of the claim to

1 the debt owed. Any amounts held by the qualified entity in excess
2 of the final determination of the debt and collection expense shall
3 be refunded by the qualified entity to the taxpayer. However, if
4 the tax refund due is inadequate to pay the collection expense and
5 debt, unpaid court fines and ~~cost~~ costs, or final judgment, the
6 balance due the qualified entity shall be a continuing debt or final
7 judgment until paid in full.

8 E. Upon receipt of a claim as provided in subsection A of this
9 section, the Tax Commission shall:

10 1. Deduct from the refund five percent (5%) of the gross
11 proceeds owed to the qualified entity, and distribute it by
12 retaining two percent (2%) and transferring three percent (3%) to
13 the qualified entity, as an expense of collection. The two percent
14 (2%) retained by the Tax Commission shall be deposited in the
15 Oklahoma Tax Commission Fund;

16 2. Transfer the amount of the claimed debt, unpaid court fines
17 and ~~cost~~ costs, or final judgment or so much thereof as is available
18 to the qualified entity;

19 3. Notify the debtor in writing as to how the refund was
20 applied; and

21 4. Refund to the debtor any balance remaining after deducting
22 the collection expense and debt, unpaid court fines and ~~cost~~ costs,
23 or final judgment.
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1 F. The Tax Commission shall deduct from any state tax refund
2 due to a taxpayer the amount of delinquent state tax and penalty and
3 interest thereon, which such taxpayer owes pursuant to any state tax
4 law prior to payment of such refund.

5 G. The Tax Commission shall have first priority over all other
6 qualified entities, when the Tax Commission is collecting a debt,
7 ~~municipal~~ court fines and ~~cost~~ costs, or final judgment pursuant to
8 the provisions of this section. Subsequent to the Tax Commission
9 priority, a claim filed by the Department of Human Services for the
10 collection of child support and spousal support shall have priority
11 over all other claims filed pursuant to this section. Priority in
12 multiple claims by other qualified entities pursuant to the
13 provisions of this section shall be in the order in time, in which
14 the Tax Commission receives the claim from the qualified entities
15 required by the provisions of subsection B of this section.

16 H. The Tax Commission shall prescribe or approve forms and
17 promulgate rules and regulations for implementing the provisions of
18 this section.

19 I. The information obtained by a qualified entity from the Tax
20 Commission pursuant to the provisions of this section shall be used
21 only to aid in collection of the debt, unpaid court fines and ~~cost~~
22 costs, or final judgment owed to the qualified entity. Disclosure
23 of the information for any other purpose shall constitute a
24 misdemeanor. Any employee of a qualified entity or person convicted

1 of violating this provision shall be subject to a fine not exceeding
2 One Thousand Dollars (\$1,000.00) or imprisonment in the county jail
3 for a term not exceeding one (1) year, or both fine and imprisonment
4 and, if still employed by the qualified entity, shall be dismissed
5 from employment.

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

11 K. The provisions of this section shall not apply to claims
12 filed under the provisions of Section 2906 or Section 5011 of this
13 title.

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

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
16 February 18, 2020 - DO PASS
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