

1 ENGROSSED HOUSE AMENDMENT  
2 TO  
3 ENGROSSED SENATE BILL NO. 601 By: Rader of the Senate  
4 and  
5 Pfeiffer of the House  
6  
7 An Act relating to income tax; amending 68 O.S. 2011,  
8 Section 2385.13, which relates to withholding;  
9 modifying period of underpayment for corporations;  
10 and providing an effective date.  
11  
12 AMENDMENT NO. 1. Delete the title, enacting clause and entire bill  
13 and replace with:  
14  
15 "An Act relating to income tax; amending 68 O.S.  
16 2011, Section 217, as last amended by Section 1,  
17 Chapter 28, O.S.L. 2016 and 2368, as last amended by  
18 Section 7, Chapter 201, O.S.L. 2019 (68 O.S. Supp.  
19 2020, Sections 217 and 2368), which relate to  
20 interest accrual and due dates of certain reports or  
21 returns; modifying provision related to accrual of  
22 interest; modifying provisions related to due date  
23 of tax returns; providing for emergency declaration  
24 by the Governor or by the Internal Revenue Service;  
amending 68 O.S. 2011, Section 2385.13, which  
relates to withholding; modifying period of  
underpayment for corporations; providing an  
effective date; and declaring an emergency.  
BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1       SECTION 1.       AMENDATORY       68 O.S. 2011, Section 217, as last  
2 amended by Section 1, Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2020,  
3 Section 217), is amended to read as follows:

4       Section 217. A. If any amount of tax imposed or levied by any  
5 state tax law, or any part of such amount, is not paid before such  
6 tax becomes delinquent, there shall be collected on the total  
7 delinquent tax interest at the rate of one and one-quarter percent  
8 (1 1/4%) per month from the date of the delinquency until paid.

9       B. Interest upon any amount of state tax determined as a  
10 deficiency, under the provisions of Section 221 of this title, shall  
11 be assessed at the same time as the deficiency and shall be paid  
12 upon notice and demand of the Oklahoma Tax Commission at the rate of  
13 one and one-quarter percent (1 1/4%) per month from the date  
14 prescribed in the state tax law levying such tax for the payment  
15 thereof to the date the deficiency is assessed.

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

1 D. If any tax due under any state tax law other than those  
2 specified in subsection C of this section, or any part thereof, is  
3 not paid within thirty (30) days after such tax becomes delinquent a  
4 penalty of ten percent (10%) on the total amount of tax due and  
5 delinquent shall be added thereto, collected and paid. However, the  
6 Tax Commission shall not collect the penalty assessed if the  
7 taxpayer remits the tax and interest within sixty (60) days of the  
8 mailing of a proposed assessment or voluntarily pays the tax upon  
9 the filing of an amended return.

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

23 F. If any part of any deficiency is due to fraud with intent to  
24 evade tax, then fifty percent (50%) of the total amount of the

1 deficiency, in addition to such deficiency, including interest as  
2 herein provided, shall be added, collected and paid.

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

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

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

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

10                    and

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

12        3. For tax returns filed after January 1, 2010, whenever an  
13 income tax refund is not paid to the taxpayer within the following  
14 number of days after the income tax return is filed or due,  
15 whichever is later, with all documents as required by the Tax  
16 Commission entitling the taxpayer to a refund, then the Tax  
17 Commission shall pay interest on the refund at the same rate  
18 specified for interest on delinquent tax payments:

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

20                    days, and

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

22        SECTION 2.        AMENDATORY        68 O.S. 2011, Section 2368, as  
23 last amended by Section 7, Chapter 201, O.S.L. 2019 (68 O.S. Supp.  
24 2020, Section 2368), is amended to read as follows:

1       Section 2368. A. For tax years ending before January 1, 2017,  
2 the following individuals shall each make a return stating  
3 specifically the taxable income and, where necessary, the adjusted  
4 gross income and the adjustments provided in Section 2351 et seq. of  
5 this title to arrive at Oklahoma taxable income and, where  
6 necessary, Oklahoma adjusted gross income:

7       1. Every resident individual having a gross income, or gross  
8 receipts, for the taxable year in an amount sufficient to require  
9 the filing of a federal income tax return, if single, or if married  
10 and not living with husband or wife; and

11       2. Except as otherwise provided for in the Pass-Through Entity  
12 Tax Equity Act of 2019, every resident individual having a gross  
13 income, or gross receipts, for the taxable year in an amount  
14 sufficient to require the filing of a federal income tax return, if  
15 married and living with husband or wife.

