

TITLE 710. OKLAHOMA TAX COMMISSION

CHAPTER 1. ADMINISTRATIVE OPERATIONS

[Authority: 3A O.S., § 724.2; 68 O.S., § 118(B), 203, 205(C)(7), 205.2(H), 212, 216.3, 216.4, 218(A), 219.1(H), 221.1, 236, 1406.1, and 1407.4(D); 75 O.S., §§ 302, 305 and 307]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:1-1-1. Purpose

(a) The provisions of this Chapter have been adopted for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature for the general maintenance and welfare of the State of Oklahoma.

(b) In particular, the purpose of Subchapter 1 is to set out a general description of the Oklahoma Tax Commission, review the functions performed by the Commission, and briefly present an overview of the statutory role of the Commission, its organization and structure.

(c) Any and all provisions in Title 710 of the Oklahoma Administrative Code which require actions to be taken by the Commission shall be contingent on availability of funding and should there be a reduction or elimination thereof, the Commission may reduce or suspend performance of the obligation until such time as funding is provided or secured.

[Source: Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-1-2. General description of the Oklahoma Tax Commission

(a) **History.** The Oklahoma Tax Commission, from its inception in 1931, has been responsible for the collection and administration of various tax sources and the apportionment of these revenues to state funds which provide monies for education, transportation, recreation, social welfare, and the myriad of other services provided for the citizens of Oklahoma.

(b) **Composition.** The Tax Commission is comprised of three members (Chairman, Vice Chairman, and Secretary-Member) who are appointed by the Governor with the advice and consent of the State Senate and serve terms of six years each. The Commission appoints an administrator who is the administrative officer of the Tax Commission and manages the activities of its employees. The title of the administrative officer shall be Executive Director.

(c) **Duties.** It is the Commission's responsibility to supervise the administration and enforcement of state tax laws and the collection of a majority of all state-levied taxes and fees. The Commission directs the collection and distribution of the tax and license sources under its administration and, by statute, is responsible for apportioning such tax revenues to the various state funds. In addition, the Oklahoma Tax Commission allocates directly to local units of government certain state-collected levies earmarked to counties, school districts and municipalities. On a contract basis with individual municipalities and counties, the Tax Commission is involved with the administration, collection and distribution of city and county sales taxes and use taxes.

(d) **Areas of administration.** The public may make submissions and requests to the Commission in the following areas of taxation and licensing:

- (1) Admission Tax
- (2) Aircraft Excise Tax
- (3) Aircraft License Fee
- (4) Alcoholic Beverage Tax
- (5) Amateur Radio Operators License Plate
- (6) Bingo Tax
- (7) Charity Games Tax
- (8) Cigarette Tax & License
- (9) Coin Device Decals and Distributor Permits
- (10) Compressed Natural Gas
- (11) Computer Enhancement Fund
- (12) Controlled Dangerous Substances Tax Stamps
- (13) County Clerk Fees
- (14) Diesel Fuel Excise Tax
- (15) Documentary Stamp Tax
- (16) Driving Record Fee
- (17) Energy Resources Assessment
- (18) Farm Implement Tax Stamp
- (19) Franchise Tax
- (20) Freight Car Tax
- (21) Gasoline Excise Tax
- (22) Gross Production Tax
- (23) Horsetrack Gaming Fees
- (24) Income Tax
- (25) Income Tax - Check-Offs
- (26) Liquefied Natural Gas
- (27) Medical Marijuana Excise Tax
- (28) Mixed Beverage Gross Receipts Tax
- (29) Motor Vehicle Collections
- (30) Motor Vehicle Rental Tax
- (31) Multiple Injury Trust Fund
- (32) Nascar License Plates
- (33) 911 Wireless Telephone Fee
- (34) Occupational Health & Safety Tax
- (35) Oklahoma Tax Commission Reimbursement
- (36) Organ Donor Program
- (37) Pari-Mutuel Tax
- (38) Petroleum Excise Tax
- (39) Pick Six/Seven Tax
- (40) Printing and Revolving Account
- (41) Professional Sporting Event Ticket Fees
- (42) Public Services Penalties
- (43) Registered Agents Fee
- (44) Rural Electric Co-op Tax & License
- (45) Sales Tax
- (46) Sales Tax Permits
- (47) Sales Tax Vendor's Lists
- (48) Special Fuel Decals
- (49) Special Fuel Use Tax
- (50) Special License Plates
- (51) Special Printing Account

- (52) Storage Leakage Fund
- (53) Sustaining Energy Resources Fee
- (54) Telecommunications for the Hearing-Impaired Surcharge
- (55) Tobacco Products Tax & License
- (56) Transport & Reclaimer License Fees
- (57) Tribal Cigarette & Tobacco Payments
- (58) Unclassified Receipts
- (59) Use Tax
- (60) Used Tire Recycling Fee
- (61) Vehicle Revenue Tax Stamps
- (62) Warrant Release Filing Fee
- (63) Wire Transmittal Fee
- (64) Workers' Compensation - Insurance Premium Tax
- (65) Workers' Compensation - Self-Insurance Guaranty Fund

(e) **Main offices.** The main offices of the Oklahoma Tax Commission are located at 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102 (405)521-3160.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 24 Ok Reg 1688, eff 6-11-07; Amended at 29 Ok Reg 684, eff 5-25-12; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-1-3. Statutory citation

Citations to statutes in this Title refer to the last codification of the statute, unless such reference results in a clearly erroneous construction, or where a provision expressly designates otherwise. Statutory references contained in emergency rules and in rules which are not yet finally adopted, but are currently within the promulgation process, will generally refer to the most recent codification.

SUBCHAPTER 3. PUBLIC POLICY

PART 1. GENERAL PROVISIONS

710:1-3-1. Purpose

The provisions of Subchapter 3 are intended to describe general, uniform policies which are applicable to all tax types, except where other policy is clearly indicated by statute, controlling case law, or separate, specific Code provision.

710:1-3-2. Required forms and where available

(a) The Oklahoma Tax Commission utilizes a wide variety of forms in the administration of the tax laws. Oklahoma tax forms may be accessed through the Tax Commission website at www.tax.ok.gov.

(b) The Tax Commission may require any person filing a report or return required by the provisions of any state tax law to file the report or return by electronic means or may allow, upon a written request, a taxpayer to file a return on paper that is required to be filed electronically. [68 O.S. § 203]

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 24 Ok Reg 1688, eff 6-11-07; Amended at 34 Ok Reg 2038, eff 9-11-17; Amended at 38 Ok Reg 1502, eff 9-1-21]

PART 3. TAXPAYER IDENTIFICATION

710:1-3-5. Intent of rule

The inclusion of Federal Employer's Identification or Social Security Account Numbers (or both) on filings with the Commission is solely for identification purposes.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-3-6. Use of Federal Employer Identification Numbers and other identification numbers mandatory

All returns, applications, and forms required to be filed with the Oklahoma Tax Commission (Commission) in the administration of this State's tax laws shall bear the **Federal Employer's Identification Number(s)**, the **Taxpayer Identification Number**, and/or other government issued identification number of the person, firm, or corporation filing the item and of all persons required by law or agency rule to be named or listed.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 26 Ok Reg 2320, eff 6-25-09; Amended at 27 Ok Reg 127, eff 10-1-9 (emergency); Amended at 27 Ok Reg 2272, eff 7-11-10; Amended at 32 Ok Reg 1330, eff 8-27-15]

710:1-3-7. Checks made payable to the Oklahoma Tax Commission; use of Federal Employer Identification Numbers, Social Security Numbers mandatory [REVOKED]

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Revoked at 32 Ok Reg 1330, eff 8-27-15]

710:1-3-8. Confidentiality of records

All Federal Employer's Identification and Social Security Account Numbers are deemed to be included in the confidential records of the Commission.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-3-9. [RESERVED]

710:1-3-10. [RESERVED]

710:1-3-11. [RESERVED]

710:1-3-12. [RESERVED]

710:1-3-13. [RESERVED]

710:1-3-14. [RESERVED]

710:1-3-15. Use of driver license number; exception

(a) All returns, applications, and forms required by the Oklahoma Vehicle Licensing and Registration Act shall bear the driver license number of the person submitting the return, application, or form.

(b) All checks made payable to the Oklahoma Tax Commission for fees required under the Oklahoma Vehicle Licensing and Registration Act shall bear the driver license number of the person issuing or drawing the check, or of the person on whose behalf the check is written.

(c) Other current and valid identifier, acceptable by the receiving authority, may be submitted on the return, application, form, or check described in subsections (a) and (b) of this Section, if the person has no driver license. [See: 47 O.S. §1144]

[Source: Amended at 35 Ok Reg 2033, eff 9-14-18]

PART 5. FILING AND MAILING OF DOCUMENTS

710:1-3-30. Timely filing

(a) **General definition.** When the last date for filing any document or performing any act required by the Oklahoma Tax Commission falls on a day when the offices are not open for business, the filing of the document or performance of the act shall be considered **timely** if it is performed by the end of the next business day.

(b) **When filing is by mail, timely filing shall be defined as follows.** If any claim, statement, or other document required by law or agency rule to be filed within a prescribed period, or on or before a prescribed date, is delivered after the prescribed period or date by the United States Postal Service or other delivery service designated by OAC 710:1-3-33 to the Oklahoma Tax Commission, at 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102, the date of the United States postmark, stamped on the cover in which the claim, statement, or other document is mailed or the date recorded pursuant to OAC 710:1-3-33 by a designated delivery service shall be considered to be the date of delivery.

(c) **Application.** This provision shall apply:

- (1) Determined with regard to any extension of time granted for the filing;
- (2) Only if the postmark date or date recorded by a designated delivery service falls within the prescribed period, or on or before the prescribed date for filing the claim, statement, or other document; and,
- (3) Only if the claim, statement, or other document was, within the prescribed time, deposited in the mail in the United States or placed with a designated delivery service, in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, office, or officer with which the claim, statement, or other document is required to be filed.

[Source: Amended at 22 Ok Reg 1513, eff 6-11-05; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-3-31. Sender assumes risk of untimeliness of mail

(a) The sender who relies upon the applicability of the definition of **timely filing** in 710:1-3-30 by mailing a claim, statement, or other document, assumes the risk that the postmark will bear a date, on or before the last date or day, of the period prescribed for filing the document.

(b) If the postmark on the envelope or wrapper is not legible or the envelope is unavailable, the person who is required to file the document has the burden of proving when the postmark was made or when the claim, statement, or other document was placed for delivery with a designated delivery service. [See: OAC 710:1-3-33]

[Source: Amended at 22 Ok Reg 1513, eff 6-11-05]

710:1-3-32. Documentation to avoid risk of untimeliness

(a) If a document is sent by United States Registered Mail or by a delivery service designated in OAC 710:1-3-33, the date of registration of the document shall be treated as the postmark date.

(b) If a document is sent by United States Certified Mail or by a delivery service designated in OAC 710:1-3-33, and the sender's receipt is dated by the service's employee, the date on the receipt shall be treated as the postmark date of the document.

[Source: Amended at 22 Ok Reg 1513, eff 6-11-05]

710:1-3-33. Designated delivery service

- (a) For purposes of filing any document or performing any act required by the Oklahoma Tax Commission, in addition to the United States Postal Service (USPS), the Commission may designate delivery services that are substantially equivalent to USPS registered or certified mail.
- (b) To qualify as a designated delivery service, the service must:
- (1) Be available to the general public;
 - (3) Record electronically to its data base, kept in the regular course of business, the date on which the item was given to the service for delivery;
- or,
- (4) Mark on the cover of the item to be delivered, the date on which the item was given to the service for delivery.
- (c) The private delivery services set out in this subsection have been designated by the Tax Commission as meeting the required standards prescribed in (b) of this Section.
- (1) Airborne Express (Airborne)
 - (A) Overnight Air Express Service
 - (B) Next Afternoon Service
 - (C) Second Day Service
 - (2) DHL Worldwide Express
 - (A) DHL "Same Day" Service
 - (B) DHL USA Overnight
 - (3) Federal Express (FedEx)
 - (A) FedEx Priority Overnight
 - (B) FedEx Standard Overnight
 - (C) FedEx 2 Day
 - (D) FedEx International Priority
 - (E) FedEx International First
 - (4) United Parcel Service (UPS)
 - (A) UPS Next Day Air
 - (B) UPS Next Day Air Saver
 - (C) UPS 2nd Day Air
 - (D) UPS 2nd Day Air A.M.
- (d) Only the designated private delivery services and the types of services listed in (c) of this Section qualify for consideration under the "timely filing" provision in 68 O.S. § 221.1. The designated private delivery services listed in this Section are effective until the Commission amends the list.
- (e) The "timely filing" rule, *OAC* 710:1-3-30, does not apply if a taxpayer uses a business that contracts with a designated delivery service, but the business is not itself a designated delivery service.

[Source: Added at 22 Ok Reg 1513, eff 6-11-05]

PART 7. TAXPAYER PAYMENTS

710:1-3-40. Allocation of voluntary payments to delinquent tax, penalty, interest [REVOKED]

[Source: Revoked at 10 Ok Reg 3819, eff 7-12-93]

710:1-3-41. Taxpayer may request particular allocation [REVOKED]

[Source: Revoked at 10 Ok Reg 3819, eff 7-12-93]

710:1-3-42. Interest [REVOKED]

[Source: Revoked at 10 Ok Reg 3819, eff 7-12-93]

710:1-3-43. Effective date of this Part [REVOKED]

[Source: Revoked at 10 Ok Reg 3819, eff 7-12-93]

710:1-3-44. Payment of tax, penalty and interest under protest [REVOKED]

[Source: Revoked at 10 Ok Reg 3819, eff 7-12-93]

710:1-3-45. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Involuntary payment" means any payment received by the Commission as a result of or in connection with any distraint, levy, seizure, attachment or garnishment, or any other legal proceeding or administrative action wherein the Commission seeks to collect or enforce the collection of a tax liability or to file a claim therefor. Such proceedings and actions include, but are not limited to, bankruptcy proceedings, the filing and forwarding of tax warrants directing the levy and sale of property, and any administrative action or proceeding wherein the Commission proposes to revoke, cancel, suspend or deny any license, permit or privilege because of an outstanding tax liability. Payments made pursuant to an installment or "payout" agreement entered into as a result of or subsequent to the institution of any of the above collection measures are deemed involuntary payments.

"Liability period" means the reporting period of a delinquent tax or tax liability, or, in the case of tax liabilities determined as a deficiency, all reporting periods included in the assessment of such deficiency. For purposes of determining the earlier of two or more liability periods, the beginning date of each liability period is used.

"Partial payment" means any payment to or receipt by the Commission of an amount less than sufficient to pay in full all tax liabilities of the taxpayer.

"Tax liability" means delinquent taxes and tax amounts determined as a deficiency, and includes all penalties, interest, service charges and fees accrued and accruing in relation thereto.

"Voluntary payment" means a payment made prior to or in the absence of any legal proceeding or administrative action in or by which the Commission seeks to collect or enforce the collection of a tax liability. Payments made pursuant to an agreement voluntarily entered into between the taxpayer and the Commission prior to such legal proceeding or administrative action will continue to be deemed as voluntary payments only so long as the taxpayer remains in full compliance with the terms of such agreement.

[Source: Added at 10 Ok Reg 3819, eff 7-12-93]

710:1-3-46. Partial payment of tax liabilities; allocation to taxes, penalties, interest, service charges, and fees

(a) **Voluntary payments.** Voluntary partial payments of tax liabilities will be applied to such liabilities in the manner designated by the taxpayer, where the taxpayer provides specific written instructions for the application of such payments. If the taxpayer fails to give specific written instructions for the application of a voluntary partial payment, the Commission will allocate and apply such payment in the same manner as provided for involuntary payments.

