



OSCPA/Oklahoma Tax Commission Meeting – Questions/Comments January 29, 2025

Statute of Limitation on Tax Collections – Legal/ITA

- What does the OTC consider a statute of limitation on collecting tax debt?
- Some taxpayers are receiving notices dating back as far as 1993.
- The notices show tax being paid and interest and penalty being owed even though the taxpayer paid timely.
 - **Generally, the OTC has three years to issue an assessment against a taxpayer for additional tax, but there are certain statutory exceptions; the three-year statute of limitations does not apply when the taxpayer fails to file a return or report. Once a liability has been established, there is no time limitation on the OTC's right to collect that liability.**
- In this instance, what is the process for obtaining a penalty and interest waiver?
 - **A penalty and interest waiver can be submitted through OKTAP or by mailing it to the OTC. To qualify for a waiver, the taxpayer must have been in compliance with the OTC for the past five years.**

OTC Letters and Communications – BTS/ITA/Legal

- Taxpayers have received letters stating their franchise tax returns were not filed, and that they are in non-compliance and will face penalties. In these instances, the franchise tax return was filed as part of a combined Form 512-S. This is the last year franchise tax returns will be filed. Is there a reason the letters are being sent?
 - **If the taxpayer has a Form 200-F (Franchise Election Form) on file with the OTC electing to file a combined return, these letters should not be issued. However, if the Form 200-F was not filed with the OTC or was not filed correctly, letters may still be sent, even if the franchise information is included in the corporate return.**

- Taxpayers have received notice that the OTC recalculated the penalties and interest on their tax return. The notice indicates the refund was seized and applied to taxes owed despite no taxes being owed. In the past, the letters stated the OTC recalculated the taxpayer's return and had a difference from what was filed. The new wording is causing taxpayers to panic. Is there a reason for the new wording?
 - **The wording is currently being updated and is expected to be corrected before the distribution of letters for the upcoming tax season.**
- Tax professionals have reported receiving numerous letters adjusting the overpayment of taxes by an amount "Total Offset" with no explanation of the offset. Where can we find the explanation of the offset?
 - **As before, these are not offsets but adjustments to the refund amount for the same tax year. The wording of the letter is being corrected.**
- Does the OTC process withholdings and payments before notices are sent?
 - **The process ensures that withholding (W/H) payments and returns are processed before notices are generated. If taxpayers provide specific examples where this may not have occurred, we can investigate further.**
- Regarding due process, are the 60-day assessment letters sent certified as evidence the taxpayer received notice of government action?
 - **Assessment letters are not sent via certified mail; Oklahoma statute simply requires an assessment letter to be mailed to the taxpayer's last-known address. Certain notices are required by statute to be sent by certified mail, and the OTC complies with all such statutory requirements.**
- For amended returns the OTC is requiring proof that the IRS has accepted the federal amended return. The IRS has not processed the amended return. The OTC sent a letter that there would be no adjustment to the original return, because the IRS had not processed the amended return. How does the taxpayer get the OK amended return processed once the IRS processes the federal amended return?
 - **The taxpayer must provide documentation from the IRS confirming that their amended return was accepted and processed. Acceptable documentation includes an IRS acceptance letter, an IRS account transcript, or a refund check issued by the U.S. Treasury. Once the documentation is received, we will review and process the amended return.**

- Is the OTC experiencing delays in processing amended return refunds? A taxpayer received confirmation from the OTC that a return refund was issued, but it's been several months with no refund received.
 - **We prioritize processing current-year returns first; however, at this time, we have not observed any significant delays in handling amended returns. If taxpayers provide specific examples where this may have occurred, we can investigate further.**

Depreciation - ITA

- A tax professional followed the instructions on how to report the bonus depreciation difference between federal and state returns by filing documentation via electronic file, not a PDF attachment. The request was denied due to lack of documentation. How should the instructions for Form 511 be followed?
 - **If you are submitting documents through a software vendor, we recommend also mailing or sending the documents directly to the Oklahoma Tax Commission (OTC). There have been instances where attachments submitted through software vendors did not reach us. If taxpayers provide specific examples where this may have occurred, we can investigate further.**

Wire Denied - ITA

- What is the process for wire payments? A tax professional made a timely (within two days of the due date) wire transfer on a return with a valid extension, but the wire transfer was denied. The OTC subsequently generated a notice for penalty and interest. Does the OTC accept wire transfers sent within two days of the due date?
 - **Yes, we accept wire transfers. We would need to investigate further to determine why the wire transfer was denied.**

PDF Attachments - ITA

- When a PDF is attached to an e-filed Oklahoma return for required items, the taxpayer either receives a letter asking for the supporting documentation, gets a bill denying the deduction for income, or is denied the credit even though the documentation was attached to the return as a PDF. Will the OTC eventually be able to process or see the PDFs that are attached to the tax returns?
 - **We continue to actively work on this each tax year.**

OTC Office Locations – Legal/Administration

- Are there plans to open a Tulsa office in order for taxpayers to have a means of access to address Oklahoma tax matters? This would be an avenue to reduce the frustrations in attempting to resolve Oklahoma tax issues.
 - **Although the OTC does maintain an office in Tulsa, it is not intended to be a customer intake facility and therefore access to general public services is significantly restricted. Employees in the Tulsa office are part of the General Counsel’s Office. While staff can provide very limited assistance to taxpayers, they are unable to offer services such as walk-in assistance with sales tax permits, exemptions, or the collection of remitted taxes. Full-service appointments and walk-in assistance are available exclusively at the Taxpayer Resource Center, located at 300 N. Broadway Ave., Oklahoma City, OK, 73102**

