## TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 55. MOTOR FUEL

## **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking.

## **PROPOSED RULES:**

Chapter 55. Motor Fuel [AMENDED]

## SUMMARY:

Amendments to Section 710:55-4-114 add a motor fuel tax exemption for ambulance districts pursuant to the changes passed in HB 3031 (2024).

Section 710:55-7-2 is amended to update the name of the respective division.

#### **AUTHORITY**:

68 O.S. § 203; Oklahoma Tax Commission

# **COMMENT PERIOD:**

Persons wishing to present their views in writing may do so by 4:30 p.m., January 2, 2025, at the following address: Oklahoma Tax Commission, Tax Policy and Research Division, Oklahoma City, Oklahoma 73194, Attention: Corey Jager, or by email to OTCadminrules@tax.ok.gov.

# **PUBLIC HEARING:**

A public hearing is scheduled for 9 a.m., on Thursday, January 2, 2025, at the Oklahoma Tax Commission, in Conference Room 6, located on the 28th Floor, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date by calling (405) 521-3133. Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

To facilitate entry into the building, those wishing to appear should contact the Tax Policy and Research Division at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. To gain access to the hearing, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification.

## **REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

## **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the below listed contact person. The proposed rules may also be viewed on the agency's website at tax.ok.gov.

## **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement is available from the below listed contact person. The Rule Impact Statement may also be viewed on the agency's website at tax.ok.gov.

# **CONTACT PERSON:**

Corey Jager, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194; Telephone number: (405) 522-4870; Email: corey.jager@tax.ok.gov

# **CHAPTER 55. MOTOR FUEL**

# SUBCHAPTER 4. MOTOR FUEL TAX

## PART 3. EXEMPTIONS AND REFUNDS

#### 710:55-4-114. Procedure for perfecting and claiming exemption for sales to certain exempt entities

(a) **Exempt entities.** An exemption may be claimed for motor fuel:

(1) Sold to the United States or any agency or instrumentality thereof;

(2) Used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children;

(3) Purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training;

(4) Used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state, when leased or owned and being operated for the sole benefit of a county, city, town, a volunteer fire department with a state certification and rating, rural electric cooperatives, rural water and sewer districts, rural ambulance service districts, <u>ambulance districts established under Section 9C of Article X of the Oklahoma Constitution,</u> or federally recognized Indian tribes; or

(5) Used by the Oklahoma Space Industry Development Authority or any spaceport user, as defined in 68 O.S. § 500.10(17).

(b) **Perfection by ultimate vendor.** The exemption for sales of motor fuel for use by the exempt entities described in subsection (a) shall be perfected by the ultimate vendor, by obtaining an exemption certificate signed by the purchasing entity. Upon obtaining the certificate, the ultimate vendor shall complete the sale to the purchasing entity without requiring payment of the motor fuel tax. Upon completion of the sale, the ultimate vendor shall execute an ultimate vendor certificate (on forms provided by the

Commission) to its supplier. The ultimate vendor certificate shall include the identity of the purchasing entity.

(c) **Supplier to claim credit.** The supplier shall be eligible to claim a credit against the tax liability on the ensuing monthly report of the supplier after having made reasonable commercial inquiry into the accuracy of the information in the certificate. For purposes of this Section, "**reasonable commercial inquiry**" means that the supplier shall verify:

(1) That the ultimate vendor certificate is completed in its entirety, including the identity of the purchasing entity; and

(2) That the purchasing entity is exempt from the payment of motor fuel tax pursuant to paragraphs 5, 6, 7, or 17 of Section 500.10 of Title 68 of the Oklahoma Statutes.

# SUBCHAPTER 7. SPECIAL FUELS TAX

#### 710:55-7-2. Requirements to obtain special fuel user license

In addition to the application required to be filed with the Oklahoma Tax Commission, the applicant for a special fuel user license must file **a bond or other acceptable security**, with the Tax Commission. [See: 68 O.S. §709(a)]

(1) The bond shall be made payable to the State of Oklahoma.

(2) A **bond or other acceptable security** shall be required for each application for license. The bond will not be in excess of Twenty-five Thousand (\$25,000) Dollars.

(3) The amount of the bond required shall be:

(A) One Thousand (\$1,000) Dollars, in relation to a special fuel user's license; One Thousand (\$1,000) Dollars in relation to a special fuel dealer's license; **or**,

(B) Three (3) times the monthly tax liability (or estimated monthly tax liability in the case of a new applicant) if the taxpayer is on a monthly reporting basis.

(4) The amount of the bond required under 68 O.S. §709(b) and (3) of this subsection shall be determined by the Motor Fuel Section of the Motor Vehicle DivisionBusiness Tax Division of the Oklahoma Tax Commission. The amount of the bond may be increased or reduced at any time.

(5) Bonds to be given shall be continuous, rather than on an annual basis.

# TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 55. MOTOR FUEL

# **RULE IMPACT STATEMENT**

Pursuant to 75 O.S. §303(D), the Oklahoma Tax Commission provides the following rule impact statement with regard to proposed rule changes to Chapter 55 of Title 710 of the Oklahoma Administrative Code.

**DESCRIPTION:** Amendments to Section 710:55-4-114 add a motor fuel tax exemption for ambulance districts pursuant to the changes passed in HB 3031 (2024).

Section 710:55-7-2 is amended to update the name of the respective division.

**CLASSES AFFECTED:** Taxpayers purchasing motor fuel for ambulance districts may be affected.

**CLASSES BENEFITED:** Affected taxpayers may benefit from conforming current rules with recently enacted legislation.

**PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS:** The promulgation of these rules are not intended or expected to have any economic impact separate and apart from the underlying legislation.

**LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** The rulemaking action does not levy, implement, or increase an existing fee.

**PROBABLE COSTS TO THE AGENCY:** Costs to promulgate and enforce the proposed rules will be funded through normal agency budget. No measurable impact on State revenues is anticipated.

**ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The promulgation of this rule is not intended or expected to have any economic impact separate and apart from the underlying legislation.

**SMALL BUSINESS IMPACT:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rules will have no adverse impact upon Small Business.

**ALTERNATIVE METHODS AND COSTS OF COMPLIANCE:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the

purpose of the proposed rules. No formalized compliance cost minimization measures have been pursued.

**DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rules at this time.

**DETERMINATION OF THE DETRIMENTAL EFFECT WILL THERE BE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE RULE CHANGE IS NOT IMPLEMENTED:** The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rules at this time.

DATE PREPARED: November 18, 2024