

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 598

By: Rader

AS INTRODUCED

An Act relating to uniform tax procedure; amending 68 O.S. 2011, Section 254, which relates to garnishment for collection of delinquent taxes; authorizing the Oklahoma Tax Commission to garnish certain accrued earnings upon notice; adding definition; providing for delivery of notice; requiring employer to withhold compensation upon receipt of notice; providing limit of garnishment; requiring employer response; requiring notice upon termination or resignation; specifying liability; prohibiting termination based upon notice; authorizing Commission to levy upon property upon notice; requiring financial institution to encumber funds upon notice; requiring the notification of taxpayer; requiring response from financial institution; providing time period upon garnishment or levy; providing time period for taxpayer response; authorizing Commission to withdraw garnishment or levy upon certain response; requiring the Commission to prescribe forms; requiring the Commission to promulgate rules; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 254, is amended to read as follows:

Section 254. A. Upon a hearing with notice the Oklahoma Tax Commission shall be entitled to proceed by garnishment to collect

1 any delinquent tax and to collect any penalty or interest due and
2 owing as a result of a tax delinquency. Provided, that, upon proper
3 application under the procedures outlined herein, the court may
4 issue an order continuing the garnishment for the collection of
5 delinquent taxes, penalties or interest until the total amount of
6 such delinquent taxes, penalties or interest have been collected.

7 B. The Tax Commission may garnish the accrued earnings of a
8 delinquent taxpayer employee by sending notice to taxpayer's
9 employer. For the purpose of this section, "earnings" means any
10 form of payment to an individual including, but not limited to,
11 salary, wages, commission or other compensation, but does not
12 include reimbursements for travel expenses for state employees.
13 Such notice may be served by mail or by delivery by a field agent of
14 the Tax Commission to the taxpayer's employer along with a copy to
15 the delinquent taxpayer. Upon receipt of such notice of
16 delinquency, the employer shall withhold from compensation due, or
17 to become due to the employee, the total amount shown by the notice.
18 The Tax Commission may direct the employer to withhold part of the
19 amount due, not to exceed twenty-five percent (25%) of earnings per
20 pay period, until the total amount as shown by the notice, plus
21 interest and penalty, has been withheld and remitted to the Tax
22 Commission. The employer's response and calculation of amounts
23 withheld shall be on a form prescribed by the Tax Commission.
24

1 C. Within seven (7) days after the end of each pay period, or
2 if delinquent taxpayer does not have regular pay periods, within
3 thirty (30) days from the date of the notice, the employer shall
4 withhold amounts due or provide an explanation to the Tax Commission
5 why amounts due will not be withheld and remitted to the Tax
6 Commission. In any case in which the employee ceases to be employed
7 by the employer before the full amount set forth in the notice of
8 delinquency, plus delinquent penalty and interest, has been withheld
9 by the employer, the employer shall immediately notify the Tax
10 Commission in writing the date the employee resigned or was
11 terminated. Should any employer, after notice, willfully fail to
12 withhold in accordance with the notice and this section, such
13 employer may be liable for the total amount set forth in the notice.
14 An employer may not terminate a delinquent taxpayer employee based
15 upon the notice of administrative wage garnishment.

16 D. The Tax Commission may levy upon the property of a
17 delinquent taxpayer held by a financial institution by sending
18 notice to the financial institution. For purposes of this section,
19 "financial institution" means any office or branch of a bank,
20 savings bank, savings association, building and loan association,
21 savings and loan association or credit union located in this state.
22 Such notice may be served by mail or by delivery by a field agent of
23 the Tax Commission to the financial institution. Upon receipt of
24 the notice under this section, the financial institution shall

1 immediately encumber funds in any account in which the taxpayer has
2 an interest and remit to the Tax Commission the funds held by the
3 financial institution, not in excess of the amount provided in the
4 notice and also provide notice to the taxpayer of the bank levy and
5 the amount of the encumbered funds. The financial institution's
6 response to the levy request shall be provided on forms prescribed
7 by the Tax Commission.

8 E. An administrative wage garnishment or bank levy may be
9 issued after ninety (90) days in which the tax has become
10 delinquent, notice has been sent to the taxpayer of the delinquency
11 and possible remedies to resolve the delinquency have been provided
12 to the taxpayer and a tax warrant has been issued and filed pursuant
13 to Section 231 of this title. A taxpayer shall have ten (10) days
14 after the issuance of the notice to the employer or upon notice from
15 the financial institution to provide any additional information to
16 the Tax Commission for the garnishment of wages or bank levy to be
17 withdrawn or released by the Tax Commission. The Tax Commission may
18 withdraw or adjust the garnishment for wages or bank levy upon proof
19 to the satisfaction of the Tax Commission that the delinquent tax,
20 interest and penalty referred to in the notice has been paid or the
21 taxpayer can show the funds or wages subject to garnishment or levy
22 are exempt pursuant to state or federal law.

1 F. The Tax Commission shall prescribe or approve forms and
2 promulgate rules and regulations for implementing the provisions of
3 this section.

4 SECTION 2. This act shall become effective November 1, 2021.

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