16       Provided however, every resident individual who does not meet  
17 the requirements sufficient to file a federal return, but has  
18 Oklahoma withholding, may file a claim for refund for all Oklahoma  
19 income taxes withheld and shall not be subject to the provisions of  
20 Section 2358 of this title; and

21       3. Every nonresident individual having Oklahoma gross income  
22 for the taxable year of One Thousand Dollars (\$1,000.00) or more.  
23  
24

1       B. If a husband and wife, living together, have an aggregate  
2 gross income or gross receipts, for such year, in an amount  
3 sufficient to require the filing of a federal income tax return:

4       1. Each shall make a return; or

5       2. The income of each shall be included in a single joint  
6 return, in which case the tax shall be computed on the aggregate net  
7 income.

8       C. 1. For tax years beginning on or after January 1, 2017,  
9 every resident individual whose gross income from both within and  
10 outside of Oklahoma exceeds the sum of the standard deduction and  
11 personal exemption allowed in Section 2358 of this title shall file  
12 an Oklahoma income tax return. Resident individuals not required to  
13 file a federal income tax return must attach a completed federal  
14 income tax return to the Oklahoma income tax return to show how  
15 adjusted gross income and deductions were determined, if their gross  
16 income is more than their adjusted gross income. The Oklahoma  
17 income tax return must show the taxable income and, where necessary,  
18 the adjusted gross income and modifications required by Section 2351  
19 et seq. of this title, and any other information the Tax Commission  
20 may require.

21       2. Except as otherwise provided for in the Pass-Through Entity  
22 Tax Equity Act of 2019, every nonresident individual having Oklahoma  
23 gross income for the taxable year of One Thousand Dollars  
24 (\$1,000.00) or more shall file an Oklahoma income tax return.

1       D. If an individual is unable to make his or her own return,  
2 the return shall be made by a duly authorized agent or by the  
3 guardian or other person charged with the care of the person or  
4 property of such individual.

5       E. Every partnership shall make a return for each taxable year,  
6 stating the taxable income and the adjustments to arrive at Oklahoma  
7 income. The Oklahoma return shall include a schedule showing the  
8 distribution to partners of the various items of income as per the  
9 federal return and the adjustments required by Section 2351 et seq.  
10 of this title for Oklahoma. The return shall be signed by one of  
11 the partners. Except for partnerships making an election pursuant  
12 to the provisions of the Pass-Through Entity Tax Equity Act of 2019,  
13 if a partnership has elected pursuant to the provisions of Section  
14 761 of the Internal Revenue Code, or any provision comparable  
15 thereto, not to file partnership income tax returns, that  
16 partnership shall not be required to file an Oklahoma partnership  
17 return. The Oklahoma Tax Commission shall promulgate rules for  
18 purposes of partnership returns when multiple partners would  
19 otherwise be required to file a nonresident return. The rules shall  
20 provide a specific number of partners in a partnership above which a  
21 composite return may be filed. The return shall be in such form as  
22 prescribed by the Tax Commission.

23       F. Every corporation shall make a return for each taxable year  
24 stating the taxable income and the adjustments provided in Section



1 2351 et seq. of this title to arrive at Oklahoma taxable income. In  
2 addition, corporations electing subchapter S treatment pursuant to  
3 the Internal Revenue Code and Section 2351 et seq. of this title,  
4 shall include a schedule showing the distribution to shareholders of  
5 the various items of income as per the federal return and the  
6 adjustments for Oklahoma. All corporation returns shall be signed  
7 by the president, vice president, or other principal officer and the  
8 corporate seal impressed. In cases where receivers, trustees in  
9 bankruptcy, or assignees are operating the property or business of  
10 corporations, such receivers, trustees, or assignees shall make a  
11 return for such corporations in the same manner and form as  
12 corporations are required to make returns. Any tax due on the basis  
13 of such returns made by receivers, trustees, or assignees shall be  
14 collected in the same manner as if collected from the corporations  
15 of whose business or property they have custody and control.

