

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3943

By: Fetgatter

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2011, Section 227, as last amended by Section 1,  
9 Chapter 358, O.S.L. 2016 (68 O.S. Supp. 2019, Section  
10 227), which relates to sales tax refunds; modifying  
11 time limit for claiming refund; requiring application  
of refund as credit against assessment; providing an  
effective date; and declaring an emergency.

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

13 SECTION 1. AMENDATORY 68 O.S. 2011, Section 227, as last  
14 amended by Section 1, Chapter 358, O.S.L. 2016 (68 O.S. Supp. 2019,  
15 Section 227), is amended to read as follows:

16 Section 227. (a) Any taxpayer who has paid to the State of  
17 Oklahoma, through error of fact, or computation, or  
18 misinterpretation of law, any tax collected by the Tax Commission  
19 may, as hereinafter provided, be refunded the amount of such tax so  
20 erroneously paid, without interest.

21 (b) ~~(1) Except as otherwise provided by division (2) of this~~  
22 ~~subsection, any~~ Any taxpayer who has so paid any such tax may,  
23 within three (3) years from the date of payment thereof file with  
24 the Tax Commission a verified claim for refund of such tax so

1 erroneously paid. The Tax Commission may accept an amended sales or  
2 use tax, withholding tax or other report or return as a verified  
3 claim for refund if the amended report or return establishes a  
4 liability less than the original report or return previously filed.

5 ~~(2) Upon the effective date of this act, with respect to the~~  
6 ~~sales tax imposed by Section 1354 of this title and with respect to~~  
7 ~~the use tax imposed by Section 1402 of this title, any taxpayer who~~  
8 ~~has so paid such sales or use tax may, within two (2) years from the~~  
9 ~~date of payment thereof file with the Tax Commission a verified~~  
10 ~~claim for refund of such tax so erroneously paid. The Tax~~  
11 ~~Commission may accept an amended sales or use tax report or return~~  
12 ~~as a verified claim for refund if the amended report or return~~  
13 ~~establishes a liability less than the original report or return~~  
14 ~~previously filed.~~

15 (c) Said claim so filed with the Tax Commission, except for an  
16 amended report or return, shall specify the name of the taxpayer,  
17 the time when and period for which said tax was paid, the nature and  
18 kind of tax so paid, the amount of the tax which said taxpayer  
19 claimed was erroneously paid, the grounds upon which a refund is  
20 sought, and such other information or data relative to such payment  
21 as may be necessary to an adjustment thereof by the Tax Commission.  
22 It shall be the duty of the Commission to determine what amount of  
23 refund, if any, is due as soon as practicable after such claim has  
24 been filed and advise the taxpayer about the correctness of his

1 claim and the claim for refund shall be approved or denied by  
2 written notice to the taxpayer.

3 (d) In the event that a taxpayer who is currently subject to an  
4 audit for underpayment of sales or use taxes is also due a refund  
5 for the erroneous payment of sales or use taxes, the amount of the  
6 refund shall be applied as a credit to any assessment made against  
7 the taxpayer. If such overpayment of taxes was paid to a vendor and  
8 the taxpayer does not have a sales tax permit, the taxpayer shall  
9 obtain an assignment of rights from the vendor which assigns the  
10 vendor's right to any refunded tax to the taxpayer.

11 (e) If the claim for refund is denied, the taxpayer may file a  
12 demand for hearing with the Commission. The demand for hearing must  
13 be filed on or before the sixtieth day after the date the notice of  
14 denial was mailed. If the taxpayer fails to file a demand for  
15 hearing, the claim for refund shall be barred.

16 ~~(e)~~ (f) Upon the taxpayer's timely filing of a demand for  
17 hearing, the Commission shall set a date for hearing upon the claim  
18 for refund which date shall not be later than sixty (60) days from  
19 the date the demand for hearing was mailed. The taxpayer shall be  
20 notified of the time and place of the hearing. The hearing may be  
21 held after the sixty-day period provided by this subsection upon  
22 agreement of the taxpayer.

23 ~~(f)~~ (g) The provisions of this section shall not apply: (1) to  
24 refunds of income tax erroneously paid, refunds of which tax shall

1 be payable out of the income tax adjustment fund as provided by law;  
2 (2) to estate tax because the payment of such tax is covered by an  
3 order of the Tax Commission and the estate and interested parties  
4 are given notice that Commission's position and computation of the  
5 tax will become final unless they protest and resist the payment  
6 thereof as provided by statute; nor, (3) in any case where the tax  
7 was paid after an assessment thereof was made by the Tax Commission  
8 which assessment became final under the law.

9 SECTION 2. This act shall become effective July 1, 2020.

10 SECTION 3. It being immediately necessary for the preservation  
11 of the public peace, health or safety, an emergency is hereby  
12 declared to exist, by reason whereof this act shall take effect and  
13 be in full force from and after its passage and approval.

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