

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 602

By: Rader

AS INTRODUCED

An Act relating to tax returns; amending 68 O.S. 2021, Sections 2373 and 2375, which relate to payment of refunds, extensions, and delinquency and deficiency of payments; requiring certain claims be made in the form prescribed by the Oklahoma Tax Commission; limiting claims made to within a period of certain date; prohibiting refund for claims made after certain period; providing exception; modifying limitation on certain amount of refund to taxes paid in certain preceding period; deleting requirement that certain information filed constitutes a claim; prohibiting application of limitation to certain claims filed; modifying date requiring taxpayer to remit income tax due; excluding extensions from date taxes become delinquent; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2373, is amended to read as follows:

Section 2373. A. Any claim for refund filed pursuant to this section must be made on a return, in the form prescribed by the Oklahoma Tax Commission.

B. Any claim for refund of an overpayment of any tax imposed by Section 2355 of this title must be made within three (3) years from

1 the due date of the return, including the period of any extension of
2 time for filing a return, or two (2) years from the payment of the
3 tax liability, whichever period expires later, or, if no return was
4 filed by the taxpayer, within two (2) years from the time the tax
5 was paid.

6 C. Except as provided in subsection H of Section 2375 of this
7 title, no refund shall be allowed or made after the expiration of
8 the period of limitation prescribed in subsection B of this section
9 for the filing of a claim for refund. If a claim for refund is
10 filed during the period prescribed in subsection B of this section,
11 the amount of the refund, if any, shall not exceed the amount of tax
12 paid within the period, immediately preceding the filing of the
13 claim, equal to three (3) years plus the period of any extension of
14 time for filing a return. If the claim was not filed within the
15 three-year period prescribed in subsection B of this section, the
16 refund shall not exceed the portion of the tax paid during the two
17 (2) years immediately preceding the filing of the claim.

18 D. If, upon any revision or adjustment, including overpayment
19 or illegal payment on account of income derived from tax-exempt
20 Indian land, any refund is found to be due any taxpayer, it shall be
21 paid out of the "Income Tax Withholding Refund Account", created by
22 Section 2385.16 of this title, in the same manner as refunds are
23 paid pursuant to such section. ~~The information filed, reflecting~~
24 ~~the revision or adjustment, shall constitute the claim for refund.~~

1 E. ~~Except as provided in subsection H of Section 2375 of this~~
2 ~~title, the amount of the refund shall not exceed the portion of the~~
3 ~~tax paid during the three (3) years immediately preceding the filing~~
4 ~~of the claim, or, if no claim was filed, then during the three (3)~~
5 ~~years immediately preceding the allowance of the refund. However,~~
6 ~~this~~ The three-year limitation set forth in subsection C of this
7 section shall not apply to the amount of refunds payable upon claims
8 filed by members of federally recognized Indian tribes or the United
9 States on behalf of its Indian wards or former Indian wards, to
10 recover taxes illegally collected from tax-exempt lands. In the
11 case of any refund to a member of a federally recognized Indian
12 tribe or to the United States on behalf of its Indian wards or
13 former Indian wards, to recover taxes illegally collected on bonus
14 payments from oil and gas leases located on tax-exempt Indian lands
15 pursuant to this section, the Tax Commission shall pay interest on
16 all refunds issued after January 1, 1996, at the rate of six percent
17 (6%) per annum from the date of payment by the taxpayer to the date
18 of the refund.

19 F. In cases where the Tax Commission and the taxpayer have
20 signed a consent, as provided by law, extending the period during
21 which the tax may be assessed, the period during which the taxpayer
22 may file a claim for refund or during which an allowance for a
23 refund may be made shall be automatically extended to the final date
24 fixed by such consent plus thirty (30) days.

1 G. The Oklahoma Tax Commission may authorize the use of direct
2 deposit in lieu of refund checks for electronically filed income tax
3 returns.

4 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2375, is
5 amended to read as follows:

6 Section 2375. A. ~~At the time of transmitting the return~~
7 ~~required hereunder to the Oklahoma Tax Commission~~ On the original
8 due date of the return, not including any extensions, the taxpayer
9 shall remit ~~therewith~~ to the Tax Commission the amount of tax due
10 under the applicable provisions of Section 2351 et seq. of this
11 title. Failure to pay such tax on or before the date the return is
12 due, not including any extensions, shall cause the tax to become
13 delinquent. If the return is filed electronically, the amount of
14 the tax due pursuant to the provisions of this article shall be due
15 on or before the twentieth day of April following the close of the
16 taxable year regardless of when the return is electronically filed.
17 The tax shall be deemed delinquent if unpaid after the twentieth day
18 of April if the return is electronically filed. Provided, if the
19 Internal Revenue Code provides for a later due date for returns of
20 individuals, the Tax Commission shall accept payments made with
21 returns filed by individuals by such date and such payments shall be
22 considered as timely paid.

