

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 601

By: Rader of the Senate

and

Pfeiffer of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to income tax; amending 68 O.S. 2011,
12 Section 217, as last amended by Section 1, Chapter
13 28, O.S.L. 2016 and 2368, as last amended by Section
14 7, Chapter 201, O.S.L. 2019 (68 O.S. Supp.2020,
15 Sections 217 and 2368), which relate to interest
16 accrual and due dates of certain reports or returns;
17 modifying provision related to accrual of interest;
18 modifying provisions related to due date of tax
19 returns; providing for emergency declaration by the
20 Governor or by the Internal Revenue Service; amending
21 68 O.S. 2011, Section 2385.13, which relates to
22 withholding; modifying period of underpayment for
23 corporations; providing an effective date; and
24 declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 217, as last
amended by Section 1, Chapter 28, O.S.L. 2016 (68 O.S. Supp. 2020,
Section 217), is amended to read as follows:

1 Section 217. A. If any amount of tax imposed or levied by any
2 state tax law, or any part of such amount, is not paid before such
3 tax becomes delinquent, there shall be collected on the total
4 delinquent tax interest at the rate of one and one-quarter percent
5 (1 1/4%) per month from the date of the delinquency until paid.

6 B. Interest upon any amount of state tax determined as a
7 deficiency, under the provisions of Section 221 of this title, shall
8 be assessed at the same time as the deficiency and shall be paid
9 upon notice and demand of the Oklahoma Tax Commission at the rate of
10 one and one-quarter percent (1 1/4%) per month from the date
11 prescribed in the state tax law levying such tax for the payment
12 thereof to the date the deficiency is assessed.

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

22 D. If any tax due under any state tax law other than those
23 specified in subsection C of this section, or any part thereof, is
24 not paid within thirty (30) days after such tax becomes delinquent a

1 penalty of ten percent (10%) on the total amount of tax due and
2 delinquent shall be added thereto, collected and paid. However, the
3 Tax Commission shall not collect the penalty assessed if the
4 taxpayer remits the tax and interest within sixty (60) days of the
5 mailing of a proposed assessment or voluntarily pays the tax upon
6 the filing of an amended return.

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

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

24

1 G. All penalties or interest imposed by this title, or any
2 state tax law, shall be recoverable by the Tax Commission as a part
3 of the tax with respect to which they are imposed, the penalties
4 bearing interest as provided in this section for the tax, and all
5 penalties and interest shall be apportioned as provided for the
6 apportionment of the tax on which such penalties or interest are
7 collected.

8 H. 1. Whenever an income tax refund is not paid to the
9 taxpayer within ninety (90) days after the return is filed or due,
10 whichever is later, with all documents as required by the Tax
11 Commission, entitling the taxpayer to a refund, then the Tax
12 Commission shall pay interest on the refund, at the same rate
13 specified for interest on delinquent tax payments. The payment of
14 interest on refunds provided for by this section shall apply to tax
15 year 1987 and subsequent tax years. The Tax Commission shall not be
16 required to pay interest on an income tax refund which is applied,
17 in whole or in part, to a prior year tax liability pursuant to
18 Section 2385.17 of this title or upon an income tax refund applied,
19 in whole or in part, to satisfy a debt owed to the Internal Revenue
20 Service of the United States or to a state agency, including the
21 Oklahoma Tax Commission, as provided by Section 205.2 of this title.

22 2. For tax returns filed after January 1, 2004, and before
23 January 2, 2010, whenever an income tax refund is not paid to the
24 taxpayer within the following number of days after the income tax

1 return is filed with all documents as required by the Tax Commission
2 or after the income tax return is due, whichever is later, entitling
3 the taxpayer to a refund, then the Tax Commission shall pay interest
4 on the refund at the same rate specified for interest on delinquent
5 tax payments:

6 a. for returns filed electronically, thirty (30) days,
7 and

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

9 3. For tax returns filed after January 1, 2010, whenever an
10 income tax refund is not paid to the taxpayer within the following
11 number of days after the income tax 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:

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

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

19 SECTION 2. AMENDATORY 68 O.S. 2011, Section 2368, as
20 last amended by Section 7, Chapter 201, O.S.L. 2019 (68 O.S. Supp.
21 2020, Section 2368), is amended to read as follows:

22 Section 2368. A. For tax years ending before January 1, 2017,
23 the following individuals shall each make a return stating
24 specifically the taxable income and, where necessary, the adjusted

1 gross income and the adjustments provided in Section 2351 et seq. of
2 this title to arrive at Oklahoma taxable income and, where
3 necessary, Oklahoma adjusted gross income:

4 1. Every resident individual having a gross income, or gross
5 receipts, for the taxable year in an amount sufficient to require
6 the filing of a federal income tax return, if single, or if married
7 and not living with husband or wife; and

8 2. Except as otherwise provided for in the Pass-Through Entity
9 Tax Equity Act of 2019, every resident individual having a gross
10 income, or gross receipts, for the taxable year in an amount
11 sufficient to require the filing of a federal income tax return, if
12 married and living with husband or wife.