16 G. Every resident estate and trust shall make a return for each  
17 taxable year stating the taxable income and the adjustments to  
18 arrive at Oklahoma taxable income. Every nonresident estate or  
19 trust having Oklahoma taxable income as provided in Section 2362 of  
20 this title shall make a return for each taxable year stating the  
21 taxable income and the adjustments to arrive at Oklahoma taxable  
22 income. The Oklahoma return shall include a schedule showing the  
23 distribution to beneficiaries, if any, of the various items of  
24 income as per the federal return and the adjustments for Oklahoma.

1 The fiduciary shall be responsible for making the return and the  
2 return shall be signed by the fiduciary, or by one fiduciary if  
3 there is more than one. The Tax Commission shall promulgate rules  
4 for purposes of estate and trust returns when multiple returns would  
5 otherwise be required of nonresident beneficiaries of estates or  
6 trusts. The return shall be in such form as prescribed by the Tax  
7 Commission.

8 H. 1. All individual returns, except individual returns filed  
9 electronically, made on the basis of the calendar year shall be due  
10 on or before the fifteenth day of April following the close of the  
11 taxable year. Provided, if the Internal Revenue Code provides for a  
12 later due date for returns of individuals, the Tax Commission shall  
13 accept returns filed by individuals by such date and such returns  
14 shall be considered as timely filed.

15 2. All individual returns filed electronically, made on the  
16 basis of the calendar year, shall be due on or before the twentieth  
17 day of April following the close of the taxable year.

18 3. All individual returns made on the basis of a fiscal year  
19 shall be due on or before the fifteenth day of the fourth month  
20 following the close of the fiscal year.

21 4. For tax years beginning before January 1, 2016, calendar  
22 year corporation returns shall be due on or before the fifteenth day  
23 of March following the close of the taxable year. For tax years  
24 beginning on or after January 1, 2016, calendar year corporation

1 returns shall be due no later than thirty (30) days after the due  
2 date established under the Internal Revenue Code.

3 5. For tax years beginning before January 1, 2016, fiscal year  
4 corporation returns shall be due on or before the fifteenth day of  
5 the third month following the close of the fiscal year. For tax  
6 years beginning on or after January 1, 2016, fiscal year corporation  
7 returns shall be due no later than thirty (30) days after the due  
8 date established under the Internal Revenue Code.

9 6. For tax years beginning before January 1, 2016, partnership  
10 returns shall be due on or before the fifteenth day of April  
11 following the close of the taxable year. For tax years beginning on  
12 or after January 1, 2016, partnership returns shall be due no later  
13 than thirty (30) days after the due date established under the  
14 Internal Revenue Code.

15 7. All estate and trust returns made on the basis of the  
16 calendar year shall be due on or before the fifteenth day of April  
17 following the close of the taxable year. All estate and trust  
18 returns made on the basis of a fiscal year shall be due on or before  
19 the fifteenth day of the fourth month following the close of the  
20 fiscal year.

21 8. In the case of complete liquidation, or the dissolution, of  
22 a corporation the return of such corporation shall be made on or  
23 before the fifteenth day of the fourth month following the month in  
24 which the corporation is completely liquidated. A corporation which

1 has terminated its business activities, satisfied or made provision  
2 for all of its liabilities or has distributed all of its assets,  
3 even though not formally dissolved under state law, is deemed to  
4 have completely liquidated for purposes of this subsection.

5 9. The Tax Commission may also provide a later due date for  
6 returns of individuals, calendar year corporations, fiscal year  
7 corporations, partnership returns, estate and trust returns, or  
8 estimated tax payments as provided in Section 2385.9 of this title  
9 if a state of emergency is declared by the Governor or upon  
10 declaration by the Internal Revenue Service to postpone certain tax  
11 filing and tax payment deadlines in disaster areas.

12 I. Returns by individuals, fiduciaries, partnerships,  
13 corporations or any other person or entity required, or that may  
14 hereafter be required to file a return, shall contain or be verified  
15 by a written declaration that such return is made under the  
16 penalties of perjury and the fact that any individual's name is  
17 signed to a filed return shall be prima facie evidence for all  
18 purposes that the return was actually signed by that individual.  
19 Provided, the Tax Commission shall promulgate rules to provide  
20 procedures for verification of signatures on returns which are filed  
21 electronically.

