

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1643

By: Leewright

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5
6 AS INTRODUCED

7 An Act relating to tax administration; amending 68
8 O.S. 2011, Section 217, as last amended by Section 1,
9 Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2019, Section
10 217), which relates to computation of interest on
11 certain unpaid taxes; modifying rate on deficient and
12 refunded amounts; deleting obsolete language; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 217, as last
16 amended by Section 1, Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2019,
17 Section 217), is 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
(1 1/4%) per month from the date of the delinquency until paid.

22 B. Interest upon any amount of state tax determined as a
23 deficiency, under the provisions of Section 221 of this title, shall
24 be assessed at the same time as the deficiency and shall be paid

1 upon notice and demand of the Oklahoma Tax Commission at ~~the~~ a rate
2 ~~of one and one-quarter percent (1 1/4%)~~ per month equal to the New
3 York Federal Reserve Bank prime rate as listed in the first edition
4 of the Wall Street Journal published on the first business day in
5 the immediately preceding January, plus two percentage points, from
6 the date prescribed in the state tax law levying such tax for the
7 payment thereof to the date the deficiency is assessed.

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

17 D. If any tax due under any state tax law other than those
18 specified in subsection C of this section, or any part thereof, is
19 not paid within thirty (30) days after such tax becomes delinquent a
20 penalty of ten percent (10%) on the total amount of tax due and
21 delinquent shall be added thereto, collected and paid. However, the
22 Tax Commission shall not collect the penalty assessed if the
23 taxpayer remits the tax and interest within sixty (60) days of the
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1 mailing of a proposed assessment or voluntarily pays the tax upon
2 the filing of an amended return.

3 E. If any part of any deficiency, arbitrary or jeopardy
4 assessment made by the Tax Commission is based upon or occasioned by
5 the taxpayer's negligence or by the failure or refusal of any
6 taxpayer to file with the Tax Commission any report or return, as
7 required by this title, or by any state tax law, within ten (10)
8 days after a written demand for such report or return has been
9 served upon any taxpayer by the Tax Commission by letter, the Tax
10 Commission may assess and collect, as a penalty, twenty-five percent
11 (25%) of the amount of the assessment. For purposes of this
12 subsection, "negligence" shall mean the consistent understatement of
13 income, consistent understatement of receipts or a system of
14 recordkeeping by the taxpayer that consistently results in an
15 inaccurate reporting of tax liability.

16 F. If any part of any deficiency is due to fraud with intent to
17 evade tax, then fifty percent (50%) of the total amount of the
18 deficiency, in addition to such deficiency, including interest as
19 herein provided, shall be added, collected and paid.

20 G. All penalties or interest imposed by this title, or any
21 state tax law, shall be recoverable by the Tax Commission as a part
22 of the tax with respect to which they are imposed, the penalties
23 bearing interest as provided in this section for the tax, and all
24 penalties and interest shall be apportioned as provided for the

1 appportionment of the tax on which such penalties or interest are
2 collected.

3 H. 1. Whenever an income tax refund is not paid to the
4 taxpayer within ninety (90) days after the return is filed or due,
5 whichever is later, with all documents as required by the Tax
6 Commission, entitling the taxpayer to a refund, then the Tax
7 Commission shall pay interest on the refund, at ~~the same rate~~
8 ~~specified for interest on delinquent tax payments~~ a rate per month
9 equal to the New York Federal Reserve Bank prime rate as listed in
10 the first edition of the Wall Street Journal published on the first
11 business day in the immediately preceding January. The payment of
12 interest on refunds provided for by this section shall apply to tax
13 year 1987 and subsequent tax years. The Tax Commission shall not be
14 required to pay interest on an income tax refund which is applied,
15 in whole or in part, to a prior year tax liability pursuant to
16 Section 2385.17 of this title or upon an income tax refund applied,
17 in whole or in part, to satisfy a debt owed to the Internal Revenue
18 Service of the United States or to a state agency, including the
19 Oklahoma Tax Commission, as provided by Section 205.2 of this title.

20 ~~2. For tax returns filed after January 1, 2004, and before~~
21 ~~January 2, 2010, whenever an income tax refund is not paid to the~~
22 ~~taxpayer within the following number of days after the income tax~~
23 ~~return is filed with all documents as required by the Tax Commission~~
24 ~~or after the income tax return is due, whichever is later, entitling~~

1 ~~the taxpayer to a refund, then the Tax Commission shall pay interest~~
2 ~~on the refund at the same rate specified for interest on delinquent~~
3 ~~tax payments:~~

4 a. ~~for returns filed electronically, thirty (30) days,~~
5 ~~and~~

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

7 3. For tax returns filed after January 1, 2010, whenever an
8 income tax refund is not paid to the taxpayer within the following
9 number of days after the income tax return is filed with all
10 documents as required by the Tax Commission entitling the taxpayer
11 to a refund, then the Tax Commission shall pay interest on the
12 refund at ~~the same rate specified for interest on delinquent tax~~
13 ~~payments~~ a rate per month equal to the New York Federal Reserve Bank
14 prime rate as listed in the first edition of the Wall Street Journal
15 published on the first business day in the immediately preceding
16 January:

17 a. for returns filed electronically, forty-five (45)
18 days, and

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

20 SECTION 2. This act shall become effective January 1, 2021.

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