13 Provided however, every resident individual who does not meet
14 the requirements sufficient to file a federal return, but has
15 Oklahoma withholding, may file a claim for refund for all Oklahoma
16 income taxes withheld and shall not be subject to the provisions of
17 Section 2358 of this title; and

18 3. Every nonresident individual having Oklahoma gross income
19 for the taxable year of One Thousand Dollars (\$1,000.00) or more.

20 B. If a husband and wife, living together, have an aggregate
21 gross income or gross receipts, for such year, in an amount
22 sufficient to require the filing of a federal income tax return:

23 1. Each shall make a return; or
24

1 2. The income of each shall be included in a single joint
2 return, in which case the tax shall be computed on the aggregate net
3 income.

4 C. 1. For tax years beginning on or after January 1, 2017,
5 every resident individual whose gross income from both within and
6 outside of Oklahoma exceeds the sum of the standard deduction and
7 personal exemption allowed in Section 2358 of this title shall file
8 an Oklahoma income tax return. Resident individuals not required to
9 file a federal income tax return must attach a completed federal
10 income tax return to the Oklahoma income tax return to show how
11 adjusted gross income and deductions were determined, if their gross
12 income is more than their adjusted gross income. The Oklahoma
13 income tax return must show the taxable income and, where necessary,
14 the adjusted gross income and modifications required by Section 2351
15 et seq. of this title, and any other information the Tax Commission
16 may require.

17 2. Except as otherwise provided for in the Pass-Through Entity
18 Tax Equity Act of 2019, every nonresident individual having Oklahoma
19 gross income for the taxable year of One Thousand Dollars
20 (\$1,000.00) or more shall file an Oklahoma income tax return.

21 D. If an individual is unable to make his or her own return,
22 the return shall be made by a duly authorized agent or by the
23 guardian or other person charged with the care of the person or
24 property of such individual.

1 E. Every partnership shall make a return for each taxable year,
2 stating the taxable income and the adjustments to arrive at Oklahoma
3 income. The Oklahoma return shall include a schedule showing the
4 distribution to partners of the various items of income as per the
5 federal return and the adjustments required by Section 2351 et seq.
6 of this title for Oklahoma. The return shall be signed by one of
7 the partners. Except for partnerships making an election pursuant
8 to the provisions of the Pass-Through Entity Tax Equity Act of 2019,
9 if a partnership has elected pursuant to the provisions of Section
10 761 of the Internal Revenue Code, or any provision comparable
11 thereto, not to file partnership income tax returns, that
12 partnership shall not be required to file an Oklahoma partnership
13 return. The Oklahoma Tax Commission shall promulgate rules for
14 purposes of partnership returns when multiple partners would
15 otherwise be required to file a nonresident return. The rules shall
16 provide a specific number of partners in a partnership above which a
17 composite return may be filed. The return shall be in such form as
18 prescribed by the Tax Commission.

19 F. Every corporation shall make a return for each taxable year
20 stating the taxable income and the adjustments provided in Section
21 2351 et seq. of this title to arrive at Oklahoma taxable income. In
22 addition, corporations electing subchapter S treatment pursuant to
23 the Internal Revenue Code and Section 2351 et seq. of this title,
24 shall include a schedule showing the distribution to shareholders of

1 the various items of income as per the federal return and the
2 adjustments for Oklahoma. All corporation returns shall be signed
3 by the president, vice president, or other principal officer and the
4 corporate seal impressed. In cases where receivers, trustees in
5 bankruptcy, or assignees are operating the property or business of
6 corporations, such receivers, trustees, or assignees shall make a
7 return for such corporations in the same manner and form as
8 corporations are required to make returns. Any tax due on the basis
9 of such returns made by receivers, trustees, or assignees shall be
10 collected in the same manner as if collected from the corporations
11 of whose business or property they have custody and control.

12 G. Every resident estate and trust shall make a return for each
13 taxable year stating the taxable income and the adjustments to
14 arrive at Oklahoma taxable income. Every nonresident estate or
15 trust having Oklahoma taxable income as provided in Section 2362 of
16 this title shall make a return for each taxable year stating the
17 taxable income and the adjustments to arrive at Oklahoma taxable
18 income. The Oklahoma return shall include a schedule showing the
19 distribution to beneficiaries, if any, of the various items of
20 income as per the federal return and the adjustments for Oklahoma.
21 The fiduciary shall be responsible for making the return and the
22 return shall be signed by the fiduciary, or by one fiduciary if
23 there is more than one. The Tax Commission shall promulgate rules
24 for purposes of estate and trust returns when multiple returns would

1 otherwise be required of nonresident beneficiaries of estates or
2 trusts. The return shall be in such form as prescribed by the Tax
3 Commission.

4 H. 1. All individual returns, except individual returns filed
5 electronically, made on the basis of the calendar year shall be due
6 on or before the fifteenth day of April following the close of the
7 taxable year. Provided, if the Internal Revenue Code provides for a
8 later due date for returns of individuals, the Tax Commission shall
9 accept returns filed by individuals by such date and such returns
10 shall be considered as timely filed.

