

1 **SENATE FLOOR VERSION**

2 February 9, 2021

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 240

6 By: Hall

7
8 An Act relating to income tax refunds; amending 68
9 O.S. 2011, Section 205.2, as last amended by Section
10 1, Chapter 280, O.S.L. 2015 (68 O.S. Supp. 2020,
11 Section 205.2), which relates to claims by specified
12 entities against income tax refunds; modifying
13 definition; adding definition; and declaring an
14 emergency.

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

16 SECTION 1. AMENDATORY 68 O.S. 2011, Section 205.2, as
17 last amended by Section 1, Chapter 280, O.S.L. 2015 (68 O.S. Supp.
18 2020, Section 205.2), is amended to read as follows:

19 Section 205.2. A. For purposes of this section, a "qualifying
20 entity" shall mean a:

21 1. State agency;

22 2. Municipal court;

23 3. District court;

24 4. Public housing authority operating pursuant to Section 1062
of Title 63 of the Oklahoma Statutes;

1 5. District attorney seeking to collect unpaid court-ordered
2 monetary obligations; ~~or~~

3 6. Municipal government, and authorities or trusts with the
4 municipal government as a beneficiary, seeking to recover expenses
5 related to emergency medical services. For the purposes of this
6 section, "emergency medical service" means a service whereby an
7 authorized agent or employee responds to a call for service with the
8 intent of providing care, services, transportation or treatment to
9 any person who may be injured or in need of medical assistance; or

10 7. The designee of an entity described in paragraphs 1 through
11 ~~5~~ 6 of this subsection.

12 B. A qualified entity seeking to collect a debt, unpaid fines
13 and cost or final judgment of at least Fifty Dollars (\$50.00) from
14 an individual who has filed a state income tax return may file a
15 claim with the Oklahoma Tax Commission requesting that the amount
16 owed to the qualified entity be deducted from any state income tax
17 refund due to that individual. The claim shall be filed
18 electronically in a form prescribed by the Tax Commission and shall
19 contain information necessary to identify the person owing the debt,
20 including the full name and Social Security number of the debtor.

21 1. Upon receiving a claim from a qualified entity, the Tax
22 Commission shall deduct the claim amount, plus collection expenses
23 as provided in this section, from the tax refund due to the debtor
24 and transfer the amount to the qualified entity. Provided, the Tax

1 Commission need not report available funds of less than Fifty
2 Dollars (\$50.00).

3 2. The qualified entity shall send notice to the debtor by
4 regular mail at the last-known address of the debtor as shown by the
5 records of the Tax Commission when seeking to collect a debt not
6 reduced to final judgment. The qualified entity shall send notice
7 to the judgment debtor or municipal court defendant by first-class
8 mail at the last-known address of the judgment debtor or municipal
9 court defendant as shown by the records of the Tax Commission when
10 seeking to collect a final judgment or unpaid municipal fines and
11 cost. The Tax Commission shall provide in an agreed electronic
12 format to the Department of Human Services the amount withheld by
13 the Tax Commission, the home address and the Social Security number
14 of the taxpayer. The notice shall state:

- 15 a. that a claim has been filed with the Tax Commission
16 for any portion of the tax refund due to the debtor or
17 municipal court defendant which would satisfy the
18 debt, unpaid municipal fines and cost, or final
19 judgment in full or in part,
20 b. the basis for the claim,
21 c. that the Tax Commission has deducted an amount from
22 the refund and remitted it to such qualified entity,
23 d. that the debtor or municipal court defendant has the
24 right to contest the claim by sending a written

1 request to the qualified entity for a hearing to
2 protest the claim, and if the debtor or municipal
3 court defendant fails to apply for a hearing within
4 sixty (60) days after the date of the mailing of the
5 notice, the debtor or municipal court defendant shall
6 be deemed to have waived his or her opportunity to
7 contest the claim. Provided, if the claim was filed
8 by the Department of Human Services, the notice shall
9 state that the debtor must contest the claim by
10 sending a written request to the Department within
11 thirty (30) days after the date of the mailing of the
12 notice, and

13 e. that a collection expense of five percent (5%) of the
14 gross proceeds owed to the qualified entity has been
15 charged to the debtor or municipal court defendant and
16 withheld from the refund.

17 3. If the qualified entity determines that a refund is due to
18 the taxpayer, the qualified entity shall reimburse the amount
19 claimed plus the five-percent collection expense to the taxpayer.
20 The qualified entity may request reimbursement of the two-percent
21 collection expense retained by the Tax Commission. Such request
22 must be made within ninety (90) days of reimbursement to the
23 taxpayer. If timely requested, the Tax Commission shall make such
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1 reimbursement to the qualified entity within ninety (90) days of the
2 request.

3 4. In the case of a joint return, the notice shall state:

4 a. the name of any taxpayer named in the return against
5 whom no debt, no unpaid fines and cost, or final
6 judgment is claimed,

7 b. the fact that a debt, unpaid municipal fines and cost,
8 or final judgment is not claimed against the taxpayer,

9 c. the fact that the taxpayer is entitled to receive a
10 refund if it is due regardless of the debt, municipal
11 fines and cost, or final judgment asserted against the
12 debtor or municipal court defendant,

13 d. that in order to obtain the refund due, the taxpayer
14 must apply, in writing, for a hearing with the
15 qualified entity named in the notice within sixty (60)
16 days after the date of the mailing of the notice.

