

1 **SENATE FLOOR VERSION**

2 April 5, 2016

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2691

By: Brumbaugh of the House

and

Mazzei of the Senate

6
7
8 [revenue and taxation - computation of interest on
9 delinquent tax liabilities - prime rate - effective
10 date]

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

12 SECTION 1. AMENDATORY 68 O.S. 2011, Section 217, as
13 amended by Section 1, Chapter 274, O.S.L. 2014 (68 O.S. Supp. 2015,
14 Section 217), is amended to read as follows:

15 Section 217. A. If any amount of tax imposed or levied by any
16 state tax law, or any part of such amount, is not paid before such
17 tax becomes delinquent, there shall be collected on the total
18 delinquent tax interest at ~~the a rate of one and one-quarter percent~~
19 ~~(1-1/4%)~~ per month of the calendar year equal to the New York
20 Federal Reserve Bank prime rate determined to be in effect on
21 December 1 each year rounded up to the nearest whole number if the
22 rate is not a whole number and regardless of whether the fractional
23 amount is less than five-tenths (0.5), plus four percentage points

1 and the result of such sum divided by the whole number twelve (12)
2 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~~ a rate
7 ~~of one and one-quarter percent (1 1/4%)~~ per month equal to the New
8 York Federal Reserve Bank prime rate determined to be in effect on
9 December 1 each year rounded up to the nearest whole number if the
10 rate is not a whole number and regardless of whether the fractional
11 amount is less than five-tenths (0.5), plus four percentage points
12 and the result of such sum divided by the whole number twelve (12)
13 from the date prescribed in the state tax law levying such tax for
14 the payment thereof to the date the deficiency is assessed.

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

24

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.

24

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 with all
15 documents as required by the Tax Commission entitling the taxpayer
16 to a refund, then the Tax Commission shall pay interest on the
17 refund at the same rate specified for interest on delinquent tax
18 payments:

19 a. for returns filed electronically, twenty (20) days,
20 and

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

22 SECTION 2. This act shall become effective November 1, 2016.

23
24 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
April 5, 2016 - DO PASS AS AMENDED