11 2. All individual returns filed electronically, made on the
12 basis of the calendar year, shall be due on or before the twentieth
13 day of April following the close of the taxable year.

14 3. All individual returns made on the basis of a fiscal year
15 shall be due on or before the fifteenth day of the fourth month
16 following the close of the fiscal year.

17 4. For tax years beginning before January 1, 2016, calendar
18 year corporation returns shall be due on or before the fifteenth day
19 of March following the close of the taxable year. For tax years
20 beginning on or after January 1, 2016, calendar year corporation
21 returns shall be due no later than thirty (30) days after the due
22 date established under the Internal Revenue Code.

23 5. For tax years beginning before January 1, 2016, fiscal year
24 corporation returns shall be due on or before the fifteenth day of

1 the third month following the close of the fiscal year. For tax
2 years beginning on or after January 1, 2016, fiscal year corporation
3 returns shall be due no later than thirty (30) days after the due
4 date established under the Internal Revenue Code.

5 6. For tax years beginning before January 1, 2016, partnership
6 returns shall be due on or before the fifteenth day of April
7 following the close of the taxable year. For tax years beginning on
8 or after January 1, 2016, partnership returns shall be due no later
9 than thirty (30) days after the due date established under the
10 Internal Revenue Code.

11 7. All estate and trust returns made on the basis of the
12 calendar year shall be due on or before the fifteenth day of April
13 following the close of the taxable year. All estate and trust
14 returns made on the basis of a fiscal year shall be due on or before
15 the fifteenth day of the fourth month following the close of the
16 fiscal year.

17 8. In the case of complete liquidation, or the dissolution, of
18 a corporation the return of such corporation shall be made on or
19 before the fifteenth day of the fourth month following the month in
20 which the corporation is completely liquidated. A corporation which
21 has terminated its business activities, satisfied or made provision
22 for all of its liabilities or has distributed all of its assets,
23 even though not formally dissolved under state law, is deemed to
24 have completely liquidated for purposes of this subsection.

1 9. The Tax Commission may also provide a later due date for
2 returns of individuals, calendar year corporations, fiscal year
3 corporations, partnership returns, estate and trust returns, or
4 estimated tax payments as provided in Section 2385.9 of this title
5 if a state of emergency is declared by the Governor or upon
6 declaration by the Internal Revenue Service to postpone certain tax
7 filing and tax payment deadlines in disaster areas.

8 I. Returns by individuals, fiduciaries, partnerships,
9 corporations or any other person or entity required, or that may
10 hereafter be required to file a return, shall contain or be verified
11 by a written declaration that such return is made under the
12 penalties of perjury and the fact that any individual's name is
13 signed to a filed return shall be prima facie evidence for all
14 purposes that the return was actually signed by that individual.
15 Provided, the Tax Commission shall promulgate rules to provide
16 procedures for verification of signatures on returns which are filed
17 electronically.

18 J. Every return required by Section 2351 et seq. of this title
19 shall be in such form as the Tax Commission may, from time to time,
20 prescribe. Each return shall be filed with the Tax Commission and
21 forms shall be furnished by the Tax Commission on application
22 therefor, but failure to secure or receive the form of a return
23 prescribed shall not relieve any taxpayer from the obligation of
24 making and filing any return herein required.

1 K. For tax years ending after January 1, 2017, if a taxpayer
2 elects to make installment payments of tax due pursuant to the
3 provisions of subsection (h) of Section 965 of the Internal Revenue
4 Code, 26 U.S.C., Section 965, such election may also apply to the
5 payment of Oklahoma income tax, attributable to the income upon
6 which such installment payments are based.

7 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2385.13, is
8 amended to read as follows:

9 Section 2385.13 A. In the case of any underpayment of the
10 estimated tax payment required in Section 2385.9 of this title,
11 there shall be added to the amount of the underpayment interest
12 thereon at an annual rate of twenty percent (20%) for the period of
13 the underpayment.

14 B. As used in subsection A of this section, the amount of the
15 underpayment shall be the excess of the required installment over
16 the amount paid on or before the due date of the installment. The
17 period of underpayment shall run from the due date of the required
18 installment to the earlier of the fifteenth day of the fourth month,
19 or for corporations, ~~the fifteenth day of the third month~~ thirty
20 (30) days after the due date for returns established under the
21 Internal Revenue Code, following the close of the taxable year or
22 the date on which the required installment is paid.

23 C. No addition to tax shall be imposed under subsection A of
24 this section if the tax shown on the return for the taxable year is

1 less than One Thousand Dollars (\$1,000.00) or if the taxpayer was an
2 Oklahoma resident throughout the preceding taxable year of twelve
3 (12) months and did not have any liability for tax for the preceding
4 taxable year.

5 SECTION 4. Section 3 of this act shall become effective
6 November 1, 2021.

7 SECTION 5. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
13 04/15/2021 - DO PASS, As Amended.

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