(b) **Involuntary payments.** The taxpayer has no right to direct or designate the allocation or application of an involuntary payment. In all instances, the Commission will allocate and apply involuntary partial payments in the manner which, in the discretion of the Commission, will best serve the interests of the State. Generally, unless the Commission determines that a different allocation will better serve the State's interests, involuntary partial payments will be allocated and applied in the following manner:

- (1) First, to the tax portion of non-trust fund tax liabilities, beginning with the earliest such liability period, and then to the tax portion of each succeeding liability period until all non-trust fund taxes are paid;
- (2) Next, to the tax portion of all trust fund tax liabilities, beginning with the earliest such liability period, and then to the tax portion of each succeeding liability period until all trust fund taxes are paid;
- (3) Next, to the interest, penalties, service charges, and fees, in that order, associated with non-trust fund tax liabilities, beginning with the earliest such liability period, and then in the same order for each succeeding liability period(s) until all interest, penalties, service charges, and fees associated with non-trust fund tax liabilities have been paid;
- (4) Next, to the interest, penalties, service charges, and fees, in that order, associated with trust fund tax liabilities, beginning with the earliest such liability period, and then in the same order for each succeeding liability period(s) until all interest, penalties, service charges, and fees associated with trust fund tax liabilities have been paid.

[Source: Added at 10 Ok Reg 3819, eff 7-12-93; Amended at 12 Ok Reg 139, eff 9-29-94 (emergency); Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 22 Ok Reg 1513, eff 6-11-05]

710:1-3-47. Payment under protest

In any case where a taxpayer files a written protest to a proposed assessment as provided by 68 O.S. §221, the taxpayer may pay the tax amounts proposed to be assessed and designate such payment as being made under protest. Such payment will stop the accrual of interest on the amounts so paid. If the Commission sustains the protest, in whole or in part, the amount determined by the Commission not to be due shall be refunded to the taxpayer, without interest, except as otherwise provided by law.

[Source: Added at 10 Ok Reg 3819, eff 7-12-93]

710:1-3-48. Payment of taxes by credit card

(a) "**Nationally recognized**" credit card means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services or anything else of value on credit which is accepted by over one thousand merchants in this state. The Oklahoma Tax Commission shall determine which nationally recognized credit cards will be accepted for payment of taxes. Currently Discover, American Express, Visa and MasterCard are accepted.

- (b) Implementation of payment by credit card will be phased in over a period of time as determined by the Commission.
- (1) Initially, payment of taxes by credit card will only be allowed at the current designated receiving points or by designated agents.
 - (2) When tax return forms are modified to include credit card information in a designated area on the form, payment by this method will be accepted when the tax return document is submitted.
- (c) The Tax Commission will verify that sufficient credit is available before acceptance of credit card to insure that no loss of state revenue will occur by the use of such card.
- (1) If a taxpayer is at a designated receiving point and credit is not available, the taxpayer then has the opportunity to pay by other methods accepted by the Commission.
 - (2) If the taxpayer mails the credit card information with their return and credit is not available, the return will be handled as a document with no remittance and a bill will be forthcoming.
- (d) The Tax Commission may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such credit card.
- (e) Credit card payments should not be mixed with other type payments, i.e. checks, cash.
- (f) The Commission will contract a third party to process credit card transactions who will place monies received into the Commission's account with the State Treasurers Office and report such payments to the Commission.
- (g) Taxpayers wishing to pay by credit cards must be willing to submit normally required credit card information to the Commission. This includes, but is not limited to: card type (VISA, etc.), card number, card expiration date, and card holder name as shown. The Commission assumes no liability for unauthorized use of this information.

[Source: Revoked at 10 Ok Reg 3819, eff 7-12-93; Added at 11 Ok Reg 3465, eff 6-26-94; Amended at 34 Ok Reg 2038, eff 9-11-17]

PART 9. EXECUTION OF TAX WARRANTS

710:1-3-50. Purpose

The intent of this Part is to provide an efficient system for the collection of taxes evidenced by tax warrants and to provide for the prompt disbursement to sheriffs of fees and expenses authorized by law. [See: 68 O.S. §231.1]

710:1-3-51. Execution on tax warrant and collection of sheriff's penalty

The Sheriff shall execute all warrants as provided by law. All monies so collected shall be made payable to the Oklahoma Tax Commission. The Sheriff's office is entitled under the law to an amount of money equal to an additional penalty of Fifteen Dollars (\$15.00), or an amount equal to Ten Percent of the total amount of tax, penalty, and interest collected in the execution of a tax warrant, whichever amount is greater, but not to exceed \$200.00, to be paid to the County Sheriff's Office after collection of the amounts due by the Sheriff, Undersheriff, or Deputy Sheriff.

- (1) The penalty imposed shall not be assessed or collected more than once for the execution of a tax warrant in each county.

- (2) The penalties paid to the sheriff are to be used by the sheriff's department to increase efforts to locate tax debtors and their property, to execute upon tax warrants, and to collect delinquent taxes.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-3-52. Execution and collection duty; return of voucher

Tax warrants for delinquent tax, penalty and interest twill be issued by the Oklahoma Tax Commission. Once issued by the Commission, the warrants will be filed by the county clerk and forwarded to the county sheriff. The sheriff is to actively pursue collection of each warrant delivered.

710:1-3-53. County sheriff Collection duty

In execution of tax warrants, and to qualify for collection fee disbursement pursuant to this Rule, the county sheriff's activity shall include, but not be limited to: phone contacts, letters, and personal visits. The sheriff must be able to document the date and type of contact made for each tax warrant for which the sheriff is claiming a fee.

710:1-3-54. Release of tax warrants

A tax warrant issued by the Oklahoma Tax Commission shall only be released by the Commission, after a determination by the Income Tax Accounts Division of the Oklahoma Tax Commission that:

- (1) The tax, penalty and interest to date has been paid in full.
- (2) The penalty imposed by law and all other fees authorized by law have been paid in full.
- (3) Such release shall be processed under Commission procedures, after clearance by the Income Tax Accounts Division.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-3-55. Procedures for remittance and deposit of collections; apportionment; recordkeeping

- (a) All tax warrants collected upon by a county sheriff must be returned monthly, attached to a tax warrant summary sheet. Each tax warrant collection summary sheet must have a check attached for the total collected, including collection fee.
- (b) All collections shall be deposited within 48 hours of collection to a separate account in the county, maintained by each sheriff and used exclusively for these deposits.
- (c) Each month, the sheriff will forward a check, attached to a collection summary sheet, to the Commission.
- (d) The Commission shall process, account for and disburse the funds as provided by law. The checks transferred to the Commission shall be deposited in the Oklahoma Tax Commission Fund.
- (e) The sheriff's fee shall be apportioned and returned to the sheriff as soon as practicable after deposit and verification that payment of tax, penalty, interest and fees has been made in full.
- (f) Sheriffs shall maintain records of deposits made to the Oklahoma Tax Commission fund. Such records shall be kept on forms prescribed by the Commission and be submitted in the manner specified by the Commission for verification of disbursements.

710:1-3-56. Collection fee attaches to tax warrant

A sheriff's collection fee will attach to the tax warrants and accrue for payment on a case-by-case basis. If the taxpayer remits the face amount of the warrant directly to the Commission, the Commission will determine whether the collection fee has attached and either release the warrant, or request the sheriff to pursue additional collection efforts to collect the fee. Any discrepancy shall be resolved by the Commission, and will be final and binding on the sheriff and the taxpayer. If a sheriff is aggrieved, the sheriff may ask the Commission to adjust its determination.

710:1-3-57. Collection fee subject to audit

All sheriff's collection fees are subject to audit.

710:1-3-58. Time limit for collection and return of warrant

Sheriffs shall collect and return warrants assigned to them within 60 days after filing of the warrant.

710:1-3-59. Taxpayer bankruptcy

If a sheriff, during execution of a warrant, learns that the taxpayer has filed bankruptcy and has not yet been discharged, the sheriff shall write the bankruptcy case number on the warrant and return it to the Commission.

710:1-3-60. Verification of discrepancies

In some cases, the amount to be collected on a warrant will be less than the amount shown on the face of the warrant, due to partial payment or an intercepted refund claim. In these cases, the sheriff shall verify the correct amount due with the Warrant Office.

710:1-3-61. Validity of tax warrant

Any questions about the validity of a tax warrant, (i.e. wrong name, wrong business, incorrect address, etc.) should be referred to the Income Tax Accounts Division.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-3-62. Instructional material available to sheriffs

Each sheriff's office will be provided with a detailed instruction packet and forms approved and distributed by the Commission.

PART 11. PUBLIC RECORDS

710:1-3-70. Records in general

(a) **Confidentiality of records.** Generally, the law provides that the records and files of the Oklahoma Tax Commission are confidential except as specifically provided otherwise by statute. [See: 68 O.S. § 205]

(b) **Classes of exceptions to the general rule of non-disclosure.** Certain documents are available to the public by specific exception to the general law set out in (a) of this Section. In addition, some documents are considered public in nature, pursuant to the Open Records Act. [See: 68 O.S. §§ 205, 205.2, 205.5 and 205.6; 51 O.S. § 24A.4]

(c) **Records available under specific provisions of law.** By specific statutory mandate and by exceptions to the general rule of confidentiality set out in 68 O.S. § 205, there are a number of sources of information available to the public and maintained by the Commission.

(1) **List of income tax filers.** A list of persons who filed Oklahoma income tax returns is prepared annually and made available for inspection at the Taxpayer Resource Center, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, during normal business hours.

(2) **Register of tax warrants filed.** A register of current outstanding tax warrants issued is updated monthly and made available for inspection at the Taxpayer Resource Center, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, during normal business hours.

(3) **Oklahoma aircraft registry.** A list of aircraft registered with the state is maintained and available for public inspection at the Taxpayer Resource Center, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, during normal business hours.

(4) **Decedents' list.** A list of decedents within the state, county of probate, and probate number is maintained and available for public inspection at the Audit Services Division, 123 Robert S. Kerr Ave., Oklahoma City, Oklahoma, 73102 during normal business hours.

(5) **Permits, licenses, exemptions.** Information regarding the issuance or revocation of licenses and permits and documents evidencing exemption are available for most applicable tax types. The elements or items of information available regarding permits, licenses and exemptions may vary by tax type. In addition, the format in which a particular record is available may be limited to that normally used by the agency. Items of permit-related information may include permit number, permittee name, name of business, and business address. Inquiries should be made to the Business Tax Services Division.

(d) **Limited disclosure in some instances.** Some records and information from records maintained by the Commission may be accessible only by certain persons, or for certain limited uses. In these instances, the release of information must be one permissible by statute. The Commission may require that the request be written and may require supporting documentation or identification, if the release of information sought is one statutorily limited in scope.

(e) **Requesting records; fees.** Where a person desires the Commission to make photocopies of public records, the request should be made in writing, specifying the record requested. The Commission may collect a fee for the copying of records, as well as other fees required by statute, and may structure the manner of response to requests so as to protect the normal business of the agency from undue disruption or delay. [For specific fee information, see Appendix A of this Chapter, Schedule of Fees.]

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 25 Ok Reg 2027, eff 7-1-08; Amended at 35 Ok Reg 2033, eff 9-14-18; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-3-71. Rules of the Oklahoma Tax Commission

(a) **Rules described.** "Rules" of the Oklahoma Tax Commission are formal statements of policy which set out procedures to be followed in the administration of various tax levies and fees. Rules describe broad interpretations of the tax laws, often prescribe forms, and may set out informal and formal procedures for filing,

remitting, registering and objecting to the various taxing provisions. Rules may also prescribe procedures for the granting, denial, suspension, renewal, or revocation of various permits and licenses administered by the Commission. Rules are subject to the provisions of Article I of the Oklahoma Administrative Procedures Act (APA), in Title 75 of the Oklahoma Statutes and must be promulgated under the terms of the APA before they are considered effective. Rules which have been promulgated have the full force and effect of law and continue in effect until amended or revoked under APA provisions.

(b) **Availability.** Current rules, both permanent and emergency, of the Oklahoma Tax Commission are available on the Oklahoma Tax Commission website at www.tax.ok.gov or from the Taxpayer, Resource Center, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, during normal business hours.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 22 Ok Reg 1513, eff 6-11-05; Amended at 34 Ok Reg 2038, eff 9-11-17; Amended at 36 Ok Reg 1197, eff 8-11-19; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-3-72. Decisions of the Oklahoma Tax Commission

(a) **Decision defined.** A "**decision**" of the Oklahoma Tax Commission means a final determination in an adversarial hearing on an individual tax protest or claim, including a Commission order in writing which is made, entered, and mailed to a taxpayer pursuant to the provisions of the Uniform Tax Procedure Code (68 O.S. § 201, et seq.). Decisions initially rendered from individual tax hearings are considered confidential records. However, decisions from individual tax hearings are available to the public under the grant of authority set out in 68 O.S. § 221 and the mandate of Section 302(A)(4) of Title 75 of the Oklahoma Statutes (Administrative Procedures Act).

(b) **Confidentiality.** To protect the identity of individuals, the decisions of the Oklahoma Tax Commission available for examination by the public utilize fictitious names or have had names and identifying features removed, leaving intact the factual statement, the statement of applicable law, the findings of the Commission, and the disposition of the protest or claim.

(c) **Applicability.** Decisions of the Oklahoma Tax Commission may be broadly categorized into two groups: Precedential and Non-precedential. A Precedential decision is one in which the findings are applicable to a broad spectrum of taxpayers and in which the interpretation of law embodied in the holding may appropriately be relied upon prospectively by the Commission and by the public. A Non-precedential decision is generally one in which the rule of law expressed is unique to the fact situation of the particular case.

(d) **Availability.** Decisions are available from the Administrative Proceedings Section, 3700 North Classen Boulevard, Suite 260, Oklahoma City, Oklahoma, during normal business hours and may be accessed through the Tax Commission website at www.tax.ok.gov.

[Source: Amended at 9 Ok Reg 3015, eff 7-13-92; Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 22 Ok Reg 1513, eff 6-11-05; Amended at 24 Ok Reg 1688, eff 6-11-07; Amended at 36 Ok Reg 1197, eff 8-11-19]

710:1-3-73. Opinions and letter rulings

(a) **Opinions not issued by the Commission.** An "opinion" is a formal document, generally prepared by legal counsel, expressing conclusions that interpret or apply the law to a set of assumed facts. As so defined, the Oklahoma Tax Commission does not issue opinions. However, legal counsel may prepare such a document to advise the Commission or a taxing Division within the Commission.

(b) **"Opinion" defined.** Thus, an "opinion," with respect to the Oklahoma Tax Commission, means a written communication embodying formal legal advice, upon which the Commission may base, in whole or in part, administrative decisions, decisions in individual tax proceedings, or prospective policy decisions. Opinions, being advisory to the Commission, do not constitute authority by any party for challenging any matter pending before the Commission.

(c) **Opinion may impact policy, rulemaking.** To the degree that a policy of the Commission, based upon such a legal opinion, impacts broad segments of taxpayers and is to be given future effect by the Commission, such policy may be promulgated as a rule of the Commission.

(d) **Availability of opinions.** Such opinions as may be made available to the public, pursuant to the provisions of Section 302(A)(4) of Title 75, as further defined and limited by the terms of Section 24A.1, et seq. of Title 51, will be limited to those which are, or will be embodied in policy of the Commission.

(e) **"Letter ruling" described.** The Tax Policy and Research Division and the Office of the General Counsel may draft and issue letter rulings, which are informal written statements of policy or treatment of specific fact situations under Oklahoma tax law. Such a letter ruling may generally be relied upon only by the taxpayer to whom it is issued, provided that all facts have been accurately and completely stated, and that there has been no change in applicable law.

