

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3949

By: Wallace

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 205.2, as last amended by Section 1, Chapter 280, O.S.L. 2015 (68 O.S. Supp. 2019, Section 205.2), which relates to claims against state income tax refunds; making municipalities operating emergency medical services a qualifying entity; and providing an effective date.

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

Section 205.2 A. For purposes of this section, a "qualifying 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;

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

3        6. Municipality that operates emergency medical services; or

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

6        B. A qualified entity seeking to collect a debt, unpaid fines  
7 and cost or final judgment of at least Fifty Dollars (\$50.00) from  
8 an individual who has filed a state income tax return may file a  
9 claim with the Oklahoma Tax Commission requesting that the amount  
10 owed to the qualified entity be deducted from any state income tax  
11 refund due to that individual. The claim shall be filed  
12 electronically in a form prescribed by the Tax Commission and shall  
13 contain information necessary to identify the person owing the debt,  
14 including the full name and Social 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 fines and  
5 cost. The Tax Commission shall provide in an agreed electronic  
6 format to the Department of Human Services the amount withheld by  
7 the Tax Commission, the home address and the Social Security number  
8 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 fines and cost, or final  
13 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 fines and cost, or final  
23 judgment is claimed,  
24

- 1           b.    the fact that a debt, unpaid municipal fines and cost,  
2                or final judgment is not claimed against the taxpayer,
- 3           c.    the fact that the taxpayer is entitled to receive a  
4                refund if it is due regardless of the debt, municipal  
5                fines and cost, or final judgment asserted against the  
6                debtor or municipal court defendant,
- 7           d.    that in order to obtain the refund due, the taxpayer  
8                must apply, in writing, for a hearing with the  
9                qualified entity named in the notice within sixty (60)  
10              days after the date of the mailing of the notice.  
11              Provided, if the claim was filed by the Department of  
12              Human Services, the notice shall state that the  
13              taxpayer must apply, in writing, for a hearing with  
14              the Department within thirty (30) days after the date  
15              of the mailing of the notice, and
- 16          e.    if the taxpayer against whom no debt, no unpaid  
17                municipal fines and cost, or final judgment is claimed  
18                fails to apply in writing for a hearing within sixty  
19                (60) days after the mailing of the notice, the  
20                taxpayer shall have waived his or her right to a  
21                refund.  Provided, if the claim was filed by the  
22                Department of Human Services, the notice shall state  
23                that if the taxpayer fails to apply in writing for a  
24                hearing with the Department within thirty (30) days

1           after the date of the mailing of the notice, the  
2           taxpayer shall have waived his or her right to a  
3           refund.

4           C. If the qualified entity asserting the claim receives a  
5 written request for a hearing from the debtor or taxpayer against  
6 whom no debt, no municipal fines and cost, or final judgment is  
7 claimed, the qualified entity shall grant a hearing according to the  
8 provisions of the Administrative Procedures Act. It shall be  
9 determined at the hearing whether the claimed sum is correct or  
10 whether an adjustment to the claim shall be made. Pending final  
11 determination at the hearing of the validity of the debt, unpaid  
12 fines and cost, or final judgment asserted by the qualified entity,  
13 no action shall be taken in furtherance of the collection of the  
14 debt, unpaid fines and cost, or final judgment. Appeals from  
15 actions taken at the hearing shall be in accordance with the  
16 provisions of the Administrative Procedures Act.

17           D. Upon final determination at a hearing, as provided for in  
18 subsection C of this section, of the amount of the debt, unpaid  
19 fines and cost, or final judgment, or upon failure of the debtor or  
20 taxpayer against whom no debt, no unpaid fines and cost, or final  
21 judgment is claimed to request such a hearing, the qualified entity  
22 shall apply the amount of the claim to the debt owed. Any amounts  
23 held by the qualified entity in excess of the final determination of  
24 the debt and collection expense shall be refunded by the qualified

1 entity to the taxpayer. However, if the tax refund due is  
2 inadequate to pay the collection expense and debt, unpaid fines and  
3 cost, or final judgment, the balance due the qualified entity shall  
4 be a continuing debt or final judgment until paid in full.

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

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

13 2. Transfer the amount of the claimed debt, unpaid fines and  
14 cost, or final judgment or so much thereof as is available to the  
15 qualified entity;

16 3. Notify the debtor in writing as to how the refund was  
17 applied; and

18 4. Refund to the debtor any balance remaining after deducting  
19 the collection expense and debt, unpaid fines and cost, or final  
20 judgment.

21 F. The Tax Commission shall deduct from any state tax refund  
22 due to a taxpayer the amount of delinquent state tax and penalty and  
23 interest thereon, which such taxpayer owes pursuant to any state tax  
24 law prior to payment of such refund.

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

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

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



1 still employed by the qualified entity, shall be dismissed from  
2 employment.

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

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

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

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