

1 **SENATE FLOOR VERSION**

2 February 20, 2023

3 SENATE BILL NO. 602

By: Rader of the Senate

4 and

5 Pfeiffer of the House

6
7
8 An Act relating to tax returns; amending 68 O.S.
9 2021, Sections 2373 and 2375, which relate to payment
10 of refunds, extensions, and delinquency and
11 deficiency of payments; requiring certain claims be
12 made in the form prescribed by the Oklahoma Tax
13 Commission; limiting claims made to within a period
14 of certain date; prohibiting refund for claims made
15 after certain period; providing exception; modifying
16 limitation on certain amount of refund to taxes paid
17 in certain preceding period; deleting requirement
18 that certain information filed constitutes a claim;
19 prohibiting application of limitation to certain
20 claims filed; modifying date requiring taxpayer to
21 remit income tax due; excluding extensions from date
22 taxes become delinquent; updating statutory language;
23 and providing an effective date.
24

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2373, is
amended to read as follows:

Section 2373. A. Any claim for refund filed pursuant to this
section must be made on a return, in the form prescribed by the
Oklahoma Tax Commission.

1 B. Any claim for refund of an overpayment of any tax imposed by
2 Section 2355 of this title must be made within three (3) years from
3 the due date of the return, including the period of any extension of
4 time for filing a return, or two (2) years from the payment of the
5 tax liability, whichever period expires later, or, if no return was
6 filed by the taxpayer, within two (2) years from the time the tax
7 was paid.

8 C. Except as provided in subsection H of Section 2375 of this
9 title, no refund shall be allowed or made after the expiration of
10 the period of limitation prescribed in subsection B of this section
11 for the filing of a claim for refund. If a claim for refund is
12 filed during the period prescribed in subsection B of this section,
13 the amount of the refund, if any, shall not exceed the amount of tax
14 paid within the period, immediately preceding the filing of the
15 claim, equal to three (3) years plus the period of any extension of
16 time for filing a return. If the claim was not filed within the
17 three-year period prescribed in subsection B of this section, the
18 refund shall not exceed the portion of the tax paid during the two
19 (2) years immediately preceding the filing of the claim.

20 D. If, upon any revision or adjustment, including overpayment
21 or illegal payment on account of income derived from tax-exempt
22 Indian land, any refund is found to be due any taxpayer, it shall be
23 paid out of the "Income Tax Withholding Refund Account", created by
24 Section 2385.16 of this title, in the same manner as refunds are

1 paid pursuant to such section. ~~The information filed, reflecting~~
2 ~~the revision or adjustment, shall constitute the claim for refund.~~

3 E. ~~Except as provided in subsection H of Section 2375 of this~~
4 ~~title, the amount of the refund shall not exceed the portion of the~~
5 ~~tax paid during the three (3) years immediately preceding the filing~~
6 ~~of the claim, or, if no claim was filed, then during the three (3)~~
7 ~~years immediately preceding the allowance of the refund. However,~~
8 ~~this~~ The three-year limitation set forth in subsection C of this
9 section shall not apply to the amount of refunds payable upon claims
10 filed by members of federally recognized Indian tribes or the United
11 States on behalf of its Indian wards or former Indian wards, to
12 recover taxes illegally collected from tax-exempt lands. In the
13 case of any refund to a member of a federally recognized Indian
14 tribe or to the United States on behalf of its Indian wards or
15 former Indian wards, to recover taxes illegally collected on bonus
16 payments from oil and gas leases located on tax-exempt Indian lands
17 pursuant to this section, the Tax Commission shall pay interest on
18 all refunds issued after January 1, 1996, at the rate of six percent
19 (6%) per annum from the date of payment by the taxpayer to the date
20 of the refund.

21 F. In cases where the Tax Commission and the taxpayer have
22 signed a consent, as provided by law, extending the period during
23 which the tax may be assessed, the period during which the taxpayer
24 may file a claim for refund or during which an allowance for a

1 refund may be made shall be automatically extended to the final date
2 fixed by such consent plus thirty (30) days.

3 G. The Oklahoma Tax Commission may authorize the use of direct
4 deposit in lieu of refund checks for electronically filed income tax
5 returns.

6 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2375, is
7 amended to read as follows:

8 Section 2375. A. ~~At the time of transmitting the return~~
9 ~~required hereunder to the Oklahoma Tax Commission~~ On the original
10 due date of the return, not including any extensions, the taxpayer
11 shall remit ~~therewith~~ to the Tax Commission the amount of tax due
12 under the applicable provisions of Section 2351 et seq. of this
13 title. Failure to pay such tax on or before the date the return is
14 due, not including any extensions, shall cause the tax to become
15 delinquent. If the return is filed electronically, the amount of
16 the tax due pursuant to the provisions of this article shall be due
17 on or before the twentieth day of April following the close of the
18 taxable year regardless of when the return is electronically filed.
19 The tax shall be deemed delinquent if unpaid after the twentieth day
20 of April if the return is electronically filed. Provided, if the
21 Internal Revenue Code provides for a later due date for returns of
22 individuals, the Tax Commission shall accept payments made with
23 returns filed by individuals by such date and such payments shall be
24 considered as timely paid.