(f) **Requests for letter rulings.** Requests by individuals or groups of taxpayers for letter rulings will be honored by the Commission, at its discretion, and in consideration of the time and resources available to respond to such requests. Requests for letter rulings should be made to the Tax Policy and Research Division, Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, OK 73102.

(g) **Letter ruling may initiate rulemaking.** To the degree that a letter ruling impacts broad segments of taxpayers and is to be given future effect by the Commission, such letter ruling may become the basis for a rule of the Commission.

(h) **Availability of letter rulings.** Letter rulings may be viewed at the Taxpayer Resource Center, 123 Robert S. Kerr Ave, Oklahoma City, OK 73102, during normal business hours.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 26 Ok Reg 2320, eff 6-25-09; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-3-74. Public records available under other provisions of law [REVOKED]

[Source: Revoked at 10 Ok Reg 3819, eff 7-12-93]

710:1-3-75. Fees for copying, retrieval, reproduction, and certification of public documents [REVOKED]

[Source: Revoked at 10 Ok Reg 3819, eff 7-12-93]

PART 13. OTHER POLICY PROVISIONS

710:1-3-80. Procedures for partial release of tax warrant or lien

(a) Partial Release of a Tax Warrant or Lien may be issued under the following circumstances:

- (1) Where there is a short sale and the lien of an outstanding Tax Warrant is unenforceable or uncollectible due to the existence of a prior lien(s) held on the parcel of realty, and the amount of the outstanding prior lien(s) exceeds

the amount such property would bring at a sale of the property for fair market value;

(2) Where the lien of an outstanding Tax Warrant is unenforceable or uncollectible due to the existence of a prior outstanding mortgage lien(s) held by the requesting party on the parcel of realty, and the amount of the outstanding mortgage lien(s) exceeds the amount such property would bring at a foreclosure sale;

(3) Where a mortgage lien(s) has been foreclosed in an action in a District Court but where there has been a failure to name the State of Oklahoma ex rel, Oklahoma Tax Commission as a party defendant in the foreclosure action and there exists no likelihood of collection or enforceability of a Tax Warrant against a particular parcel of realty;

(4) Where the holder of a mortgage lien(s) has taken a deed in lieu of foreclosure and there exists no likelihood of collection or enforceability of a Tax Warrant against a particular parcel of realty;

(5) Where the applicant is not the taxpayer named in the Tax Warrant and acquired a parcel of realty encumbered by an Oklahoma Tax Commission tax lien, whether it be at a County Tax Resale or any other situation where title was passed from the taxpayer named in the Tax Warrant to the applicant without properly extinguishing the Tax Warrant;

(6) Where there exists no likelihood of collection or enforceability of a Tax Warrant against a particular parcel of realty because the applicant does not have enough equity in the property to satisfy the Tax Warrant in full; or

(7) Where the denial of the Partial Release would result in an undue expense or hardship on the requesting party.

(b) For purposes of this Section, under the situations described in (a) of this Section, **"adequate consideration"** for a Partial Release is defined as follows:

(1) In a situation described in (a)(1), (a)(2) or (a)(3) of this Section, payment of ten percent (10%) of the Tax Warrant inclusive of interest and penalty, provided such an amount is not less than Five Hundred Dollars (\$500.00).

(2) In a situation described in (a)(4) of this Section, payment of the principal tax liability on the Tax Warrant, provided such an amount is not less than Five Hundred Dollars (\$500.00).

(3) In a situation described in (a)(5) of this Section, payment of all of the net proceeds from the sale.

(4) Pursuant to 68 O.S. Section 214, a Tax Warrant may be released without the payment of any consideration only when the Tax Commission determines that the warrant, certificate or judgment is clouding the title of such property by reason of error in the description of properties or similarity of names.

(5) In any case where the Commission shall determine that the amount prescribed by (1) through (4) of this subsection shall be excessive or inadequate, then adequate consideration shall be such amount as the Commission shall prescribe.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 36 Ok Reg 1197, eff 8-11-19]

710:1-3-81. Irrevocable letter of credit in lieu of bond [REVOKED]

[Source: Revoked at 13 Ok Reg 3091, eff 7-11-96]

710:1-3-82. Calculation of amount of nonresident contractor bond to be posted

(a) Along with the notice of contract and a bond in the penal sum of three times the tax liability incurred or to be incurred by a nonresident contractor with a contract in excess of One Hundred Thousand Dollars (\$100,000.00), an estimation for the tax liabilities incurred or to be incurred is to be filed on a form or in a format as required by the Oklahoma Tax Commission, setting out the tax base and the estimated tax liability, to include, but not be limited to the following taxes, as applicable:

- (1) Ad valorem taxes
- (2) Aircraft excise taxes and registration fees
- (3) Employment security tax
- (4) Employee withholding tax
- (5) Franchise tax
- (6) Income tax
- (7) Motor fuel tax
- (8) Motor vehicle excise taxes and registration fees
- (9) Sales and use tax
- (10) Payments for worker's compensation coverage

(b) In the absence of the filing of the estimation of tax liability required above, it will be presumed that the bond required to be filed will be ten percent (10%) of the amount of the contract less the amount of any bonds posted by any subcontractors who are also nonresident contractors.

[Source: Added at 12 Ok Reg 2923, eff 7-14-95; Amended at 22 Ok Reg 1513, eff 6-11-05]

710:1-3-83. Increases in amount of nonresident contractor bond to be posted

If a nonresident contractor who has posted a bond in accordance with Rule 710:01-03-82, enters into other contracts to perform services or duties in this state, or if in the judgement of the Oklahoma Tax Commission the amount of tax liability incurred or to be incurred has increased from the amount used to compute the amount of the original bond, the bond shall be increased so that the total bond shall be equal to three times the increased tax liability. In the case of the nonresident contractor entering into one or more contracts subsequent to the posting of the original bond, but prior to the sending of a Notice of Completion of the original contract, the bond required shall be in an amount equal to three times the sum of the estimated tax liabilities for all contracts on which a Notice of Completion has not been filed.

[Source: Added at 10 Ok Reg 2923, eff 7-12-95]

SUBCHAPTER 5. PRACTICE AND PROCEDURE

PART 1. GENERAL PROVISIONS

710:1-5-1. Purpose

The provisions of Subchapter 5 have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§302, 305, and 307. The various procedural processes, both formal and informal, by which a party aggrieved by any action of the Commission in the performance of its functions may seek a remedy are described in Subchapter 5.

- (1) The provisions of Part 3 are intended to **describe** the various procedures, both formal and informal, by which a taxpayer may seek redress of a grievance or seek to have a particular suggestion or complaint

considered by the Commission, pursuant to the various remedial avenues provided by statute.

(2) The provisions of Part 5 of this Subchapter **prescribe** the formal Rules of Practice and Procedure before the Office of the Administrative Law Judges, particularly with respect to protests of tax assessments and protests of denials of claims for refunds of taxes paid.

(3) The provisions of Part 7 govern the procedures for the consideration and disposition of a request for an abatement or adjustment of an alleged erroneous tax assessment.

(4) Finally, Part 9 of this Subchapter addresses procedures which govern the administrative proceedings dealing with the granting, suspension, and revocation of various permits and licenses which fall within the administrative purview of the Commission.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 32 Ok Reg 1330, eff 8-27-15]

PART 3. DESCRIPTION OF ADMINISTRATIVE REVIEW AND HEARINGS

710:1-5-10. Tax protests and claims for refund

(a) A **protest** may be described as a formal, written challenge to a proposed tax assessment or to the denial of a claim for refund of taxes paid. The statutory requirements for perfecting a protest or claim for refund are governed, generally, by the provisions of the Uniform Tax Procedure Code (68 O.S. §§ 201 et seq.), except in the areas of Income Tax (Article 23 of Title 68 of the Oklahoma Statutes) and Estate Tax (Article 8 of Title 68 of the Oklahoma Statutes) which have additional, and in some instances, superseding, statutory requirements.

(b) There are several routes available, both formal and informal, to a taxpayer in objecting to an assessment. Prior to the filing of a protest, the issues may be resolved by further discussion with the assessing tax division. Challenged assessments or audits may be amended or adjusted by the tax Division involved, upon reasoned grounds and adequate documentation. Should issues remain unresolved after consulting with the assessing division, the taxpayer may file written protest with the taxing division. A protest must be "timely filed." That is, it must be filed on, or before, the statutory time provided for filing protests, to insure that the protestant-taxpayer preserves his legal rights to a full hearing of the matter and a route for appeal if the disposition of the protest is not resolved in his favor. In the absence of a formal written extension of time within which to file a protest, **proposed assessments which are not protested within the time prescribed by statute are considered final.** Any finally assessed tax in such a case which is paid to or collected by the Tax Commission is not subject to a claim for refund or hearing thereon, to the extent provided in 68 O.S. § 227(f). Thus, a taxpayer who receives a notice of proposed assessment of tax from the Tax Commission should not assume that it can be challenged later by way of a claim for refund, if a protest of the proposed assessment is not timely filed and the proposed assessment then becomes final. However, a taxpayer who fails to file a timely protest may, within one (1) year of the date the assessment becomes final, request the Tax Commission to adjust or abate the assessment pursuant to 68 O.S. § 221(e) and the provisions of Part 7 of this Subchapter.

(c) The following is a brief description of a typical protest that would take place within the framework of the Oklahoma Tax Commission administrative proceedings process.

(1) Initially, an audit is conducted by one of the various taxing Divisions of the Oklahoma Tax Commission pursuant to 68 O.S. § 221(a). Thereafter, a proposed assessment is issued to the taxpayer. If, in fact, the taxpayer disagrees with the proposed assessment, a protest may be filed, generally within sixty (60) days of the date of the assessment, pursuant to the provisions of 68 O.S. § 221(c).

(2) Except for the initial filing of a protest, which may be made with the taxing division, with the Office of the General Counsel, or with the office of the Administrative Law Judges, the office of the Administrative Law Judges serves as the "Court Clerk" for the administrative hearing process. The Administrative Law Judges are appointed by the Commissioners of the Oklahoma Tax Commission and act independently of the taxing Divisions and the Office of the General Counsel.

(3) Once a protest is received by the taxing Division, the Division will generally review the proposed assessment to determine whether further adjustments are appropriate. Additional discussion between the taxpayer and the Division may be requested in this regard. If issues still remain unresolved at the conclusion of this process, the protest is forwarded to the Administrative Law Judges' Office, where the protest is docketed and a Pre-Hearing Conference is scheduled between the taxpayer, the General Counsel's Office attorney who represents the taxing Division and an Administrative Law Judge.

(4) At this time, a case may be resolved through discussion and negotiation with the staff attorney and the protest or claim is formally withdrawn from the docket, at the request of the parties. This informal resolution may be described as either a withdrawn assessment or a withdrawn protest, depending upon the manner in which the issues were resolved.

(5) Generally, the manner in which a case is to be submitted is decided by the parties at the Pre-Hearing Conference. Other matters decided at this conference are the legal issues of the case and the manner of evidence or witnesses (or both) to be presented at any hearing. Taxpayers are urged to respond to letters; appear or make alternate arrangements at scheduled pre-hearing conferences and hearings; file required briefs or position letters in a timely fashion; and in all respects pursue their legal rights diligently.

(6) Following the Pre-Hearing Conference, and assuming the case is not resolved, it is set for hearing. The Administrative Law Judge will preside at the hearing, wherein testimony and exhibits are received and a record is made. After consideration of the merits, the Administrative Law Judge will issue Findings, Conclusions and Recommendations.

(7) Following the issuance of the Findings by the Administrative Law Judge, the Commissioners may either adopt the Finding, or modify it, in part, or in whole. If the taxpayer has requested an en banc hearing, the Commission may grant it at this time. Once the Order of the Commission is issued, the Taxpayer has thirty (30) days within which to file an appeal with the Oklahoma Supreme Court.

(8) Detailed procedural rules governing a tax **protest** may be found in 710:1-5-21 through 710:1-5-49, which set out rules of Practice and Procedure before the Office of the Administrative Law Judges.

710:1-5-11. Petitions for abatement

(a) A **petition or request for abatement or adjustment** of a tax assessment is a procedure by which a taxpayer may request relief from an assessment which has become **final**, but which the taxpayer may show, by a preponderance of the evidence, that the assessment contested was clearly erroneous. The determination of such a petition or request is within the sole discretion of the Commission pursuant to the provisions of 68 O.S. § 221(e) and is not subject to appeal.

(b) The procedures for the filing, consideration, and disposition of **petitions for abatement or adjustment of a tax assessment** are set out in 710:1-5-70 through 710:1-5-78.

(c) Procedures governing an abatement or adjustment request are exclusive and must be clearly distinguished from the procedures required for filing a timely protest of a proposed tax assessment or a protest of a denial of a claim for refund of taxes. Tax **protest procedure** is governed by the provisions of 710:1-5-21 through 710:1-5-49, which set out general rules of Practice and Procedure before the Office of the Administrative Law Judges.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 32 Ok Reg 1330, eff 8-27-15]

710:1-5-12. Petitions for waiver of interest or penalty (or both)

Waiver of interest or penalty associated with a tax assessment or failure to file a return or report is within the discretionary authority of the Commission pursuant to the provisions of 68 O.S. §220. Requests for waiver of penalty or interest should be in writing, and addressed to the division which originated the tax assessment or liability notification.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-13. Settlement of claims or protests

Settlement of **disputed, unliquidated** tax claims or assessments is within the discretionary authority of the Oklahoma Tax Commission pursuant to the provisions of 68 O.S. § 219. Request for settlement or offer of settlement proposal should be made to the taxing division which initiated the disputed assessment. Settlements of final liabilities pursuant to 68 O.S. § 219.1 are governed by the provisions of Part 8 of this Subchapter.

[Source: Amended at 20 Ok Reg 2580, eff 7-11-03; Amended at 34 Ok Reg 2038, eff 9-11-17]

710:1-5-14. Criminal tax prosecution and referral

The Tax Commission has the authority to pursue criminal prosecution in appropriate cases pursuant to the provisions of 68 O.S. § 105. The General Counsel or the district attorney is required to initiate criminal actions for violations of the tax laws of this state. *The attorneys for the Tax Commission may prosecute such criminal actions or may, upon request of a district attorney, appear and assist in the prosecution of such actions initiated by the district attorney.* 68 O.S. § 105(B). As used herein, *the term "tax laws of this state" means any law of the State of Oklahoma which levies, imposes, provides for administration of, or in any way relates to a tax, fee, or revenue raising property which is collected by or required to be deposited with the Commission.* 68 O.S. § 105(C).

[Source: Revoked at 33 Ok Reg 1060, eff 8-25-16; Added at 36 Ok Reg 1197, eff 8-11-19]

710:1-5-15. Requests for rulemaking action

(a) Any interested person may petition the Commission, requesting the adoption, amendment, or revocation of an existing rule of the Oklahoma Tax Commission. Such a request need not take any particular form, but must be written and include the following information:

- (1) The full text, or identifiable portion thereof, of a proposed rule or rules;
- (2) The identification and the full text, or identifiable portion thereof, of an existing rule or rules, as proposed to be amended, clearly indicating proposed changes;
- (3) The identification of the rule or rules for which repeal is sought;
- (4) A statement in support of the proposal made. This statement shall make reference to the statutory basis for the proposal, including, when appropriate, judicial and administrative interpretations of the statute or statutes in question. The supporting statement should include specific objections to existing rules, practices, or interpretations, and set forth the policy considerations which support adoption of the proposal; and,
- (5) A statement describing in detail the interest of the petitioner in making the proposal. This description shall include a statement as to whether the proposal is intended to affect the tax consequences of any transaction or transactions entered into or contemplated by the petitioner, its vendors, customers, clients, or any person upon whose request or upon whose behalf the proposal is made, the taxability of which are known by the petitioner to be the subject of an inquiry, audit, refund, or assessment proceeding by the Commission and shall contain an explanation of the circumstances surrounding the inquiry, audit, refund, or assessment proceeding, if any.