Mining - Audit

- Does Oklahoma law give OTC the power to use income tax records to mine for other potential unpaid tax such as using form 4797 federal data to look for unpaid sales tax?
 - **The audit division of the Oklahoma Tax Commission (OTC) operates a 4797 audit program, which compares the sale of tangible personal property reported on the Federal Form 4797 to the total sales reported on the OTC sales tax account. This comparison helps identify areas of noncompliance and underreporting of sales across all industries. Oklahoma statutes, 68 O.S. §§ 206 and 221, grant OTC specific authority to examine records during our investigation.**

POA - Legal

- Are there plans for technological improvements?
 - **We are evaluating the process for electronically submitting POAs, and plan to implement upgrades to the system within the next year.**
- Do taxpayers have electronic access to their transcripts and payment history?
 - **Yes, taxpayers can create an OKTAP account, and that information is available.**
- Will the OTC allow a POA to be faxed, mailed, or emailed?
 - **Currently, POAs should be submitted by mail or via OkTAP. OTC is developing a process to submit POAs via fax or email; as soon as the process is fully developed, changes will be reflected on POA forms and will be communicated to OSCPA.**

- Is it possible for the tax professional to receive a copy of all correspondence after notice of representation is received?
 - **The OTC is in the process of implementing system upgrades that will allow POAs to receive copies of correspondence. Assuming no additional roadblocks, this project is anticipated to be completed in early 2026.**

Grocery Sales Tax - BTS

- The sales tax on groceries changed in September 2024. OKTAP seems to be creating a credit amount, however, because the summary page shows a lower tax amount which does not match the tax due in the sales tax report. Is this a common issue?
 - **We are not aware of an issue like this. If an example is provided, we can research.**

Private School/Homeschool Credit – Tax Policy

- For the OK Parental Choice Tax Credit, there is no Spring 2025 application.
- What happens if a student’s first semester will be Spring 2025? How can the parents apply for the credit?
 - **Taxpayers cannot apply for Spring 2025 but may apply for the 2025-2026 school year. Applications open on February 18, 2025.**
- What is the “closing period” for priority consideration?
 - **The priority period is 60 days. Those qualified applicants with a Federal AGI of \$150,000 or less that apply within the first 60 days from when the application opens will be “first in line” to receive the credit.**
- The OK Parental Choice Tax Credit excludes the tax credit payments from offsets for delinquent tax liability and debts owed to public entities. What about federal income tax delinquencies?
 - **The statute does not allow PCTC payments to be offset in order to collect a debt owed to the IRS.**
- The OK Parental Choice Tax Credit is exempt for state income tax purposes, but not federal. What happens when the tax credit causes the Federal AGI to exceed the income cap? Is there any reprieve for those families?
 - **Taxpayers will need to consult their tax preparers for advice related to their federal return.**

PTE – Tax Policy

- Is the PTE election made on the current year's return? For example, can you elect in or out for calendar 2024 on the 2024 tax return? What about a PTE election made on the 2023 tax return filed after the effective date of HB 3559?
 - **Starting with tax year 2024, the election may be made by timely filing OTC Form 586 with the tax return. Timely filing includes valid extensions of time to file the Oklahoma tax return. OTC Form 586 can continue to be filed as a stand-alone election at any time during the preceding tax year or 2 months and 15 days after the beginning of the tax year.**
 - **Electing PTE Revocations cannot be made as part of the filing of a tax return**
 - **Revocations made within 2 months and 15 days of the beginning of the electing PTE's taxable year will be effective the first day of such taxable year.**
 - **Revocations made during the electing PTE's taxable year but after such fifteenth day will be effective on the first day of the following taxable year.**
 - **The election could not be made on the 2023 return.**

Aerospace Credit – Tax Policy

- HB 4072 amended the aerospace employee tax credit to allow a credit recipient to change qualified employers during the 5-year credit period. Will OTC be allowing a credit if employees change employers prior to the passage of the bill? The proposed rule appears to disallow.
 - **The forms have been adjusted and the administrative rules are currently going through the amendment process to align with the statutory change.**
 - **In order to determine whether a specific taxpayer is eligible for the credit, we would have to know the specific facts of that taxpayer's situation.**

CPE/Education - Audit

- Can the OTC have a presentation to the OSCP members that discusses the areas where the OTC sees the majority of errors?
 - **We have provided presentations and resources regarding sales tax and withholding tax and we would be happy to continue to work with the OSCP to provide information.**
 - **Doug Linehan, Executive Director, presented at a CPE session in September 2024**
 - **Elizabeth Field, General Counsel, and Taylor Ferguson, Deputy General Counsel, presented on the OTC Protest Process in July 2024**
 - **We provided an article for the 2024 September/October Issue of CPA Focus entitled "Common Oklahoma Withholding Issues"**

- Are there opportunities for education on sales tax?
 - We have several documents on our website that focus on the different types of sales tax audits we perform and what information we look for. Those resources can be found at <https://oklahoma.gov/tax/reporting-resources/publications.html> under the Informational Materials tab
 - We provided an article for the 2023 September/October Issue of CPA Focus entitled “Is Your Business at Risk?” and focused on common sales tax issues found in audits.
 - We would be happy to continue to work with the OSCPA to provide information and resources regarding sales tax audits.

Commercial Trailer - Administration

Can I pull my commercial trailer with my non-commercial vehicle? I have previously been told YES by the OTC and DPS but statutory guidance is unclear.

- The OTC is no longer responsible for administration of laws related to motor vehicles, commercial trailers, etc.; you may wish to contact Service Oklahoma with any questions.

Quarterly Tax Estimates - ITA

- In 2024, a large percentage of 2023 4th quarter estimates paid in January 2024 were applied to the 2024 tax year leading to deficiency notices and additional correspondence to resolve. Has this been resolved for the 2024 tax year?
 - Yes, it has.