

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SUBCOMMITTEE RECOMMENDATION
FOR ENGROSSED

SENATE BILL NO. 601

By: Rader of the Senate

and

Pfeiffer of the House

SUBCOMMITTEE RECOMMENDATION

An Act relating to income tax; amending 68 O.S. 2011, Section 217, as last amended by Section 1, Chapter 28, O.S.L. 2016 and 2368, as last amended by Section 7, Chapter 201, O.S.L. 2019 (68 O.S. Supp.2020, Sections 217 and 2368), which relate to interest accrual and due dates of certain reports or returns; modifying provision related to accrual of interest; modifying provisions related to due date of tax returns; providing for emergency declaration 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:

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. 2020, 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

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.

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

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

20 D. If any tax due under any state tax law other than those
21 specified in subsection C of this section, or any part thereof, is
22 not paid within thirty (30) days after such tax becomes delinquent a
23 penalty of ten percent (10%) on the total amount of tax due and
24 delinquent shall be added thereto, collected and paid. However, the

1 Tax Commission shall not collect the penalty assessed if the
2 taxpayer remits the tax and interest within sixty (60) days of the
3 mailing of a proposed assessment or voluntarily pays the tax upon
4 the filing of an amended return.

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

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

22 G. All penalties or interest imposed by this title, or any
23 state tax law, shall be recoverable by the Tax Commission as a part
24 of the tax with respect to which they are imposed, the penalties

1 bearing interest as provided in this section for the tax, and all
2 penalties and interest shall be apportioned as provided for the
3 apportionment of the tax on which such penalties or interest are
4 collected.

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

19 2. For tax returns filed after January 1, 2004, and before
20 January 2, 2010, whenever an income tax refund is not paid to the
21 taxpayer within the following number of days after the income tax
22 return is filed with all documents as required by the Tax Commission
23 or after the income tax return is due, whichever is later, entitling
24 the taxpayer to a refund, then the Tax Commission shall pay interest

1 on the refund at the same rate specified for interest on delinquent
2 tax payments:

3 a. for returns filed electronically, thirty (30) days,
4 and

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

6 3. For tax returns filed after January 1, 2010, whenever an
7 income tax refund is not paid to the taxpayer within the following
8 number of days after the income tax return is filed or due,
9 whichever is later, with all documents as required by the Tax

10 Commission entitling the taxpayer to a refund, then the Tax
11 Commission shall pay interest on the refund at the same rate
12 specified for interest on delinquent tax payments:

13 a. for returns filed electronically, forty-five (45)
14 days, and

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

16 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2368, as
17 last amended by Section 7, Chapter 201, O.S.L. 2019 (68 O.S. Supp.
18 2020, Section 2368), is amended to read as follows:

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

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

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

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

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

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

20 1. Each shall make a return; or

21 2. The income of each shall be included in a single joint
22 return, in which case the tax shall be computed on the aggregate net
23 income.

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

14 2. Except as otherwise provided for in the Pass-Through Entity
15 Tax Equity Act of 2019, every nonresident individual having Oklahoma
16 gross income for the taxable year of One Thousand Dollars
17 (\$1,000.00) or more shall file an Oklahoma income tax return.

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

22 E. Every partnership shall make a return for each taxable year,
23 stating the taxable income and the adjustments to arrive at Oklahoma
24 income. The Oklahoma return shall include a schedule showing the

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

16 F. Every corporation shall make a return for each taxable year
17 stating the taxable income and the adjustments provided in Section
18 2351 et seq. of this title to arrive at Oklahoma taxable income. In
19 addition, corporations electing subchapter S treatment pursuant to
20 the Internal Revenue Code and Section 2351 et seq. of this title,
21 shall include a schedule showing the distribution to shareholders of
22 the various items of income as per the federal return and the
23 adjustments for Oklahoma. All corporation returns shall be signed
24 by the president, vice president, or other principal officer and the

1 corporate seal impressed. In cases where receivers, trustees in
2 bankruptcy, or assignees are operating the property or business of
3 corporations, such receivers, trustees, or assignees shall make a
4 return for such corporations in the same manner and form as
5 corporations are required to make returns. Any tax due on the basis
6 of such returns made by receivers, trustees, or assignees shall be
7 collected in the same manner as if collected from the corporations
8 of whose business or property they have custody and control.