(b) The Commission shall consider each request for rulemaking action which is filed in conformity with this Section and, at its discretion, direct that rulemaking proceedings be initiated in response thereto or deny the request. The Commission may also, at its discretion and with a view to agency resources, direct the rulemaking action be deferred until the next regularly scheduled rulemaking proceedings are commenced. If the rulemaking request is denied, the Commission shall timely so notify the requesting party, in writing, stating the reason(s) for denial. The determination of rulemaking requests shall be solely within the province of the Commission, and no individual proceeding shall be afforded any party in conjunction therewith.

(c) Pursuant to the terms of Section 305 of Title 75 (The Oklahoma Administrative Procedures Act, "APA") any petition for which rulemaking action has not commenced within 30 calendar days is deemed to be denied.

(d) Requests may be made to the Tax Policy and Research Division, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma, 73102.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-5-16. Rulemaking procedure and hearings

(a) **"Hearing" for rulemaking purposes defined.** Rulemaking hearings of the Oklahoma Tax Commission are a forum in which interested parties may express views, make suggestions, and generally have input into the process by which the Commission formulates policy set out in proposed rules. The "hearing" in a rulemaking action consists of:

- (1) a period for public comment, during which written submissions are accepted (will be "heard") by the Commission for the rulemaking actions previously announced; and,

(2) a meeting at which interested persons may attend and express opinions, give views, make suggestions, or argue orally.

(b) **Who may appear.** Any persons interested in or affected by proposed rulemaking actions may appear at a rulemaking hearing. An appearance may be made individually, or by a representative.

(c) **Commencement of rulemaking.**

(1) The Commission may commence action to promulgate, amend, or revoke a rule at any time on its own initiative.

(2) The Commission may commence action to promulgate, amend, or revoke a rule pursuant to a Request or Petition for Rulemaking action described in 710:1-5-15.

(3) The Commission may commence action to promulgate, amend, or revoke a rule pursuant to applicable judicial or statutory mandate.

(d) **Applicable procedures.** Rulemaking procedure, as it applies to the Commission, is set out in general by the terms of the Oklahoma Administrative Procedures Act ("APA"), 75 O.S. §§ 250.1, et seq. Rulemaking hearings required by the APA will substantially conform to the provisions thereof. The following general provisions will apply to rulemaking hearings held by the Oklahoma Tax Commission:

(1) Unless expressly stated otherwise in a Notice of Rulemaking Intent, rulemaking hearings will be held at the Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102.

(2) Unless expressly stated otherwise in a Notice of Rulemaking Intent, persons wishing to present views orally should notify the Commission in advance of the hearing. To assure efficient use of the forum, the Commission, in its discretion, may limit the amount of time available to each speaker.

(3) All written submissions and requests to be placed on the agenda to make oral submission shall be directed to the Oklahoma Tax Commission, Tax Policy and Research Division, 123 Robert S. Kerr Ave, Oklahoma City, OK 73102.

(4) All persons in attendance at a rulemaking hearing, whether offering input or not, will be requested to identify themselves for the rulemaking record.

(5) All persons in attendance at a rulemaking hearing who desire to make oral comment will be requested to provide a name and mailing address for the rulemaking record.

(6) All persons in attendance at a rulemaking hearing will limit oral comments to the merits of the proposed rules for which the hearing is commenced, as announced by the applicable Notice of Rulemaking Intent.

(7) A rulemaking hearing being non-adversarial in nature, all persons in attendance at such hearing will offer input in such a fashion as to comport with the purpose of gathering effective and meaningful information for the guidance of the Commission in formulating policy.

(8) Summaries or audio recordings (or both) will be made of rulemaking hearings and maintained as a part of the rulemaking record. No transcript of the rulemaking hearing will be prepared. Should an interested party desire a transcription or recording of a rulemaking hearing, the taxpayer is directed to contact a certified court reporter, and make the necessary arrangements for the presence of the reporter at the hearing, and the cost thereof. The cost of transcribing will be borne by the party seeking such transcript, who must

furnish the original of the transcript to the Commission.

(9) All records required to be kept pertaining to rulemaking will be maintained and may be viewed at the Oklahoma Tax Commission, Tax Policy and Research Division, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102, during normal business hours (7:30 a.m. to 4:30 p.m.). Interested persons may obtain copies of both current and proposed rules of the Commission from this source.

(10) Interested persons may request individual notice of proposed rulemaking intent by a written request to the Oklahoma Tax Commission, Tax Policy and Research Division, Rulemaking Liaison, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma, 73102. Requests for individual notice should specify the area of tax or procedure for which notice is desired and must be renewed annually.

(e) **Attendance by Commission representatives; Commission review.** To ensure that public input will receive a meaningful hearing, all rulemaking hearings will be attended by a representative from the taxing Division of the Commission initiating the proposed rules. All submissions or summaries thereof, both written and oral, will be reviewed and considered by the Commission prior to the adoption or promulgation of any proposed rules.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-5-17. Petitions for declaratory rulings

(a) **General provisions.** The Commission or its duly authorized agent may issue declaratory rulings, as to the applicability of any rule or principle of law embodied in a precedential decision of the Commission, which is requested by or on behalf of a person directly affected thereby, subject to the terms and conditions set forth in this Section.

(b) **Form of petition; where to file.** A declaratory ruling petition must be made in writing and sent in duplicate to the Secretary-Member, Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102.

(c) **Contents of a petition for a declaratory ruling.** A declaratory ruling petition must specifically state:

- (1) That a "declaratory ruling is requested pursuant to 710:1-5-17";
- (2) The petitioner's
 - (A) Name (the name of the person, partnership, corporation or entity to whom the facts presented in the petition apply);
 - (B) Address and phone number;
 - (C) Federal identification number, if applicable; and
 - (D) Appropriate OTC license, registration or identification number, where applicable.
- (3) The type of tax, fee, bond, registration, license, or permit at issue;
- (4) The issue(s) on which a declaratory ruling is requested, stated clearly and concisely;
- (5) A complete, clear and concise statement of all relevant facts on which the declaratory ruling is requested;
- (6) The petitioner's desired result and the legal basis for that result, including reference to the applicable statutes, rules, regulations, and case law;
- (7) Whether the issue, as it regards the petitioner, is presently under investigation or audit by the Commission or any of its agents. The term

investigation or audit includes, but is not limited to, an inquiry, audit, refund, assessment, suspension or revocation proceeding by the Commission; and

(8) Whether the petitioner is presently pursuing any protest, litigation or negotiation on the issue with the Commission or any of its Divisions, as well as the name of any other person, partnership, corporation or entity whom the petitioner or a duly authorized representative knows is involved with the identical issue pending before or with the Commission.

(d) **Petition must bear authorized signature.** A petition for a declaratory ruling must be signed by the petitioner or an authorized agent of the petitioner.

(e) **Proposed draft may be offered.** The petitioner may provide a draft ruling for the Commission's consideration.

(f) **Commission may require additional information.** The Commission or its authorized representative may request additional information from the petitioner as deemed necessary to issue a declaratory ruling. Failure to provide the requested information shall result in denial of the petition to issue the declaratory ruling.

(g) **Effect of a declaratory ruling.** A declaratory ruling shall have the following effect:

(1) The declaratory ruling shall apply only to the particular fact situation stated in the declaratory ruling petition;

(2) The declaratory ruling shall apply only to the petitioner;

(3) The declaratory ruling shall bind the Commission, its duly authorized agents and their successors only prospectively;

(4) The declaratory ruling shall bind the Commission, its duly authorized agents and their successors as to transactions of the petitioner that occur within three (3) years after the date of the issuance of the declaratory ruling; and

(5) The declaratory ruling may be revoked, altered, or amended by the Commission at any time.

(h) **Exceptions to binding effect of declaratory ruling.** The declaratory ruling shall cease to be binding if:

(1) A pertinent change is made in the applicable law by the Legislature;

(2) A pertinent change is made in the Commission's rules;

(3) A pertinent change in the interpretation of the law is made by a court of law or by an administrative tribunal; or

(4) The actual facts are determined to be materially different from the facts set out in the petitioner's declaratory ruling petition.

(i) **Issuance of a declaratory ruling.** The Commission will make a good faith effort to issue a declaratory ruling within ninety (90) days from date of receipt of a complete and proper petition unless, in the Commission's discretion, the issue is of such complexity or novelty that additional time is required.

(j) **Contents of a declaratory ruling.** A written response from the Commission or from any employee or agent of the Commission to an inquiry from a taxpayer may not be construed to be a declaratory ruling unless made in conformity with this Subsection. A declaratory ruling must contain:

(1) A statement that: "This is a declaratory ruling issued by the Oklahoma Tax Commission pursuant to 75 O.S. § 307;" and

(2) The signature of the Commission or any person duly authorized to issue declaratory rulings on its behalf.

(k) **Denial of a petition for declaratory ruling.** The Commission, in its discretion, may deny a petition for declaratory ruling for good cause. In this instance, the

Commission, in a letter, will indicate the reason(s) for refusing to issue the declaratory ruling. Good cause includes, but is not limited to, the following:

- (1) The petition does not substantially comply with the information required by this Section;
- (2) The petition involves hypothetical situations or alternative plans;
- (3) The petitioner requests the Commission to interpret or apply a statute, or requests a determination as to whether a statute is constitutional under the Oklahoma Constitution or the United States Constitution;
- (4) The facts or issue(s) presented in the petition are unclear, overbroad, insufficient or otherwise inappropriate as a basis upon which to issue the declaratory ruling;
- (5) The issue about which the declaratory ruling is requested is primarily one of fact;
- (6) The issue is presently being considered in a rulemaking proceeding, protest proceeding or other agency or judicial proceeding that may definitively resolve the issue;
- (7) The issue cannot be reasonably resolved prior to the issuance of rules;
- (8) The petitioner is under investigation or audit relating to that issue, or the issue is the subject of investigation, audit, administrative proceeding or litigation;
- (9) The issue relates to the application of the law to members of a business, trade, professional or industrial association or other similar group(s); or
- (10) The petitioner is not identified or is anonymous.

(l) Withdrawal of a petition for declaratory ruling. The petitioner may withdraw the petition for a declaratory ruling, in writing, prior to the issuance of the declaratory ruling.

(m) Response when declaratory ruling inappropriate. When a declaratory ruling petition requests the Commission to interpret or apply a statute or case law to a specific set of facts, the Commission will issue a letter ruling, as described in OAC 710:1-3-73, instead of a declaratory ruling.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 22 Ok Reg 1513, eff 6-11-05; Amended at 32 Ok Reg 1330, eff 8-27-15; Amended at 38 Ok Reg 1502, eff 9-1-21]

PART 5. ADMINISTRATIVE PROCEEDINGS RELATED TO TAX PROTESTS

710:1-5-20. Purpose and general overview of taxpayer protest procedure [REVOKED]

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Revoked at 38 Ok Reg 1502, eff 9-1-21]

710:1-5-21. Intent, scope and construction of rules

The Rules of Practice and Procedure before the Office of the Administrative Law Judges set out in this Part shall govern all contested proceedings before the Oklahoma Tax Commission or its delegated Administrative Law Judge. These Rules shall be given the most reasonable meaning, taken in their total context, and will be construed to secure due process in the proper resolution of every controversy. They shall not be construed to limit legal rights or obligations of any party.

[Source: Amended at 32 Ok Reg 1330, eff 8-27-15]

710:1-5-22. Commencement and numbering of a protest

(a) Protests must be commenced by filing a timely written protest with the office of any Commissioner, the director of the division out of which the controversy arose, the office of the Administrative Law Judges, or the office of the General Counsel. In order for a protest to be considered timely, it must be filed, pursuant to Oklahoma Statutes, within sixty (60) days after the date of the mailing of the assessment, unless an extension is granted within the sixty (60) day period.

(b) The Administrative Law Judges' Office assigns a case number of a protest of proposed assessment or protest to denial of claim for refund (both called "protest" herein), creates a court file, assigns a Judge and sets a day for a pre-hearing conference between the parties and the Administrative Law Judge.

[Source: Amended at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-23. Protests in writing and timely filed; applications for hearings

All tax protests must be in writing and must be timely filed according to the applicable statute. If an oral hearing is desired, an application or request therefor must be made in writing. No protest hearing will be set without a written application or request therefor.

710:1-5-24. Protests to denials of claims for refunds

A claim for refund has to be denied by the tax division before a taxpayer can file a protest. Once a claim is denied and the taxpayer files a protest with the Tax Commission, the Administrative Law Judge shall set a hearing within sixty (60) days after the filing of the protest. The taxpayer shall be duly notified of time of the hearing. Protests to denials of claims for refund have priority status and shall be set for hearing at the earliest practicable date.

710:1-5-25. Content of protests and applications for hearing

Protests and applications for hearing shall be filed and signed by the taxpayer, or an authorized representative, and shall set out therein:

- (1) The name, address and employer's identification number, if applicable;
- (2) A statement of the amount of the deficiency as determined by the Division in the proposed assessment, the nature of the tax and the amount thereof in controversy;
- (3) A clear and concise assignment of each error alleged to have been committed;
- (4) The argument and legal authority upon which each assignment of error is made; provided, that the applicant shall not be bound or restricted in such hearing, or on appeal, to the arguments and legal authorities contained and cited in said applications;
- (5) A statement of the relief sought by the taxpayer;
- (6) A verification by the taxpayer or his duly authorized agent that the statements and facts contained therein are true; and
- (7) In a refund claim, an assertion as to whether the basis for the claim request is due to a mistake of law or a mistake of fact with a brief statement of the mistake.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 32 Ok Reg 1330, eff 8-27-15]

710:1-5-26. Pleadings to be on 8 ½"× 11" paper

All pleadings filed with the Oklahoma Tax Commission shall be duplicated on letter size, 8 ½"× 11" paper.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-27. Representation and participation in administrative proceedings

(a) **Representation.** In an administrative proceeding the taxpayer may represent himself at any stage of the proceeding or may be represented by:

- (1) an attorney;
- (2) an accountant;
- (3) an enrolled agent; or
- (4) a representative who has been approved by the Commission to represent the taxpayer.

(b) **Proper showing may be required.** If a taxpayer wants to be represented by someone other than himself, an attorney, an accountant, or an enrolled agent, the Administrative Law Judge may require that such person, before being recognized as a representative of the taxpayer, make a proper showing that he or she is of good character and in good repute and possessed with necessary qualifications to enable the representative to render such services to the taxpayer. Upon such showing by the representative, the Administrative Law Judge will certify the representative.

(c) **Proof of authority.** Any person representing a taxpayer in any matter may be required at any time to show written proof, in a form satisfactory to the Commission, of his or her authority to represent such taxpayer in that matter.

(d) **Confidentiality of proceedings; participation of others.** Proceedings are not open to the public unless confidentiality has been waived by the taxpayer or his representative. Any person who is not a party, not employed by a party, or not called as a witness, must obtain the permission of the Administrative Law Judge before observing or participating during any stage of the proceeding. Under provisions of Title 68 O.S. § 205, the taxpayer has the right to enforce the confidentiality of the proceedings.

(e) **Ex parte communication.** Communication with the office of the assigned Administrative Law Judge regarding scheduling and procedural matters is permitted. The taxpayer(s) and/or their representative(s), the taxing division and their attorney(s) shall have no ex parte communication on the substance of a pending case with the assigned Administrative Law Judge.