1 B. If any tax due under Section 2351 et seq. of this title,
2 except a deficiency determined under Section 221 of this title, is
3 not paid on or before the date such tax becomes delinquent, a
4 penalty of five percent (5%) of the total amount of the tax due
5 shall be added thereto, collected, and paid. However, the Tax
6 Commission shall not collect the penalty assessed if the taxpayer
7 remits the tax and interest within sixty (60) days of the mailing of
8 a proposed assessment or voluntarily pays the tax upon the filing of
9 an amended return.

10 C. If any part of deficiency, arbitrary, or jeopardy assessment
11 made by the Tax Commission is based upon or occasioned by the
12 refusal of any taxpayer to file with the Tax Commission any return
13 as required by Section 2351 et seq. of this title, within ten (10)
14 days after a written demand for such report or return has been
15 served upon any taxpayer by the Tax Commission by registered letter
16 with a return receipt attached, the Tax Commission may assess and
17 collect, as a penalty, twenty-five percent (25%) of the amount of
18 the assessment. In the exercise of the authority granted by
19 subsection C of Section 223 and Section 224 of this title, the Tax
20 Commission shall assess the tax as an estimated tax on the basis of
21 its own determination of the Oklahoma taxable income of the
22 taxpayer, to be adjusted if and when Oklahoma taxable income is
23 ascertained under the provisions of Section 2351 et seq. of this
24 title.

1 D. If any part of any deficiency was due to negligence or
2 intentional disregard, without the intent to defraud, then ten
3 percent (10%) of the total amount of the deficiency, in addition to
4 such deficiency, including interest as authorized by law, shall be
5 added, collected, and paid.

6 E. If any part of any deficiency was due to fraud with intent
7 to evade tax, then fifty percent (50%) of the total amount of the
8 deficiency, in addition to such deficiency, including interest as
9 herein provided, shall be added, collected, and paid.

10 F. The provisions in this section for penalties shall supersede
11 all other provisions for penalties on income taxes. The provisions
12 in this section for penalties shall supersede the provisions in the
13 Uniform Tax Procedure Code, Section 201 et seq. of this title, only
14 to the extent of conflict between such provisions and the penalty
15 provisions in this section.

16 G. All taxes, penalties, and interest levied under Section 2351
17 et seq. of this title must be paid to the Tax Commission at Oklahoma
18 City, in the form or remittance required by and payable to it.

19 H. 1. The period of time prescribed in Section 223 of this
20 title, in which the procedures for the assessment of income tax may
21 be commenced by the Tax Commission, shall be tolled and extended
22 until the amount of taxable income for any year of a taxpayer under
23 the Internal Revenue Code has been finally determined under
24

1 applicable federal law and for the additional period of time
2 hereinafter provided in this subsection.

3 2. If, in such final determination, the amount of taxable
4 income for any year of a taxpayer under the Internal Revenue Code is
5 changed or corrected from the amounts included in the federal return
6 of the taxpayer for such year and such change or correction affects
7 the Oklahoma taxable income of the taxpayer for such year, the
8 taxpayer, within one (1) year after such final determination of the
9 corrected taxable income, shall file an amended return under Section
10 2351 et seq. of this title reporting the corrected Oklahoma taxable
11 income, and the Tax Commission shall make assessment or refund
12 within two (2) years from the date the return required by this
13 paragraph is filed and not thereafter, unless a waiver is agreed to
14 and signed by the Tax Commission and the taxpayer.

15 3. In the event of failure by a taxpayer to comply with the
16 provisions of paragraph 2 of this subsection, the statute of
17 limitations shall be tolled for a period of time equal to the time
18 between the date the amended return under this subsection is
19 required until such return is actually furnished.

20 4. In administering the provisions of this subsection, the Tax
21 Commission shall have the authority to audit each and every item of
22 income, deduction, credit, or any other matter related to the return
23 where such items or matters relate to allocation or apportionment
24 between ~~the State of Oklahoma~~ this state and some other state or the

1 federal government even if such items or matters were not affected
2 by revisions made in such final determination. Where such items or
3 matters do not relate to allocation or apportionment between ~~the~~
4 ~~State of Oklahoma~~ this state and some other state or the federal
5 government, the Tax Commission shall be bound by the revisions made
6 in such final determination.

7 5. The provisions of this subsection shall be effective on
8 September 1, 1993, and except in the case of tax years which are the
9 subject of closing, settlement, or resolution agreements entered
10 into by taxpayers and the Tax Commission, keep open all tax years
11 beginning after June 30, 1988, and all tax years beginning on or
12 before June 30, 1988, for which extensions of the statute of
13 limitations have been executed by the taxpayer, but only to the
14 extent such extensions remain open on the date of enactment hereof.

15 SECTION 3. This act shall become effective November 1, 2023.

16 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
17 February 20, 2023 - DO PASS
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