9 G. Every resident estate and trust shall make a return for each
10 taxable year stating the taxable income and the adjustments to
11 arrive at Oklahoma taxable income. Every nonresident estate or
12 trust having Oklahoma taxable income as provided in Section 2362 of
13 this title shall make a return for each taxable year stating the
14 taxable income and the adjustments to arrive at Oklahoma taxable
15 income. The Oklahoma return shall include a schedule showing the
16 distribution to beneficiaries, if any, of the various items of
17 income as per the federal return and the adjustments for Oklahoma.
18 The fiduciary shall be responsible for making the return and the
19 return shall be signed by the fiduciary, or by one fiduciary if
20 there is more than one. The Tax Commission shall promulgate rules
21 for purposes of estate and trust returns when multiple returns would
22 otherwise be required of nonresident beneficiaries of estates or
23 trusts. The return shall be in such form as prescribed by the Tax
24 Commission.

1 H. 1. All individual returns, except individual returns filed
2 electronically, made on the basis of the calendar year shall be due
3 on or before the fifteenth day of April following the close of the
4 taxable year. Provided, if the Internal Revenue Code provides for a
5 later due date for returns of individuals, the Tax Commission shall
6 accept returns filed by individuals by such date and such returns
7 shall be considered as timely filed.

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

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

14 4. For tax years beginning before January 1, 2016, calendar
15 year corporation returns shall be due on or before the fifteenth day
16 of March following the close of the taxable year. For tax years
17 beginning on or after January 1, 2016, calendar year corporation
18 returns shall be due no later than thirty (30) days after the due
19 date established under the Internal Revenue Code.

20 5. For tax years beginning before January 1, 2016, fiscal year
21 corporation returns shall be due on or before the fifteenth day of
22 the third month following the close of the fiscal year. For tax
23 years beginning on or after January 1, 2016, fiscal year corporation
24

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

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

9 7. All estate and trust returns made on the basis of the
10 calendar year shall be due on or before the fifteenth day of April
11 following the close of the taxable year. All estate and trust
12 returns made on the basis of a fiscal year shall be due on or before
13 the fifteenth day of the fourth month following the close of the
14 fiscal year.

15 8. In the case of complete liquidation, or the dissolution, of
16 a corporation the return of such corporation shall be made on or
17 before the fifteenth day of the fourth month following the month in
18 which the corporation is completely liquidated. A corporation which
19 has terminated its business activities, satisfied or made provision
20 for all of its liabilities or has distributed all of its assets,
21 even though not formally dissolved under state law, is deemed to
22 have completely liquidated for purposes of this subsection.

23 9. The Tax Commission may also provide a later due date for
24 returns of individuals, calendar year corporations, fiscal year

1 corporations, partnership returns, estate and trust returns, or
2 estimated tax payments as provided in Section 2385.9 of this title
3 if a state of emergency is declared by the Governor or upon
4 declaration by the Internal Revenue Service to postpone certain tax
5 filing and tax payment deadlines in disaster areas.

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

16 J. Every return required by Section 2351 et seq. of this title
17 shall be in such form as the Tax Commission may, from time to time,
18 prescribe. Each return shall be filed with the Tax Commission and
19 forms shall be furnished by the Tax Commission on application
20 therefor, but failure to secure or receive the form of a return
21 prescribed shall not relieve any taxpayer from the obligation of
22 making and filing any return herein required.

23 K. For tax years ending after January 1, 2017, if a taxpayer
24 elects to make installment payments of tax due pursuant to the

1 provisions of subsection (h) of Section 965 of the Internal Revenue
2 Code, 26 U.S.C., Section 965, such election may also apply to the
3 payment of Oklahoma income tax, attributable to the income upon
4 which such installment payments are based.

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

7 Section 2385.13 A. In the case of any underpayment of the
8 estimated tax payment required in Section 2385.9 of this title,
9 there shall be added to the amount of the underpayment interest
10 thereon at an annual rate of twenty percent (20%) for the period of
11 the underpayment.

12 B. As used in subsection A of this section, the amount of the
13 underpayment shall be the excess of the required installment over
14 the amount paid on or before the due date of the installment. The
15 period of underpayment shall run from the due date of the required
16 installment to the earlier of the fifteenth day of the fourth month,
17 or for corporations, ~~the fifteenth day of the third month~~ thirty
18 (30) days after the due date for returns established under the
19 Internal Revenue Code, following the close of the taxable year or
20 the date on which the required installment is paid.

21 C. No addition to tax shall be imposed under subsection A of
22 this section if the tax shown on the return for the taxable year is
23 less than One Thousand Dollars (\$1,000.00) or if the taxpayer was an
24 Oklahoma resident throughout the preceding taxable year of twelve

1 (12) months and did not have any liability for tax for the preceding
2 taxable year.

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

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

9
10 58-1-8001 MAH 03/30/21
11
12
13
14
15
16
17
18
19
20
21
22
23
24