

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3136

By: Kendrix of the House

and

Bergstrom of the Senate

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10 COMMITTEE SUBSTITUTE

11 [revenue and taxation - tax interest rates -
12 effective date]

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

16 SECTION 1. AMENDATORY 68 O.S. 2021, Section 217, is
17 amended to read as follows:

18 Section 217. A. If any amount of tax imposed or levied by any
19 state tax law, or any part of such amount, is not paid before such
20 tax becomes delinquent, there shall be collected on the total
21 delinquent tax interest at the ~~rate of one and one-quarter percent~~
22 ~~(1 1/4%) per month~~ annual rate calculated using the federal prime
23 rate, as of January 1 of that year, rounded down to the nearest
24 whole percentage point if forty-nine hundredths (0.49) or less and

1 rounded up to the nearest whole percentage point if five tenths
2 (0.5) or more from the date of the delinquency until paid.

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~~ annual rate
8 calculated using the federal prime rate, as of January 1 of that
9 year, rounded down to the nearest whole percentage point if forty-
10 nine hundredths (0.49) or less and rounded up to the nearest whole
11 percentage point if five tenths (0.5) or more from the date
12 prescribed in the state tax law levying such tax for the payment
13 thereof to the date the deficiency is assessed.

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

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

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

7 and

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

9 3. For tax returns filed after January 1, 2010, whenever an
10 income tax refund is not paid to the taxpayer within the following
11 number of days after the income tax 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:

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

17 days, and

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

19 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2385.13, is
20 amended to read as follows:

21 Section 2385.13 A. In the case of any underpayment of the
22 estimated tax payment required in Section 2385.9 of this title,
23 there shall be added to the amount of the underpayment interest
24 thereon at an annual rate ~~of twenty percent (20%)~~ calculated using

1 the federal prime rate, as of January 1 of that year, rounded down
2 to the nearest whole percentage point if forty-nine hundredths
3 (0.49) or less and rounded up to the nearest whole percentage point
4 if five tenths (0.5) or more for the period of the underpayment.

5 B. As used in subsection A of this section, the amount of the
6 underpayment shall be the excess of the required installment over
7 the amount paid on or before the due date of the installment. The
8 period of underpayment shall run from the due date of the required
9 installment to the earlier of the fifteenth day of the fourth month,
10 or for corporations, thirty (30) days after the due date for returns
11 established under the Internal Revenue Code, following the close of
12 the taxable year or the date on which the required installment is
13 paid.

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

20 SECTION 3. NEW LAW A new section of law not to be
21 codified in the Oklahoma Statutes reads as follows:

22 The amended interest rates provided in this act shall apply to
23 all delinquencies occurring on or after the effective date and shall
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1 apply to any delinquent account in existence as of the effective
2 date of this act.

3 SECTION 4. This act shall become effective November 1, 2022.
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5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
6 03/02/2022 - DO PASS, As Amended and Coauthored.
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