22 J. Every return required by Section 2351 et seq. of this title  
23 shall be in such form as the Tax Commission may, from time to time,  
24 prescribe. Each return shall be filed with the Tax Commission and

1 forms shall be furnished by the Tax Commission on application  
2 therefor, but failure to secure or receive the form of a return  
3 prescribed shall not relieve any taxpayer from the obligation of  
4 making and filing any return herein required.

5 K. For tax years ending after January 1, 2017, if a taxpayer  
6 elects to make installment payments of tax due pursuant to the  
7 provisions of subsection (h) of Section 965 of the Internal Revenue  
8 Code, 26 U.S.C., Section 965, such election may also apply to the  
9 payment of Oklahoma income tax, attributable to the income upon  
10 which such installment payments are based.

11 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2385.13, is  
12 amended to read as follows:

13 Section 2385.13 A. In the case of any underpayment of the  
14 estimated tax payment required in Section 2385.9 of this title,  
15 there shall be added to the amount of the underpayment interest  
16 thereon at an annual rate of twenty percent (20%) for the period of  
17 the underpayment.

18 B. As used in subsection A of this section, the amount of the  
19 underpayment shall be the excess of the required installment over  
20 the amount paid on or before the due date of the installment. The  
21 period of underpayment shall run from the due date of the required  
22 installment to the earlier of the fifteenth day of the fourth month,  
23 or for corporations, ~~the fifteenth day of the third month~~ thirty  
24 (30) days after the due date for returns established under the

1 Internal Revenue Code, following the close of the taxable year or  
2 the date on which the required installment is paid.

3 C. No addition to tax shall be imposed under subsection A of  
4 this section if the tax shown on the return for the taxable year is  
5 less than One Thousand Dollars (\$1,000.00) or if the taxpayer was an  
6 Oklahoma resident throughout the preceding taxable year of twelve  
7 (12) months and did not have any liability for tax for the preceding  
8 taxable year.

9 SECTION 4. Section 3 of this act shall become effective  
10 November 1, 2021.

11 SECTION 5. It being immediately necessary for the preservation  
12 of the public peace, health or safety, an emergency is hereby  
13 declared to exist, by reason whereof this act shall take effect and  
14 be in full force from and after its passage and approval."

15 Passed the House of Representatives the 22nd day of April, 2021.

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18 \_\_\_\_\_  
19 Presiding Officer of the House of  
Representatives

20 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2021.

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23 \_\_\_\_\_  
Presiding Officer of the Senate

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1 ENGROSSED SENATE  
2 BILL NO. 601

By: Rader of the Senate

3 and

4 Pfeiffer of the House

5  
6 An Act relating to income tax; amending 68 O.S. 2011,  
7 Section 2385.13, which relates to withholding;  
8 modifying period of underpayment for corporations;  
9 and providing an effective date.

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

11 SECTION 6. AMENDATORY 68 O.S. 2011, Section 2385.13, is  
12 amended to read as follows:

13 Section 2385.13. A. In the case of any underpayment of the  
14 estimated tax payment required in Section 2385.9 of this title,  
15 there shall be added to the amount of the underpayment interest  
16 thereon at an annual rate of twenty percent (20%) for the period of  
17 the underpayment.

18 B. As used in subsection A of this section, the amount of the  
19 underpayment shall be the excess of the required installment over  
20 the amount paid on or before the due date of the installment. The  
21 period of underpayment shall run from the due date of the required  
22 installment to the earlier of the fifteenth day of the fourth month,  
23 or for corporations, ~~the fifteenth day of the third month~~ thirty  
24 (30) days after the due date for returns established under the

1 Internal Revenue Code, following the close of the taxable year or  
2 the date on which the required installment is paid.

3 C. No addition to tax shall be imposed under subsection A of  
4 this section if the tax shown on the return for the taxable year is  
5 less than One Thousand Dollars (\$1,000.00) or if the taxpayer was an  
6 Oklahoma resident throughout the preceding taxable year of twelve  
7 (12) months and did not have any liability for tax for the preceding  
8 taxable year.

9 SECTION 7. This act shall become effective November 1, 2021.

10 Passed the Senate the 11th day of February, 2021.

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12 \_\_\_\_\_  
13 Presiding Officer of the Senate

14 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
15 2021.

16  
17 \_\_\_\_\_  
18 Presiding Officer of the House  
19 of Representatives  
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