23 B. If any tax due under Section 2351 et seq. of this title,
24 except a deficiency determined under Section 221 of this title, is

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

8 C. If any part of deficiency, arbitrary, or jeopardy assessment
9 made by the Tax Commission is based upon or occasioned by the
10 refusal of any taxpayer to file with the Tax Commission any return
11 as required by Section 2351 et seq. of this title, 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 registered letter
14 with a return receipt attached, the Tax Commission may assess and
15 collect, as a penalty, twenty-five percent (25%) of the amount of
16 the assessment. In the exercise of the authority granted by
17 subsection C of Section 223 and Section 224 of this title, the Tax
18 Commission shall assess the tax as an estimated tax on the basis of
19 its own determination of the Oklahoma taxable income of the
20 taxpayer, to be adjusted if and when Oklahoma taxable income is
21 ascertained under the provisions of Section 2351 et seq. of this
22 title.

23 D. If any part of any deficiency was due to negligence or
24 intentional disregard, without the intent to defraud, then ten

1 percent (10%) of the total amount of the deficiency, in addition to
2 such deficiency, including interest as authorized by law, shall be
3 added, collected, and paid.

4 E. If any part of any deficiency was due to fraud with intent
5 to evade tax, then fifty percent (50%) of the total amount of the
6 deficiency, in addition to such deficiency, including interest as
7 herein provided, shall be added, collected, and paid.

8 F. The provisions in this section for penalties shall supersede
9 all other provisions for penalties on income taxes. The provisions
10 in this section for penalties shall supersede the provisions in the
11 Uniform Tax Procedure Code, Section 201 et seq. of this title, only
12 to the extent of conflict between such provisions and the penalty
13 provisions in this section.

14 G. All taxes, penalties, and interest levied under Section 2351
15 et seq. of this title must be paid to the Tax Commission at Oklahoma
16 City, in the form or remittance required by and payable to it.

17 H. 1. The period of time prescribed in Section 223 of this
18 title, in which the procedures for the assessment of income tax may
19 be commenced by the Tax Commission, shall be tolled and extended
20 until the amount of taxable income for any year of a taxpayer under
21 the Internal Revenue Code has been finally determined under
22 applicable federal law and for the additional period of time
23 hereinafter provided in this subsection.
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1 2. If, in such final determination, the amount of taxable
2 income for any year of a taxpayer under the Internal Revenue Code is
3 changed or corrected from the amounts included in the federal return
4 of the taxpayer for such year and such change or correction affects
5 the Oklahoma taxable income of the taxpayer for such year, the
6 taxpayer, within one (1) year after such final determination of the
7 corrected taxable income, shall file an amended return under Section
8 2351 et seq. of this title reporting the corrected Oklahoma taxable
9 income, and the Tax Commission shall make assessment or refund
10 within two (2) years from the date the return required by this
11 paragraph is filed and not thereafter, unless a waiver is agreed to
12 and signed by the Tax Commission and the taxpayer.

13 3. In the event of failure by a taxpayer to comply with the
14 provisions of paragraph 2 of this subsection, the statute of
15 limitations shall be tolled for a period of time equal to the time
16 between the date the amended return under this subsection is
17 required until such return is actually furnished.

18 4. In administering the provisions of this subsection, the Tax
19 Commission shall have the authority to audit each and every item of
20 income, deduction, credit, or any other matter related to the return
21 where such items or matters relate to allocation or apportionment
22 between ~~the State of Oklahoma~~ this state and some other state or the
23 federal government even if such items or matters were not affected
24 by revisions made in such final determination. Where such items or

1 matters do not relate to allocation or apportionment between ~~the~~
2 ~~State of Oklahoma~~ this state and some other state or the federal
3 government, the Tax Commission shall be bound by the revisions made
4 in such final determination.

5 5. The provisions of this subsection shall be effective on
6 September 1, 1993, and except in the case of tax years which are the
7 subject of closing, settlement, or resolution agreements entered
8 into by taxpayers and the Tax Commission, keep open all tax years
9 beginning after June 30, 1988, and all tax years beginning on or
10 before June 30, 1988, for which extensions of the statute of
11 limitations have been executed by the taxpayer, but only to the
12 extent such extensions remain open on the date of enactment hereof.

13 SECTION 3. This act shall become effective November 1, 2023.

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