[Source: Amended at 11 Ok Reg 3465, eff 6-26-94; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 25 Ok Reg 2027, eff 7-1-08; Amended at 26 Ok Reg 2320, eff 6-25-09; Amended at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-28. Pre-hearing conference

(a) **General provisions.** A pre-hearing conference notice is sent to the parties, usually within sixty (60) days of the filing of the protest. The purpose of the pre-hearing conference is to get the parties together before the Administrative Law Judge to attempt to resolve the case or parts of it, early in the progression of the case, to discuss the facts, identify the legal issues, present discovery requests, make all appropriate stipulations, and to propose a procedural schedule. However, the pre-hearing conference should not serve as the parties introduction to the case. Rather, the parties are to make contact and discuss the merits of the case prior to the scheduled pre-hearing conference.

(b) **Rulings; pre-hearing conference order.** During the pre-hearing conference, the Administrative Law Judge makes all necessary rulings. After the pre-hearing conference, the Administrative Law Judge issues a pre-hearing conference order which reduces to writing the agreements reached at the pre-hearing conference.

(c) **Failure to appear.** If a party fails to appear at the scheduled pre-hearing conference or to timely respond to the notice of pre-hearing conference, but has previously submitted a written request for a hearing on the protest, then a hearing will be set. If a hearing has **not** been requested, then the Division will be directed by the Administrative Law Judge to file a response to the protest, verified by the Division and signed by the attorney representing the Division. If a party files a reply to the Division's Verified Response, and requests a hearing therein, then the Administrative Law Judge may set the matter for hearing on the merits of the protest, and thereafter, enter recommendations to the Commission in accordance with the findings. If a party files a reply to the Verified Response and does **not** request a hearing, then the Administrative Law Judge will consider the reply in making a recommendation to the Commission. If a party fails to file a reply to the Verified Response, then the Administrative Law Judge will issue Findings, Conclusions and Recommendations. Any party aggrieved by the recommendation may proceed pursuant to 710:1-5-40.

[Source: Amended at 11 Ok Reg 3465, eff 6-26-94; Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-29. Notice of hearing

If a case is not fully resolved at the pre-hearing conference, the case is set for formal hearing before the Administrative Law Judge. Notice of the time, date and location of the hearing is sent to the parties. The parties are directed to file briefs or position letters (or both) in support of their positions.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-30. Continuances or extensions

A party seeking an extension or continuance shall direct the request to the Administrative Law Judge, with notice to opposing party, and for good cause shown, a continuance or extension will be granted.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-31. Administrative law judge to hear case

Hearings will be conducted by an Administrative Law Judge, who must be a licensed attorney at law, who has been appointed by the Oklahoma Tax Commission. The Administrative Law Judge shall have authority to conduct hearings, to examine witnesses, to rule upon motions, to rule upon the admissibility of evidence, to continue or recess any hearing, to control the record, and to make recommendations to the Oklahoma Tax Commission. If for any reason an Administrative Law Judge cannot continue on a case, the Commissioners shall designate another Administrative Law Judge with the above qualifications, who will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-32. Conduct of hearing

Administrative proceedings are conducted by the Oklahoma Tax Commission pursuant to the following procedures:

- (1) **Appearances; motions; preliminary matters; oaths.** The burden of proof is generally on the taxpayer. The hearing will be convened by the Administrative Law Judge, appearances noted, and any motions or preliminary matters will be considered. The Administrative Law Judge shall

administer oaths or affirmations to the witnesses.

(2) **Argument; witnesses; evidence.** Each party shall have the opportunity to present its case, to make opening statements, to call and examine witnesses, to offer documentary evidence into the record and to make closing arguments. Each party shall also have the opportunity to cross-examine opposing witnesses on matters covered in direct examination and, in the discretion of the Administrative Law Judge, upon matters relevant to the issues even though not covered in direct examination. Any objection to testimony or evidentiary offers should be made, and the basis of the objection stated on the record.

(3) **Discretion of Administrative Law Judge in certain matters.** The Administrative Law Judge may question any party or any witness. The Administrative Law Judge shall establish the order of proceeding, but regardless of the order, the taxpayer is entitled to open and conclude in arguments. The Administrative Law Judge is responsible for closing the record, and may hold it open for stated purposes. Parties may submit proposed Findings, Conclusions and Recommendations at any time after notice of the hearing, but prior to closing of the record. Parties may request that the record be held open for this or other purposes.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-33. Discovery

Discovery in administrative proceedings before the Commission shall comply with the following:

(1) **Authority of Administrative Law Judge.** The Administrative Law Judge may, upon his or her own motion or on the motion of either party:

- (A) Subpoena any person to appear and testify and to produce certain documents or other tangible items at an oral hearing;
- (B) Require either party to complete interrogatories;
- (C) Commission the taking of an oral deposition and require production of certain documents or other tangible items at the time of the deposition; and
- (D) Order any party to allow entry of a Tax Commission employee upon property under his control for the purpose of doing any act or making any inspection which is reasonably calculated to lead to the discovery of evidence material to the contested case.

(2) **Subpoenas; costs; fees; service.** When a witness is required to appear or to produce documentary evidence, a subpoena shall be issued under the seal of the Secretary of the Tax Commission. The party requesting the subpoena shall fill it in before issuance. The subpoena may be served by certified mail with return receipt requested or it may be hand delivered. The party requesting the subpoena shall bear the cost of serving it. Fees of a non-party witness who is subpoenaed to appear before the Tax Commission shall be the same as those allowed to witnesses appearing before the district courts of this State. Party witnesses are not entitled to witness fees.

(3) **Confidentiality.** Any and all information obtained through the discovery proceedings shall be deemed confidential, shall be used only for matters pending in the case in which they were discovered, and shall be accorded the same degree of confidentiality as any other document or paper required by law to be filed with the Oklahoma Tax Commission.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-34. Rules of evidence

(a) **Rules governing; admissibility; objections.** The rules of evidence as applied in non-jury, civil cases in the district courts of this State shall be followed in administrative proceedings related to tax protests except when it is necessary to ascertain facts not reasonably susceptible of proof under those rules. In that event, evidence not admissible under the Rules of Evidence may be admitted, if it is of a type commonly relied on by reasonably prudent persons in the conduct of their affairs. The Administrative Law Judge shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, part or all of the evidence may be received in written form if the hearing will be expedited and the interest of the parties will not be substantially prejudiced.

(b) **Certification of issues.** A party to the proceedings who objects to a ruling of the Administrative Law Judge may request and obtain certification of the issue to the Commission for a decision prior to the issuance of Findings, Conclusions and Recommendations by the Administrative Law Judge. The signatures of the taxpayer's representative, the tax division attorney and the Administrative Law Judge must be upon the certification.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93]

710:1-5-35. Oral evidence, witnesses and penalty for false statements

An Administrative Law Judge may require the parties to an administrative proceeding to identify the persons they expect to call as witnesses. The testimony of witnesses shall be made under oath or affirmation, and the making of false statements may subject a person to the penalties of perjury.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-36. Evidence by official notice

(a) The Administrative Law Judge in an administrative proceeding may, regardless of whether requested by the parties, take official notice of matters which the judges of district courts of Oklahoma can judicially notice and of facts within the scope of personal knowledge or within the specialized knowledge of the Tax Commission. Such official notice must be stated on the record, and the parties must have an opportunity to contest the material noticed. A party requesting the official notice must state upon the record sufficient information to enable the Administrative Law Judge to comply with the request.

(b) If an Administrative Law Judge receives any document or other evidence from a party in connection with an administrative proceeding which has not been provided to the other party, the Administrative Law Judge shall give notice of such receipt to the party not receiving the document or other evidence and advise such party of its right to receive a copy of the document or other evidence.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-37. Transcript of oral hearings; request for certified court reporter

Testimony offered under oath, comments of counsel and the Administrative Law Judge, offers of documentary evidence and rulings made during the course of an oral hearing shall be recorded by electronic media which can be transcribed by the Administrative Law Judge's Office. A copy of the transcript of the hearing will be furnished to any party to the proceeding upon written request to the

Administrative Law Judge and payment of a reasonable fee established by the Tax Commission. Upon request to the Administrative Law Judge by either party, the hearing will be recorded and transcribed by a certified court reporter. If a certified court reporter is requested, necessary arrangements for the presence of a reporter at a hearing, the cost thereof, and cost of transcribing will be borne by the requesting party who must furnish the Administrative Law Judge's Office with an original and the attorney for the Commission with a copy, of such transcript.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 13 Ok Reg 3091, eff 7-11-96; Amended at 26 Ok Reg 2320, eff 6-25-09]

710:1-5-38. Submission of case on briefs

When a taxpayer in an administrative proceeding does not request an oral hearing, or the parties agree that an oral hearing is not needed, the Administrative Law Judge will base the Findings, Conclusions and Recommendations on the position letters and briefs submitted by the parties. The Administrative Law Judge will mail notice of a date certain for each party to submit a position letter or brief setting out therein the statement of facts, issues to be determined, contentions and statutory and case law relied upon to support his contentions. The Administrative Law Judge may schedule a conference between the parties if it is deemed necessary to clarify the positions of the parties.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 26 Ok Reg 2320, eff 6-25-09; Amended at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-38.1. Motion for summary disposition

A party may file a motion for summary disposition on any or all issues on the ground that there is no substantial controversy as to any material fact. The procedures for such motion are as follows:

- (1) The motion for summary disposition shall be accompanied by a concise written statement of the material facts as to which the movant contends no genuine issue exists and a statement of argument and authority demonstrating that summary disposition of any or all issues should be granted. The moving party shall verify the facts to which such party contends no genuine controversy exists with affidavits and evidentiary material attached to the statement of material facts.
- (2) If the protest has been set for hearing, the motion shall be served at least twenty (20) days before the hearing date unless an applicable scheduling order issued by the Administrative Law Judge establishes an earlier deadline. The motion shall be served on all parties and filed with the Office of the Administrative Law Judge.
- (3) Any party opposing summary disposition of issues shall file with the Administrative Law Judge within fifteen (15) days after service of the motion a concise written statement of the material facts as to which a genuine issue exists and the reasons for denying the motion. The adverse party shall attach to the statement evidentiary material justifying the opposition to the motion, but may incorporate by reference material attached to the papers of the moving party. All material facts set forth in the statement of the movant which are supported by acceptable evidentiary material shall be deemed admitted for the purpose of summary disposition unless specifically controverted by the statement of the adverse party which is supported by acceptable evidentiary material.

(4) The affidavits that are filed by either party shall be made on personal knowledge, shall show that the affiant is competent to testify as to the matters stated therein, and shall set forth matters that would be admissible in evidence at a hearing. A party challenging the admissibility of any evidentiary material submitted by another party may raise the issue expressly by written objection or motion to strike such material.

(5) If the taxpayer has requested a hearing, the Administrative Law Judge will issue a notice to the parties scheduling the motion for a hearing limited to oral argument. If the taxpayer has not requested a hearing, the Administrative Law Judge will rule on the motion based on the submission of the parties, including the motion, opposition to the motion, and attachments thereto.

(6) If the Administrative Law Judge finds that there is no substantial controversy as to the material facts and that one of the parties is entitled to a decision in its favor as a matter of law, the Judge will grant summary disposition by issuing Findings of Fact, Conclusions of Law, and Recommendations. Such Findings of Fact, Conclusions of Law and Recommendations are subject to review by the Commission pursuant to *OAC* 710:1-5-10, 710:1-5-40 and 710:1-5-41. If a motion for summary disposition is denied, the Administrative Law Judge will issue an order denying such motion.

(7) If the Administrative Law Judge finds that there is no substantial controversy as to certain facts or issues, the Judge may grant partial summary disposition by issuing an order which specifies the facts or issues which are not in controversy and directing that the action proceed for a determination of the remaining facts or issues. If a hearing of factual issues is required, evidentiary rulings in the context of the summary procedure shall be treated as rulings in limine. Any ruling on partial summary disposition shall be incorporated into the Findings of Fact, Conclusions of Law, and Recommendations issued at the conclusion of the proceedings before the Administrative Law Judge.

[Source: Added at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-39. Findings, conclusions and recommendations

(a) **Issuance.** When the record in an administrative proceeding is closed and submitted, the Administrative Law Judge will issue Findings, Conclusions and Recommendations to the Tax Commission for its consideration. The Findings, Conclusions and Recommendations will include a statement of facts, the issues and contentions, conclusions based on the findings of fact and applicable law, and recommendation to the Tax Commission. The parties to the proceeding will be mailed copies of the Administrative Law Judge's Findings, Conclusions and Recommendations.

(b) **No appeal.** No appeal may be based upon the Findings, Conclusions and Recommendations issued by the Administrative Law Judge, since only the Tax Commission may issue the final order from which an appeal may be brought.

[Source: Amended at 11 Ok Reg 3465, eff 6-26-94; Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-40. Options available to parties after action by Administrative Law Judge

The following options are available to parties to an administrative proceeding related to a tax protest after issuance of an unfavorable recommendation:

(1) **Motion for rehearing or motion for reconsideration; content; replies; time limitations.** Within fifteen (15) days following mailing of the Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge, any party to the proceedings may file a motion for rehearing or a motion for reconsideration with the Administrative Law Judge. The opposing party may reply to a motion for rehearing or a motion for reconsideration within fifteen (15) days after mailing of the motion for rehearing or motion for reconsideration. A party's request shall be reviewed on the basis of the content presented therein and not solely on the style of the party's motion.

(2) **Rehearing procedure.** If a party elects to file a motion for rehearing, that party will be precluded upon rehearing, should the motion be granted, from raising as error any issue not set forth in the motion. If a motion for rehearing is granted, the proposed Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge are vacated pending rehearing. If the motion is overruled, the original proposed Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge shall be deemed issued on the date the motion is overruled. If a rehearing is granted, notice will be issued to the parties setting out the date, time and place of the hearing.

(3) **Reconsideration procedure.** A motion for reconsideration must specify each ground upon which the party alleges the findings to be erroneous. If a motion for reconsideration is granted, the original proposed Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge are vacated. If the motion is overruled, the original proposed Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge shall be deemed issued on the date the motion is overruled.

(4) **Grounds for granting motion for rehearing.** A motion for rehearing may be granted on any of the following, although such list is illustrative and not exclusive:

(A) Newly-discovered evidence which could not, with reasonable diligence, have been discovered and produced at the hearing on the matter.

(B) Need for additional evidence to develop the facts essential to proper decision.

(C) Additional evidence necessary to address conclusions of law not contemplated prior to the Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge being issued.

(5) **Grounds for granting motion for reconsideration.** A motion for reconsideration may be granted on any of the following, although such list is illustrative and not exclusive:

(A) Need for further consideration of the issues and the evidence.

(B) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter.

(C) Need for application of statute, rule or caselaw to the facts.

(6) **Application for en banc hearing before Commission.** If a motion for rehearing or reconsideration is denied, the aggrieved party may, within fifteen (15) days following mailing of such denial, file an application for oral argument before the Tax Commission en banc. If a motion for hearing en banc is granted, the case will be heard by the Commissioners sitting together as a decision making body.

(7) **En banc hearing procedure.** Any party may apply for a hearing en banc before the Commissioners whether or not he/she moved for rehearing or reconsideration before the Administrative Law Judge. If a motion for rehearing or reconsideration before the Administrative Law Judge is not filed, any party requesting a direct appeal to the Commission en banc, must file said motion for a hearing en banc within fifteen (15) days of the mailing of the Administrative Law Judge's findings. The application must specify each ground upon which the party alleges the Findings, Conclusions and Recommendations to be erroneous. The opposing party may reply to a motion for hearing en banc within fifteen (15) days after mailing of the motion for hearing en banc. Should the application be granted, the moving party will be precluded from raising as error any issue not set forth in the application for a hearing en banc.