17 Provided, if the claim was filed by the Department of
18 Human Services, the notice shall state that the
19 taxpayer must apply, in writing, for a hearing with
20 the Department within thirty (30) days after the date
21 of the mailing of the notice, and

22 e. if the taxpayer against whom no debt, no unpaid
23 municipal fines and cost, or final judgment is claimed
24 fails to apply in writing for a hearing within sixty

1 (60) days after the mailing of the notice, the
2 taxpayer shall have waived his or her right to a
3 refund. Provided, if the claim was filed by the
4 Department of Human Services, the notice shall state
5 that if the taxpayer fails to apply in writing for a
6 hearing with the Department within thirty (30) days
7 after the date of the mailing of the notice, the
8 taxpayer shall have waived his or her right to a
9 refund.

10 C. If the qualified entity asserting the claim receives a
11 written request for a hearing from the debtor or taxpayer against
12 whom no debt, no municipal fines and cost, or final judgment is
13 claimed, the qualified entity shall grant a hearing according to the
14 provisions of the Administrative Procedures Act. It shall be
15 determined at the hearing whether the claimed sum is correct or
16 whether an adjustment to the claim shall be made. Pending final
17 determination at the hearing of the validity of the debt, unpaid
18 fines and cost, or final judgment asserted by the qualified entity,
19 no action shall be taken in furtherance of the collection of the
20 debt, unpaid fines and cost, or final judgment. Appeals from
21 actions taken at the hearing shall be in accordance with the
22 provisions of the Administrative Procedures Act.

23 D. Upon final determination at a hearing, as provided for in
24 subsection C of this section, of the amount of the debt, unpaid

1 fines and cost, or final judgment, or upon failure of the debtor or
2 taxpayer against whom no debt, no unpaid fines and cost, or final
3 judgment is claimed to request such a hearing, the qualified entity
4 shall apply the amount of the claim to the debt owed. Any amounts
5 held by the qualified entity in excess of the final determination of
6 the debt and collection expense shall be refunded by the qualified
7 entity to the taxpayer. However, if the tax refund due is
8 inadequate to pay the collection expense and debt, unpaid fines and
9 cost, or final judgment, the balance due the qualified entity shall
10 be a continuing debt or final judgment until paid in full.

11 E. Upon receipt of a claim as provided in subsection A of this
12 section, the Tax Commission shall:

13 1. Deduct from the refund five percent (5%) of the gross
14 proceeds owed to the qualified entity, and distribute it by
15 retaining two percent (2%) and transferring three percent (3%) to
16 the qualified entity, as an expense of collection. The two percent
17 (2%) retained by the Tax Commission shall be deposited in the
18 Oklahoma Tax Commission Fund;

19 2. Transfer the amount of the claimed debt, unpaid fines and
20 cost, or final judgment or so much thereof as is available to the
21 qualified entity;

22 3. Notify the debtor in writing as to how the refund was
23 applied; and
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1 4. Refund to the debtor any balance remaining after deducting
2 the collection expense and debt, unpaid fines and cost, or final
3 judgment.

4 F. The Tax Commission shall deduct from any state tax refund
5 due to a taxpayer the amount of delinquent state tax and penalty and
6 interest thereon, which such taxpayer owes pursuant to any state tax
7 law prior to payment of such refund.

8 G. The Tax Commission shall have first priority over all other
9 qualified entities, when the Tax Commission is collecting a debt,
10 municipal court fines and cost, or final judgment pursuant to the
11 provisions of this section. Subsequent to the Tax Commission
12 priority, a claim filed by the Department of Human Services for the
13 collection of child support and spousal support shall have priority
14 over all other claims filed pursuant to this section. Priority in
15 multiple claims by other qualified entities pursuant to the
16 provisions of this section shall be in the order in time, in which
17 the Tax Commission receives the claim from the qualified entities
18 required by the provisions of subsection B of this section.

19 H. The Tax Commission shall prescribe or approve forms and
20 promulgate rules and regulations for implementing the provisions of
21 this section.

22 I. The information obtained by a qualified entity from the Tax
23 Commission pursuant to the provisions of this section shall be used
24 only to aid in collection of the debt, unpaid fines and cost, or

1 final judgment owed to the qualified entity. Disclosure of the
2 information for any other purpose shall constitute a misdemeanor.
3 Any employee of a qualified entity or person convicted of violating
4 this provision shall be subject to a fine not exceeding One Thousand
5 Dollars (\$1,000.00) or imprisonment in the county jail for a term
6 not exceeding one (1) year, or both fine and imprisonment and, if
7 still employed by the qualified entity, shall be dismissed from
8 employment.

9 J. The Tax Commission may employ the procedures provided by
10 this section in order to collect a debt owed to the Internal Revenue
11 Service if the Internal Revenue Service requires such procedure as a
12 condition to providing information to the Commission concerning
13 federal income tax.

14 K. The provisions of this section shall not apply to claims
15 filed under the provisions of Section 2906 or Section 5011 of this
16 title.

17 SECTION 2. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
22 February 9, 2021 - DO PASS AS AMENDED
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