

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3136

By: Kendrix

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2021, Sections 217 and 2385.13, which relate to
9 tax interest rates; modifying interest rate;
10 clarifying application of interest rate change;
11 providing for noncodification; and providing an
12 effective date.

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

13 SECTION 1. AMENDATORY 68 O.S. 2021, Section 217, is
14 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 ~~rate of one and one-quarter percent~~
19 ~~(1 1/4%) per month~~ quarterly rate calculated using Section 6621 of
20 Title 26 of the United States Code from the date of the delinquency
21 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 ~~rate of~~
2 ~~one and one-quarter percent (1 1/4%) per month~~ quarterly rate
3 calculated using Section 6621 of Title 26 of the United States Code
4 from the date prescribed in the state tax law levying such tax for
5 the payment thereof to the date the deficiency is assessed.

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

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

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

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

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

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

15 2. For tax returns filed after January 1, 2004, and before
16 January 2, 2010, whenever an income tax refund is not paid to the
17 taxpayer within the following number of days after the income tax
18 return is filed with all documents as required by the Tax Commission
19 or after the income tax return is due, whichever is later, entitling
20 the taxpayer to a refund, then the Tax Commission shall pay interest
21 on the refund at the same rate specified for interest on delinquent
22 tax payments:

23 a. for returns filed electronically, thirty (30) days,
24 and

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

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

9 a. for returns filed electronically, forty-five (45)
10 days, and

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

12 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2385.13, is
13 amended to read as follows:

14 Section 2385.13 A. In the case of any underpayment of the
15 estimated tax payment required in Section 2385.9 of this title,
16 there shall be added to the amount of the underpayment interest
17 thereon at ~~an annual rate of twenty percent (20%)~~ a quarterly rate
18 calculated using Section 6621 of Title 26 the United States Code for
19 the period of the underpayment.

20 B. As used in subsection A of this section, the amount of the
21 underpayment shall be the excess of the required installment over
22 the amount paid on or before the due date of the installment. The
23 period of underpayment shall run from the due date of the required
24 installment to the earlier of the fifteenth day of the fourth month,

1 or for corporations, thirty (30) days after the due date for returns
2 established under the Internal Revenue Code, following the close of
3 the taxable year or the date on which the required installment is
4 paid.

5 C. No addition to tax shall be imposed under subsection A of
6 this section if the tax shown on the return for the taxable year is
7 less than One Thousand Dollars (\$1,000.00) or if the taxpayer was an
8 Oklahoma resident throughout the preceding taxable year of twelve
9 (12) months and did not have any liability for tax for the preceding
10 taxable year.

11 SECTION 3. NEW LAW A new section of law not to be
12 codified in the Oklahoma Statutes reads as follows:

13 The amended interest rates provided in this act shall apply to
14 all delinquencies occurring on or after the effective date and shall
15 apply to any delinquent account in existence as of the effective
16 date of this act.

17 SECTION 4. This act shall become effective November 1, 2022.

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