(8) **Granting of hearing en banc; filing of briefs; time limitations.** If such application for oral argument is granted, the Commissioners will set a date, time and place for the hearing and notice will be given to each side by mail at least twenty (20) days in advance of the hearing. Typewritten briefs must be submitted to the Commissioners at least fourteen (14) days prior to such hearing, or as otherwise directed by the Commission. Time limits for oral arguments will be set by the Commissioners at the time of the hearing.

(9) **Exhaustion of administrative remedies.** Although taxpayers must exhaust all administrative remedies before appealing to the Oklahoma Supreme Court, or if appropriate to a Federal court, it is not necessary to move for reconsideration or rehearing or to apply for a hearing en banc to exhaust administrative remedies. All that is necessary for exhaustion is to pursue a protest until the Commissioners issue a final decision in the form of an order.

(10) **Commission decision commences appeal time.** Neither a motion for rehearing or reconsideration nor an application for a hearing en banc will be granted after a final decision has been made and an order issued. Therefore, a motion for rehearing or reconsideration or an application for a hearing en banc will not serve to stay the time to appeal to the Supreme Court.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 11 Ok Reg 3465, eff 6-26-94; Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 13 Ok Reg 3091, eff 7-11-96; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 25 Ok Reg 2027, eff 7-1-08; Amended at 28 Ok Reg 929, eff 6-1-11]

710:1-5-41. Decision and order of the Oklahoma Tax Commission

The Tax Commission will issue a written order in each case whether or not application for oral argument is made. The Tax Commission may, in its discretion, vacate, modify, or affirm, in part or whole, the recommendations of the Administrative Law Judge.

[Source: Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-42. Appeals from orders of the Oklahoma Tax Commission

(a) If a taxpayer is aggrieved by any order, ruling, or finding of the Tax Commission, the taxpayer may appeal therefrom directly to the Oklahoma Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a petition in error with the clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Tax Commission at the same time the petition in error is filed.

(b) In lieu of an appeal to the Supreme Court, any taxpayer aggrieved by a final order of the Tax Commission assessing a tax or an additional tax or denial of a claim for refund may opt to file an appeal for a trial de novo in the district court of Oklahoma County or the county in which the taxpayer resides. An appeal for trial de novo in district court must be filed in the district court within thirty (30) days of the mailing of the Tax Commission order. A district court order resulting from such a trial shall be appealable directly to the Supreme Court of Oklahoma by either the taxpayer or the Tax Commission. Such appeal shall be taken in the manner and time provided by law for appeal to the Supreme Court from the district court in civil actions. The provisions of this subsection shall be applicable for tax periods beginning after January 1, 2014. Provided, if the order applies to multiple tax periods which begin before and after January 1, 2014, the appeal provided by this subsection shall be available to the aggrieved taxpayer.

[Source: Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 24 Ok Reg 1688, eff 6-11-07; Amended at 32 Ok Reg 1330, eff 8-27-15]

710:1-5-43. Exceptions to the requirement for exhausting administrative remedies

The taxpayer must exhaust the administrative remedies prescribed by law prior to appealing to the Supreme Court from an order of the Tax Commission, except in cases involving Constitutional issues as outlined in Title 68 O.S. § 226(c). (See, **Cimarron Industries, Inc. v. Oklahoma Tax Commission, 621 P.2d 539 (Okla. 1980).**)

[Source: Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-44. Computation of time

When filing documents in an administrative proceeding related to a tax protest, the following provisions apply:

(1) **General provisions.** In computing any period of time, begin on the day after the act, event, or default and conclude on the last day of the computed period, unless it be a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(2) **Filing; evidence of filing.** Documents required to be filed are considered filed on the date of personal service of such documents or upon the date of the postmark showing date mailed on the envelope containing such documents and must show a date on or before the last day of filing as defined hereinabove.

(3) **Use of certified or registered mail.** If the document is sent by United States registered mail, the date of registration of the document shall be treated as the postmarked date. If the document is sent by United States certified mail and the sender's receipt is postmarked by the postal employee, the date of the United States postmark on such receipt shall be treated as the postmark date of the document. Thus, the risk that the document will not be postmarked on the day that it is deposited in the mail

may be overcome by the use of registered mail or certified mail.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-45. Service of documents

Service of any document in an administrative proceeding may be accomplished by personal delivery or by mailing such document addressed to the party or his authorized representative at the last known address, postage prepaid. The document shall indicate on its face by Certificate of Service or of Mailing that copies have been served on parties of record.

710:1-5-46. Dismissal of case

(a) **Voluntary dismissal.** A protestant may dismiss his or her protest, or the tax division whose action or proposed action has been protested may withdraw its action or proposed action, without a motion therefor, at any time prior to the entry of a final order by the Commission.

(b) **Dismissal for mootness.** "Moot", for purposes of this Subchapter means that a case presents no actual controversy or that the issues have ceased to exist. A protest that is or has become moot may be dismissed by the Commission or by the Administrative Law Judge on their own motion or on the motion of a party. At least fifteen (15) days' notice of the motion or intent to dismiss shall be given to all parties, who shall have the opportunity to respond and show cause why the protest should not be dismissed. A dismissal by the Administrative Law Judge is appealable to the Commission in the same manner as appeals from other rulings by the ALJ.

(c) **Dismissal for lack of jurisdiction.** The Tax Commission is without jurisdiction to consider a protest that is not filed within the time provided by statute. The question of the Commission's jurisdiction to consider a protest may be raised at any time, by a party, the Administrative Law Judge, or the Commission itself. Questions as to the authority, propriety, or timeliness of the tax division's action or proposed action shall not be raised by a motion to dismiss, but shall be raised as defenses to such action or proposed action, as a part of or addition to the protest.

(d) **Motion to dismiss.** A motion filed by a party to dismiss a protest for lack of jurisdiction, or a notice by the Administrative Law Judge or the Commission of intent to dismiss a protest on jurisdictional grounds, shall state the reasons therefore, shall be filed in the case, and shall be mailed to all parties or their authorized representatives. The motion or notice of intent to dismiss shall be set for hearing, which shall not be less than fifteen (15) days after the filing of such motion or notice of intent, at which time any party opposing such motion or notice of intent may appear and show cause why the protest should not be dismissed. Notice of the date, time and place of the hearing shall be mailed to the parties or their representatives along with the motion or notice of intent to dismiss.

[Source: Amended at 11 Ok Reg 3465, eff 6-26-94; Amended at 12 Ok Reg 2923, eff 7-14-95; Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 22 Ok Reg 1513, eff 6-11-05]

710:1-5-47. Burden of proof

In all administrative proceedings, unless otherwise provided by law, the burden of proof shall be upon the protestant to show in what respect the action or proposed action of the Tax Commission is incorrect. If, upon hearing, the protestant fails to prove a prima facie case, the Administrative Law Judge may recommend that the Commission deny the protest solely upon the grounds of failure to prove sufficient facts which would entitle the protestant to the requested relief.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-48. Effective date of the Part

The provisions of this Part govern all proceedings and cases commenced after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the Commission or the Administrative Law Judge, their application in a pending case would not be feasible or would work an injustice.

710:1-5-49. Survival and abatement of protests

No protest pending before the Tax Commission shall abate by the death of the protestant. Consideration of such a protest shall proceed according to the following:

(1) **Death of protestant where no hearing has been requested.** If a taxpayer dies subsequent to the filing of a protest and no oral hearing has been requested, the Commission shall proceed without further notice to examine the merits of the protest and enter an order in accordance with its findings.

(2) **Death of protestant prior to hearing.** If a taxpayer has requested a hearing as provided by law but dies before such hearing, and the Commission is apprised of such death, notice of the proceedings and any upcoming hearing shall be mailed to taxpayer's address as last given in connection with the protest proceeding, and addressed to taxpayer, taxpayer's estate, or taxpayer's personal representative. Taxpayer's personal representative or persons who demonstrate a legal interest in taxpayer's estate shall be given a opportunity to appear and to be heard in connection with the protest proceedings. If, after such notice, there is no appearance or substitution by such persons in the protest proceedings, the protest shall not be dismissed or decided as by default, but the merits of the protest shall be examined and an order confirming, modifying, or vacating the prior action or proposed action shall be entered, as in a case where no hearing has been requested.

(3) **Death of protestant after hearing or submission of case.** If a taxpayer dies after a requested hearing or after the matter has been submitted for decision, findings, conclusions and a recommendation as to the final disposition of taxpayer's protest may be entered by the Administrative Law Judge, and a final order may be entered by the Commission, although the personal representative of the taxpayer or other person has not been substituted as a party to the proceeding. Notice of the findings, conclusions and recommendation of the Administrative Law Judge and of the Commission's final order shall be given to the taxpayer's personal representative or other such person who has demonstrated a legal interest in the estate of the deceased taxpayer and who has requested such notice.

(4) **Substitution of personal representative.** Taxpayer's personal representative may be substituted for the taxpayer on motion of a party with notice to the representative, and shall be substituted for the taxpayer upon application by the representative. [See: OTC Order No. 96-02-13-017]

[Source: Added at 22 Ok Reg 1513, eff 6-11-05]

PART 7. ABATEMENT OF ERRONEOUS TAX ASSESSMENT

710:1-5-70. Purpose

The provisions of this Part are provided to taxpayers who wish to request adjustment or abatement of an assessment of the Oklahoma Tax Commission which has already become final. [See: 68 O.S. § 221(e)]

[Source: Amended at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-71. When an assessment becomes final

(a) In the event the person to whom a proposed assessment is issued acquiesces in the changes reflected on the proposed assessment, or fails to file a written protest within the sixty (60) days after the mailing of the proposed assessment (or any extensions allowable by Statute that have been granted by the Division), the proposed assessment becomes final.

(b) In cases in which an extension has been granted for filing a protest, the proposed assessment becomes final at the expiration of the period as extended by the Division if no protest is filed.

[Source: Amended at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-72. Request for adjustment or abatement

(a) **Untimely "protest" construed as request for abatement.** Every written statement "protesting" a proposed assessment which is received after the expiration of sixty (60) days from the mailing of the proposed assessment, or after the expiration of any extension granted by the Division, shall be treated as a request for an adjustment or abatement of the assessment.

(b) **Manner in which timeliness determined.** Timeliness of the filing of a request for adjustment or abatement of the assessment shall be determined by the date of the first filing with the Director of the Division out of which the controversy arose, the office of the Administrative Law Judges, the office of the General Counsel, or the Commission.

(c) **Abatement request does not extend period in which proposed assessment may be timely protested.** A request for adjustment or abatement of an assessment does not extend the time in which a written protest can be timely filed. No request for adjustment or abatement of an assessment filed after a proposed assessment becomes final will be construed as amending the time in which a protest can be filed and a request for hearing submitted.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99; Amended at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-73. Initial review, determination of abatement request

(a) **Division to review.** All requests for adjustment or abatement of an assessment shall be forwarded to the Division which issued the proposed assessment to determine whether the request was timely filed. Should it be determined that the request was timely filed, the Division will determine whether the assessment is clearly erroneous.

(b) **Division may adjust or abate clearly erroneous assessment.** If the Division determines that the assessment, or some portion thereof, is clearly erroneous, the Division shall issue a document, signed by the Division Director, or a designee, adjusting or abating the assessment, a copy of which shall be mailed to the applicant.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-74. Notification of initial disposition of abatement request; procedure upon denial by Division

Should the Division not agree that the evidence presented demonstrates that the assessment, or some portion thereof, is clearly erroneous, the Division shall notify the taxpayer of its determination. The notification letter shall state prominently that should taxpayer disagree with the Division's determination, taxpayer must make written request for a review of the determination, to the General Counsel's office within thirty days of the mailing of the Division notification. Failure of taxpayer to seek review within thirty days of the mailing of the Division's notification shall constitute abandonment of the request.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-75. Docketing of abatement request

The General Counsel's office assigns a case number to a request for adjustment or abatement of a proposed assessment which has become final, creates a file, assigns an attorney, and notifies the taxpayer of the assignment.

710:1-5-76. Presentation of abatement request to Commission

- (a) Once docketed, the assigned attorney shall review the evidence submitted in support of taxpayer's request, prepare a fact sheet for presentation to the Commission at a regularly scheduled meeting, and notify the taxpayer of the day said request will be presented. The taxpayer may appear before the Commission and present documentary evidence and testimony in the form of affidavit(s).
- (b) No hearing other than the appearance of taxpayer at a regularly scheduled meeting of the Commission will be held. No transcript of the appearance before the Commission will be prepared.
- (c) Should taxpayer desire a transcript or record of taxpayer's appearance before the Commission, the taxpayer will need to contact a certified court reporter, and make the necessary arrangements for the presence of the reporter at the Commission meeting, and the cost thereof. The cost of transcribing will be borne by the taxpayer who must furnish the original of the transcript to the Commission.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-77. "Preponderance of the evidence" and "clearly erroneous" defined; burden of proof for tax abatement purposes

- (a) In order to have the assessment adjusted or abated, the taxpayer must demonstrate, by a preponderance of the evidence, that the assessment or some portion thereof is clearly erroneous.
- (b) For purposes of Section 221(e) of Title 68 of the Oklahoma Statutes and Part 7 of this Subchapter, "**preponderance of the evidence**" means the evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; evidence which as a whole shows that the fact sought to be proved is more probable than not.
- (c) For purposes of Section 221(e) of Title 68 of the Oklahoma Statutes and Part 7 of this Subchapter, "**clearly erroneous**" means unsupported by substantial evidence; contrary to clear weight of evidence or induced by erroneous view of the law.
- (d) In order to sustain the burden of demonstrating that the assessment or some portion thereof is clearly erroneous, taxpayer must show evidence that the

assessment deviates from the law and is therefore invalid or is unsupported by the evidence, or both.

[Source: Amended at 16 Ok Reg 2628, eff 6-25-99]

710:1-5-78. No appeal; no stay of collection proceedings as a result of abatement request

No appeal to the Supreme Court of the State of Oklahoma may be taken from an Order denying taxpayer's request to adjust or abate an assessment. Furthermore, collection actions instituted by the Commission to collect a tax liability will not be stayed or continued as a result of the filing of a request for adjustment or abatement.

[Source: Amended at 9 Ok Reg 3015, eff 7-13-92; Amended at 16 Ok Reg 2628, eff 6-25-99]

PART 8. SETTLEMENT OF TAX LIABILITY

710:1-5-80. Purpose

The provisions of this Part are provided to taxpayers who wish to request settlement of all or any portion of an Oklahoma tax liability and interest and penalties which have already become final for less than the outstanding amount. [See: 68 O.S. §219.1]

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-81. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Oklahoma Tax Commission.

"Final liability" means:

- (A) The tax, penalty and interest due after the expiration of the statutory prescribed time within which to file a protest to a proposed assessment;
- (B) The amount due after the exhaustion of administrative remedies without appeal to the Supreme Court;
- (C) A tax amount admitted to be due by a taxpayer's report;
- (D) The amount found due after a final court decision concerning the existence or amount of the liability; or,
- (E) Other cases of liabilities where further administrative or judicial review is not available and the only consideration is collectibility.

"Insolvency" means:

- (A) The inability to pay debts as they fall due in the usual course of business; or,
- (B) Having liabilities in excess of the reasonable market value of assets held.

"Person" means any individual, partnership, corporation, limited liability company, association, or public or private organization of any character.

"Settlement Agreement" means a written agreement between a taxpayer and the Commission whereby the Commission agrees to abate all or a portion of an outstanding tax liability, including the interest or penalties accruing thereto, and the taxpayer agrees to pay the remainder of such liability, if any, as provided herein.

