

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3945

By: Fetgatter

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 217, as last amended by Section 1, Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2019, Section 217), which relates to computation of interest on delinquent taxes; providing for modification of interest rate; deleting obsolete language; 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 last amended by Section 1, Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2019, 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 rate of one and one-quarter percent (1 1/4%) per month~~ from the date of the delinquency until paid. The rate of interest applicable to such underpayments shall be determined annually based on the Prime Lending Rate as published in

1 the Wall Street Journal the first day of December that is not a
2 Saturday, Sunday or legal holiday for the succeeding year.

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

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

23 D. If any tax due under any state tax law other than those
24 specified in subsection C of this section, or any part thereof, is

1 not paid within thirty (30) days after such tax becomes delinquent a
2 penalty of ten percent (10%) on the total amount of tax due and
3 delinquent shall be added thereto, collected and paid. However, the
4 Tax Commission shall not collect the penalty assessed if the
5 taxpayer remits the tax and interest within sixty (60) days of the
6 mailing of a proposed assessment or voluntarily pays the tax upon
7 the filing of an amended return.

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

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

1 G. All penalties or interest imposed by this title, or any
2 state tax law, shall be recoverable by the Tax Commission as a part
3 of the tax with respect to which they are imposed, the penalties
4 bearing interest as provided in this section for the tax, and all
5 penalties and interest shall be apportioned as provided for the
6 apportionment of the tax on which such penalties or interest are
7 collected.

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

22 2. ~~For tax returns filed after January 1, 2004, and before~~
23 ~~January 2, 2010, whenever an income tax refund is not paid to the~~
24 ~~taxpayer within the following number of days after the income tax~~

~~return is filed with all documents as required by the Tax Commission
or after the income tax return is due, whichever is later, entitling
the taxpayer to a refund, then the Tax Commission shall pay interest
on the refund at the same rate specified for interest on delinquent
tax payments:~~

~~a. for returns filed electronically, thirty (30) days,~~

~~and~~

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

~~3. For tax returns filed after January 1, 2010, whenever~~

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

a. for returns filed electronically, forty-five (45)

days, and

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

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

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