"Tax Liability" means and includes the total amount of Oklahoma tax, penalty, or interest due.

"Taxpayer" means:

- (A) Any person subject to or liable for any Oklahoma tax; or,
- (B) Any person required to file a return, or to pay or withhold and remit any tax required by the provisions of any Oklahoma tax law that is administered by the Commission.

"Trust fund tax" means Oklahoma Sales Tax levied pursuant to 68 O.S. §§ 1350 et seq., Oklahoma Use Tax levied pursuant to 68 O.S. §§ 1406-1407, Oklahoma Income Tax withholding levied pursuant to 68 O.S. §§ 2385.2-2385.28, or Oklahoma Motor Fuel taxes levied pursuant to 68 O.S. §§ 500.1 et seq.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-82. Grounds for settlement

(a) **General provisions.** Except for a trust fund tax, the Commission may settle an Oklahoma tax liability for any of the following reasons:

- (1) Collection of the tax with interest and penalties would reasonably result in the taxpayer declaring bankruptcy;
- (2) The tax liability is uncollectible due to the insolvency of the taxpayer resulting from factors beyond the control of the taxpayer or other similar factors; or,
- (3) The tax liability is the result of actions of a person other than the taxpayer and to hold taxpayer liable for the tax liability would be inequitable.

(b) **Uncollected trust fund taxes.** If the tax liability for which settlement is sought is a "trust fund tax", the applicant must show:

- (1) That the tax was not collected; and,
- (2) That applicant had a good faith belief that collection of the tax was not required.

(c) **Unremitted trust fund taxes.** Trust fund taxes collected, but not remitted to the Commission, may not be abated.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-83. Eligibility requirements for settlement

(a) **General requirements.** Before a taxpayer becomes eligible for settlement pursuant to this program, the following general requirements must be met:

- (1) Tax liability must be final.
- (2) All administrative remedies and appeals must have been exhausted.
- (3) Taxpayer must be current with all returns filed or required to be filed with the Commission.
- (4) Taxpayer must not be currently the subject of an open bankruptcy proceeding.
- (5) Taxpayer must not be currently the subject of a State tax-related criminal investigation or criminal prosecution.

(b) **Bankruptcy or insolvency.** If settlement is sought on the grounds of bankruptcy or insolvency:

- (1) Taxpayer must demonstrate that the ability to make payment in full any time in the foreseeable future is unlikely.
- (2) Taxpayer must be without sufficient resources or unable to apply present or future resources to paying the outstanding tax liability.
- (3) Taxpayer must be reasonably unable to dispose of assets or borrow against assets to pay the tax liability.

(4) Taxpayer must demonstrate that monthly income is insufficient to fully pay the tax liability through reasonable installment payments.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-84. Application for a Settlement Agreement

(a) **Application.** The forms necessary to make application for a Settlement Agreement are available online at www.tax.ok.gov.

(b) **When a Power of Attorney is required.** Applications being tendered on behalf of a taxpayer by an attorney, CPA, or other person, must be accompanied by a properly acknowledged Power of Attorney Form, signed by the taxpayer, authorizing the person to act on behalf of the taxpayer.

(c) **Additional information.** The Income Tax Accounts Division may request additional financial or other information deemed necessary to supplement the Settlement Agreement Application.

(d) **Presentation of the application.** The Income Tax Accounts Division shall present a completed application to the Commission during a regularly scheduled meeting of the Commission.

(e) **Notice of the determination of the application.** The Income Tax Accounts Division shall notify the applicant in writing of the decision of the Commission and make any required adjustments to the applicant's account.

(f) **Withdrawal of application.** An application for a Settlement Agreement may be withdrawn by the taxpayer at any time prior to its acceptance.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-5-85. Effect of Offer in Compromise by the Internal Revenue Service

(a) Acceptance of an Offer in Compromise by the Internal Revenue Service does not automatically guarantee acceptance by the State. An application for a Settlement Agreement tendered to the Commission will be reviewed and evaluated on its own merits.

(b) The federal "Offer in Compromise" form cannot be substituted for the Oklahoma Settlement Agreement Application. However, other documents such as the current financial statements included in a compromise offer submitted to the Internal Revenue Service may also be submitted to the State in support of an application for a Settlement Agreement.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-86. Review by Commission

(a) **Unanimous vote required.** A unanimous vote of the members of the Commission is required for approval of a Settlement Agreement.

(b) **Discretionary act.** The determination of settlement is within the sole discretion of the Commission.

(c) **Facts and other considerations.** In making its decision, the Commission will consider, but not be limited to, the following matters:

- (1) The likelihood of collection of the debt;
- (2) The amount of the debt;
- (3) Efforts made by the Applicant to pay a part of the debt prior to filing an application for settlement;
- (4) The taxpaying record of the Applicant;
- (5) Applicant's current and possible future earning capacity;

- (6) The portion of the tax itself which would be paid under the terms of the proposed Settlement Agreement;
- (7) The composition of the balance of tax, penalty, and interest due;
- (8) The percentage of the tax debt proposed to be settled;
- (9) The Applicant's age and health;
- (10) The Applicant's net worth;
- (11) The acceptance by the Internal Revenue Service of an Offer in Compromise and the amount;
- (12) The age of the debt;
- (13) The existence of liens;
- (14) Current operating status of any business;
- (15) Bankruptcy status;
- (16) The amount determined to be collectible. This amount is generally based upon the Commission's evaluation of the reasonable collection potential of the taxpayer's assets and revenue. The collectible amount is one factor used to determine if an offer is reasonable.
- (17) Other liable parties;
- (18) Whether tax debt due is a trust tax collected by Applicant but not remitted to the Commission;
- (19) What other persons are liable;
- (20) Whether the Applicant is located within Oklahoma or not;
- (21) The accuracy and veracity of the Applicant's representations to the Commission;
- (22) The recommendations of the Income Tax Accounts Division; and
- (23) The expense and time expended in future collection efforts by the Commission on the Applicant's debt.

(d) **Other circumstances which may be considered.** In addition to the factors set out in (c) of this Section, the Commission may consider any other aggravating or mitigating circumstances contributing to the request for settlement, including, but not limited to:

- (1) Good faith efforts made by taxpayer to comply with the tax laws of this state.
- (2) Benefit received by taxpayer from nonpayment of the tax.
- (3) Involvement of taxpayer in economic activity which gave rise to tax liability.

(e) **No appeal of denial.** The decision by the Commission to decline a proposed Settlement Agreement is final and is not appealable.

(f) **Court approval required.** If the amount of the tax liability to be abated exceeds Twenty-five Thousand Dollars (\$25,000.00), the Settlement Agreement requires the approval of a judge of the district court of Oklahoma County.

(g) **Resubmission of application.** If a taxpayer has previously submitted an application for a Settlement Agreement and that application was not accepted, the taxpayer may apply at a later date if financial conditions have changed, or to submit additional information not previously provided for review by the Commission.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03; Amended at 23 Ok Reg 2802, eff 6-25-06; Amended at 36 Ok Reg 1197, eff 8-11-19; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-5-87. Disclosure

No return or document filed with the Commission pursuant to the Settlement of Tax Liability program will be subject to disclosure except as provided by 68 O.S. § 205.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03]

710:1-5-88. Effect of a Settlement Agreement

(a) Effect of pending Settlement Agreement.

(1) Filing an application for settlement does not constitute the filing of a protest of a proposed assessment, or extend the time to protest a proposed assessment. Filing an application for settlement does not constitute the taking of an appeal to the Oklahoma Supreme Court, nor extend the time to take an appeal to the Supreme Court. Filing an application for settlement does not place a taxpayer in compliance for purposes of renewing a professional license.

(2) If taxpayer is on an existing repayment plan, the taxpayer must continue to make payments until the application for a Settlement Agreement is either accepted or denied. Payments made pursuant to an existing repayment plan will not be considered a part of the amount offered in the agreement.

(3) Collection activities may continue during the review process, however, the Commission may suspend its collection efforts if the interests of the State will not be compromised. If there is any indication that the taxpayer filed the settlement offer simply to delay collection of the tax or that the delay would interfere with collecting the tax, the Commission will immediately resume collection efforts.

(4) Interest and penalty will continue to accrue on any unpaid tax debt while the settlement is being considered.

(b) Effect of accepted Settlement Agreement.

(1) A Settlement Agreement relates to the entire liability of the taxpayer and all questions of such liability are conclusively settled thereby.

(2) Neither the Commission nor the taxpayer shall, upon acceptance of the proposed Settlement Agreement, be permitted to revise the agreement except by reason of the following:

(A) Falsification or concealment of facts or assets by the taxpayer;
or

(B) Mutual mistake of a material fact concerning the basis for a Settlement Agreement; or

(C) Assets were fraudulently transferred prior to the agreement or were liquidated during the review process; or

(D) Taxpayer failed to comply with the terms of the agreement.

(3) Settlement of a civil liability does not constitute a settlement of a criminal liability concerning the tax period in question.

(4) Tax liens will be released only after an application for a Settlement Agreement is accepted and the amount offered is paid in full. If the amount of the tax liability to be abated exceeds Twenty-five Thousand Dollars (\$25,000.00), the taxpayer is also required to provide to the Commission a certified copy of Oklahoma County District Court approval of the Settlement Agreement before tax liens will be released.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03; Amended at 24 Ok Reg 1688, eff 6-11-07; Amended at 36 Ok Reg 1197, eff 8-11-19]

710:1-5-89. Payment

(a) No payment is required to be paid when the Settlement Agreement Application is submitted to the Commission.

(b) Full payment of the amount offered in settlement of the tax liability must be made within thirty (30) days from date of notification that the proposed Settlement Agreement has been accepted. Payment of the accepted settlement amount by cash, cashier's check, money order, or charged to an approved credit card must be made by the payment due date indicated on the acceptance notice.

[See:https://www.ok.gov/tax/Online_Services/Payment_Options/index.html]

(c) Any payment made with the application will not be returned to Applicant, even if the Settlement Agreement is declined or withdrawn. The retained payment will be applied to Applicant's outstanding tax liability in accordance with Section 710:1-3-46 of this Chapter.

(d) In appropriate circumstances, the Commission may consider proposed Settlement Agreements that provide for payments to be made over a period of time based on future income.

(e) The Settlement Agreement becomes void if taxpayer defaults on payment under the agreement.

(f) The Settlement Agreement becomes void if the agreement was obtained by fraud or misrepresentation of a material fact.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03; Amended at 24 Ok Reg 1688, eff 6-11-07; Amended at 34 Ok Reg 2038, eff 9-11-17; Amended at 36 Ok Reg 1197, eff 8-11-19]

710:1-5-90. If the proposed Settlement Agreement is declined

(a) If the application for a Settlement Agreement is declined, the taxpayer will be notified by the Income Tax Accounts Division in writing.

(b) Taxpayer should immediately contact the Commission to arrange payment of the entire liability. If immediate payment of the entire liability is not possible, the taxpayer may request payment through the regular collection procedures.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03; Amended at 38 Ok Reg 1502, eff 9-1-21]

710:1-5-91. Return of Settlement Agreement Application

The Commission may reject the Settlement Agreement Application as not processible for any of the following reasons:

- (1) The applicant is not adequately identified (name, address, ID#, etc.) or required signatures are not provided.
- (2) The settlement offer includes an amount already collected or subject to refund.
- (3) The tax liability is not adequately identified.
- (4) The Settlement Agreement Application does not show a reason or a statement supporting the reason for the settlement offer has not been provided.
- (5) Financial statements or other documentation have not been included, or are incomplete or do not present a complete and accurate representation of the taxpayer's financial condition.
- (6) The Commission's records indicate noncompliance with filing of required returns.
- (7) The applicant is currently under bankruptcy court jurisdiction.
- (8) Power of Attorney Form (if indicated) has not been included.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03; Amended at 24 Ok Reg 1688, eff 6-11-07]

710:1-5-92. Exclusivity of request for settlement of tax liability

Procedures governing settlement of final tax liabilities, pursuant to this Part, are exclusive and must be clearly distinguished from procedures required for the filing of a timely **protest** of a proposed tax assessment or a protest of a denial of a claim for refund of taxes as set out in 710:1-5-21 through 710:1-5-49. The procedures for the filing, consideration, and disposition of **petitions for abatement or adjustment of a tax assessment** pursuant to the provisions of 68 O.S. § 221(e) are set out in 710:1-5-70 through 710:1-5-78. Procedures for settlement of disputed, unliquidated tax claims or assessments are set out in 710:1-5-13.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03; Amended at 32 Ok Reg 1330, eff 8-27-15]

710:1-5-93. Officials ineligible for Settlement Agreement

No appointed or elected officials may apply for settlement pursuant to this Section.

[Source: Added at 20 Ok Reg 748, eff 3-17-03 (emergency); Added at 20 Ok Reg 2580, eff 7-11-03]

PART 9. PERMITS AND LICENSES

710:1-5-100. Show cause hearings

When a Tax Division contests the taxpayer's compliance with State tax laws or Commission Rules, the Division may cause notice to be issued to the taxpayer requiring him to appear before the Administrative Law Judge or an Administrative Hearing Officer to show why his license or permit should not be cancelled. The notice shall contain a date certain for the hearing. Failure to appear at the hearing may result in the cancellation of license or permit. The taxpayer may represent himself or be represented by an attorney, an accountant or other representative approved by the Commission. The taxpayer is to bring all reports and payments for delinquent taxes, penalty and interest to the hearing. Evidence and testimony of witnesses may be presented at the hearing.

[Source: Amended at 10 Ok Reg 3819, eff 7-12-93; Amended at 12 Ok Reg 3474, eff 7-21-95 (emergency); Amended at 13 Ok Reg 3091, eff 7-11-96; Amended at 16 Ok Reg 2628, eff 6-25-99]

PART 10. BUSINESS COMPLIANCE PROCEEDINGS

710:1-5-110. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Business day" means a day on which State offices are open for regular business.

"Noncompliant taxpayer" means any taxpayer operating under a sales tax permit who, within any consecutive twenty-four-month period, has failed to file two (2) reports or remit tax due for any two (2) months, as required under the provisions of any tax law. Provided, a taxpayer shall not be deemed noncompliant for nonpayment of income taxes.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13; Amended at 35 Ok Reg 2033, eff 9-14-18]

710:1-5-111. Noncompliant taxpayer determination and advisory notice

Should a taxpayer fail to file two (2) reports or remit tax due for two (2) months within a twenty-four-month period, the taxpayer is deemed to be

noncompliant and will be issued an advisory notice that a third delinquency in reporting or remitting taxes occurring prior to payment of identified tax delinquencies within the twenty-four-month period will result in closure of taxpayer's business. The advisory notice provided pursuant to this Section will be sent certified by the U.S. postal service to the taxpayer's last-known address or will be hand delivered to the taxpayer's business address.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13; Amended at 35 Ok Reg 2033, eff 9-14-18]

710:1-5-112. Commencement of twenty-four (24) month period and examples

(a) **Commencement of twenty-four (24) month period.** A taxpayer's initial tax delinquency begins commencement of the twenty-four (24) month period for purposes of the business compliance proceedings.

(b) **Examples.** The following examples illustrate the application of the twenty-four (24) month period.

(1) A taxpayer is delinquent for July and August of 2017, but does not incur another delinquency until September 2019; no pending business closure notice will be issued. Taxpayer's September 2019, delinquency begins commencement of a new twenty-four (24) month period.

(2) A taxpayer is delinquent for July and August of 2017 and pays the tax, interest, penalty and fees due before incurring an additional delinquency in January 2018. A pending business closure notice will not be issued. The January 2018 delinquency begins a new twenty-four (24) month period.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13; Amended at 35 Ok Reg 2033, eff 9-14-18]

710:1-5-113. Pending business closure notice

(a) **Applicability.** When a taxpayer deemed noncompliant fails to report or pay tax for a third month within a twenty-four-month period, a Pending Business Closure Notice will be issued.

(b) **Contents of pending business closure notice.** The notice will outline the outstanding reports and tax payments and will advise the noncompliant taxpayer that the business will be closed unless taxpayer within five (5) business days from the delivery or attempted delivery of the notice exercises one of the following options:

(1) Provides proof to the satisfaction of the Tax Commission that the delinquent tax reports and/or tax payments have been previously filed and/or paid.

(2) Files all outstanding tax reports and remits the delinquent tax including any accrued interest, penalty and fees.

(3) Pursuant to the terms outlined in Section 710:1-5-115, enters into an installment payment agreement approved by the Tax Commission to satisfy the delinquent tax, interest, penalty and fees due.

(4) Objects to the business closure by filing a written protest and request for an administrative hearing, pursuant to the terms outlined in Section 710:1-5-117.

(c) **Notice requirements.** Pending Business Closure Notices will be sent certified by the U.S. postal service to the taxpayer's last-known address or hand delivered to the taxpayer's business address.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13; Amended at 35 Ok Reg 2033, eff 9-14-18]

710:1-5-114. Closure Order

If a noncompliant taxpayer fails to timely and fully exercise one of the options to avoid business closure outlined in paragraphs (1) through (4) of subsection (b) of Section 710:1-5-113, or to comply with the terms of an installment payment agreement pursuant to Section 710:1-5-115, the Tax Commission will issue a Closure Order.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-115. Installment payment agreements

(a) **Eligibility and terms of installment payment agreements.** Noncompliant taxpayers owing tax delinquencies of Five Hundred Dollars (\$500.00) or less are not eligible for an installment payment agreement. Installment Payment Agreements (IPA) for tax delinquencies over Five Hundred Dollars (\$500.00) require a down payment equal to or greater than one-fourth (1/4) of the tax, interest, penalty and fees owed. The agreement shall not exceed twelve (12) months. A tax warrant for the delinquent tax, interest, penalty and fees will be filed by the Tax Commission to protect the State's interest.

(b) **Installment payment agreement conditions.**

- (1) Taxpayer must file all delinquent tax returns prior to entering into an installment payment agreement.
- (2) Taxpayer must make installment payments when due by cashier's check, money order, or credit card accepted by the Tax Commission.
- (3) Taxpayer must remain in compliance, filing all tax returns and paying in full all taxes that come due during the term of the installment payment agreement.

(c) **Execution and form of installment payment agreement.** The installment payment agreement must be in writing and signed by both the taxpayer and a Tax Commission representative.

(d) **Default.** Taxpayers failing to abide by the requirements set out in subsection (b) of this Section will be considered in default. Once in default, a Closure Order will be served immediately without further notice to the defaulting taxpayer and a placard will be affixed to all entrances to the business pursuant to Section 710:1-5-122.

(e) **Exceptions to terms of and eligibility for installment payment agreements.**

A taxpayer may request an installment payment agreement outside the parameters of subsection (a) of this Section. Requests by taxpayers with hearings scheduled pursuant to Section 710:1-5-117 may be made to the Hearing Officer. Otherwise, such requests should be made to the Executive Director of the Oklahoma Tax Commission. In the event the request for an extended installment agreement is denied by the Hearing Officer or Executive Director the taxpayer may make the request at a regularly scheduled meeting of the Tax Commissioners.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13; Amended at 35 Ok Reg 2033, eff 9-14-18]

710:1-5-116. Interest and penalty waiver requests

(a) **Waiver requests.** In the event, a taxpayer prior to business closure by affixing of a placard as provided in Section 710:1-5-122, pays the delinquent tax in full and requests, in writing, a waiver of interest and penalty, the waiver request will be treated as a stay to the business closure and a hearing will be scheduled in the same manner as hearings to business closures in Section 710:1-5-120.

(b) **Consideration of the request.** Before the scheduled hearing date, the waiver request must be considered by the applicable Division or Tax Commissioners, dependent upon the amount requested to be waived, and the taxpayer advised regarding approval/disapproval of the request.

(c) **Applicability of waiver request.** If the waiver request is approved, the hearing will be stricken from the docket and the taxpayer will be deemed compliant for purposes of the business closure proceedings. If the waiver request is not approved or only partially approved, the taxpayer will be afforded the opportunity, prior to or at the hearing, to pay in full the outstanding interest, penalties and fees or enter into an installment agreement to pay the outstanding amounts subject to the provisions of Section 710:1-5-115.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13; Amended at 35 Ok Reg 2033, eff 9-14-18]

710:1-5-117. Hearing request by noncompliant taxpayer

(a) **Contents and form of protest and request for hearing.** The protest and request for hearing must be made in writing, signed by the taxpayer or an authorized representative, and should outline therein:

- (1) Taxpayer's name, address and social security number or employer's identification number;
- (2) Taxpayer's sales tax permit or other identification number issued by the Tax Commission;
- (3) The tax reporting periods at issue; and
- (4) That an administrative hearing is requested including the manner in which the taxpayer desires the hearing to be held whether in person, by telephone, upon written documents furnished by the noncompliant taxpayer, or upon written documents and evidence produced by the noncompliant taxpayer at hearing.

(b) **Rule applicability.** The tax protest procedure outlined in 710:1-5-21 through 710:1-5-48 is not applicable to the business closure protest proceedings which are solely governed by the provisions of 710:1-5-117 through 710:1-5-121.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13; Amended at 32 Ok Reg 1330, eff 8-27-15; Amended at 35 Ok Reg 2033, eff 9-14-18]

710:1-5-118. Timely filing of protest and applications for hearing

In order for the hearing request to be considered timely it must be filed within five (5) business days after the date of delivery or attempted delivery of the pending business closure notice.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-119. Defenses to business closure

The only defenses to business closure are proof that the noncompliant taxpayer:

- (1) Filed all delinquent returns and paid the delinquent tax due including interest, penalty and fees; or
- (2) Has entered into a payment agreement pursuant to Section 710:1-5-115 to satisfy the tax due including interest, penalty and fees.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13; Amended at 35 Ok Reg 2033, eff 9-14-18]

710:1-5-120. Hearing procedures governing hearing requests to pending business closure notice

(a) **Hearing schedule.** The date, time, and place for the hearing will be set by the hearing officer and provided to the noncompliant taxpayer by mail at least five (5) days in advance of the hearing.

(b) **Administrative hearing.** The administrative hearing will be conducted by a hearing officer appointed by the Tax Commission. The administrative hearing will be held within fourteen (14) calendar days of receipt by the Tax Commission of the noncompliant taxpayer's request for hearing. Subject to the approval of the hearing officer, the administrative hearing may be held in person, by telephone, upon written documents furnished by the noncompliant taxpayer, or upon written documents and any evidence produced by the noncompliant taxpayer at an administrative hearing. A noncompliant taxpayer who requests an administrative hearing based upon written documents is not entitled to any other administrative hearing regarding the matter prior to the date a decision is rendered by the hearing officer. The noncompliant taxpayer may be represented by an authorized representative who may present evidence in support of the position of the noncompliant taxpayer.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-121. Hearing officer decisions

The decision of the hearing officer to affirm or deny the business closure must be rendered in writing and a decision to affirm the business closure shall constitute a Closure Order with copies delivered to the noncompliant taxpayer by the U.S. postal service or by hand delivery.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-122. Business closure

If a noncompliant taxpayer fails to fully exercise one of the options to avoid business closure outlined in paragraphs (1) through (4) of subsection (b) of Section 710:1-5-113, or to comply with the terms of an installment payment agreement pursuant to Section 710:1-5-115, or if the business closure decision is affirmed after administrative or judicial review, the Tax Commission shall provide notice of business closure by affixing a placard to all entrances of the business that:

- (1) Identifies the business as being subject to a Closure Order; and
- (2) States that the business is prohibited from further operation.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13]

710:1-5-123. District Court injunctions

After being served with a Closure Order, it shall be unlawful for any person to continue to operate the business. If a person continues or threatens to continue the unlawful operation of the business after having received a Closure Order, the Tax Commission may seek an injunction in District Court to enjoin the taxpayer from further operating or conducting the unlawful business. In all cases where injunction proceedings are brought under this Section, the Tax Commission shall not be required to furnish bond. Where notice of closure has been given in accordance with the provisions of Section 710:1-5-122, no further notice shall be required before the issuance of a temporary restraining order.

[Source: Added at 30 Ok Reg 103, eff 11-1-12 (emergency); Added at 30 Ok Reg 1850, eff 7-11-13]

PART 11. DISQUALIFICATION OF PERSONS REPRESENTING TAXPAYERS BEFORE THE OKLAHOMA TAX COMMISSION

710:1-5-200. Disqualification procedure

(a) **General provisions.** Any person shown to be in violation of the provisions of Section 236 of Title 68 of the Oklahoma Statutes, may, after notice and an opportunity for hearing, be disqualified from practice before the Oklahoma Tax Commission.

(b) **Complaint and initial investigation.** The Commission may, upon its own initiative, or upon receiving a written complaint filed with the Secretary-Member, cause the complaint to be investigated and a determination made as to whether good cause exists for initiating a disqualification proceeding. If it is determined that no violation has occurred, or if there is insufficient evidence to support the allegation, the investigation will be terminated. If a determination is made that good cause exists for initiating a disqualification proceeding, such proceeding will be promptly commenced.

(c) **Commencement of proceeding.** Upon the initiation of a disqualification proceeding, the matter shall be set for hearing before a hearing examiner or an Administrative Law Judge assigned by the Commission. The respondent who is the subject of the proceeding, and the Office of the General Counsel who shall prosecute the matter, shall be provided notice of the hearing, at least thirty (30) days prior to the hearing date.

(d) **Notice.** Notice to respondent shall be made by certified mail, return receipt requested, postage prepaid, to the last known address, and shall contain a summary of the complaint, the name of the Administrative Law Judge or hearing examiner assigned to the matter, and the time and date of the hearing.

(e) **Conduct of hearing.** The hearing shall be public except where prohibited by confidentiality imposed by law, and shall be conducted in conformity with the Rules of Practice and Procedure before the Office of the Administrative Law Judges (OAC 710:1-5-20 through 710:1-5-49).

(f) **Burden of proof.** The Office of the General Counsel shall have the burden of establishing, by a preponderance of the evidence, that a violation of Section 236 has occurred such that respondent should be disqualified from practice before the Commission. Notice of the final disposition of the disqualification proceedings will be provided respondent.

(g) **Scope of action.** The respondent may be found qualified to practice and the proceeding dismissed on the merits; or the respondent may be disqualified from practice before the Commission for a stated period of time, or indefinitely. The Commission may provide notice of the determination of the disqualification proceeding to other agencies, boards, or Commissions who exercise jurisdiction or regulatory authority over the respondent or the activities involved in the violation. Nothing in this Section shall preclude the Commission from seeking any other remedies or legal proceedings available at law to enforce its orders, rules, or the provisions of 68 O.S. § 236.

[Source: Added at 16 Ok Reg 2642, eff 6-25-99; Amended at 32 Ok Reg 1330, eff 8-27-15]

SUBCHAPTER 8. TAX AMNESTY PROGRAM [EXPIRED]

710:1-8-1. General provisions [EXPIRED]

[Source: Added at 19 Ok Reg 3023, eff 8-14-02 through 7-14-03 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 710:1-8-1 was no longer effective. For the official text of the emergency rule that was in effect from 8-14-02 through 7-14-03, see 19 Ok Reg 3023.

710:1-8-2. Definitions [EXPIRED]

[Source: Added at 19 Ok Reg 3023, eff 8-14-02 through 7-14-03 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 710:1-8-2 was no longer effective. For the official text of the emergency rule that was in effect from 8-14-02 through 7-14-03, see 19 Ok Reg 3023.

710:1-8-3. Eligible tax liabilities to which tax amnesty may apply [EXPIRED]

[Source: Added at 19 Ok Reg 3023, eff 8-14-02 through 7-14-03 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 710:1-8-3 was no longer effective. For the official text of the emergency rule that was in effect from 8-14-02 through 7-14-03, see 19 Ok Reg 3023.

710:1-8-4. Qualification for amnesty program [EXPIRED]

[Source: Added at 19 Ok Reg 3023, eff 8-14-02 through 7-14-03 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 710:1-8-4 was no longer effective. For the official text of the emergency rule that was in effect from 8-14-02 through 7-14-03, see 19 Ok Reg 3023.

710:1-8-5. Application procedures [EXPIRED]

[Source: Added at 19 Ok Reg 3023, eff 8-14-02 through 7-14-03 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 710:1-8-5 was no longer effective. For the official text of the emergency rule that was in effect from 8-14-02 through 7-14-03, see 19 Ok Reg 3023.

710:1-8-6. Verification and review [EXPIRED]

[Source: Added at 19 Ok Reg 3023, eff 8-14-02 through 7-14-03 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 710:1-8-6 was no longer effective. For the official text of the emergency rule that was in effect from 8-14-02 through 7-14-03, see 19 Ok Reg 3023.

710:1-8-7. Disclosure [EXPIRED]

[Source: Added at 19 Ok Reg 3023, eff 8-14-02 through 7-14-03 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 710:1-8-7 was no longer effective. For the official text of the emergency rule that was in effect from 8-14-02 through 7-14-03, see 19 Ok Reg 3023.

710:1-8-8. Special circumstances [EXPIRED]

[Source: Added at 19 Ok Reg 3023, eff 8-14-02 through 7-14-03 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 710:1-8-8 was no longer effective. For the official text of the emergency rule that was in effect from 8-14-02 through 7-14-03, see 19 Ok Reg 3023.

SUBCHAPTER 9. OKLAHOMA VOLUNTARY COMPLIANCE INITIATIVE [EXPIRED]

710:1-9-1. General provisions [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-1 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.

710:1-9-2. Definitions [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-2 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.

710:1-9-3. Eligible tax liabilities to which Voluntary Compliance Initiative may apply [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-3 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.

710:1-9-4. Qualifications for Voluntary Compliance Initiative [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-4 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.

710:1-9-5. Application procedures [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-5 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.

710:1-9-6. Verification and review [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-6 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.

710:1-9-7. Disclosure [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-7 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.*

710:1-9-8. Nonpayment penalty [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-8 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.*

710:1-9-9. Special circumstances [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-9 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-08 through 7-14-09, see 26 Ok Reg 17.*

710:1-9-10. Payment plan guidelines [EXPIRED]

[Source: Added at 26 Ok Reg 17, eff 8-8-08 through 7-14-09 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 710:1-9-10 was no longer effective. For the official text of the emergency rule that was in effect from 8-8-09 through 7-14-09, see 26 Ok Reg 17.*

SUBCHAPTER 11. RETAILER COMPLIANCE INITIATIVE [EXPIRED]

710:1-11-1. Purpose [EXPIRED]

[Source: Added at 28 Ok Reg 461, eff 12-27-10 through 7-14-11 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-11 (after the 7-14-11 expiration of this emergency action), Section 710:1-11-1 was no longer effective. For the official text of the emergency rule that was in effect from 12-27-10 through 7-14-11, see 28 Ok Reg 461.*

710:1-11-2. [EXPIRED]

[Source: Reserved at 28 Ok Reg 461, eff 12-27-10 through 7-14-11 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action reserving a Section, the Section is no longer effective. Therefore, on 7-15-11 (after the 7-14-11 expiration of this emergency action), the reservation of Section 710:1-11-2 was no longer effective.*

710:1-11-3. Definitions [EXPIRED]

[Source: Added at 28 Ok Reg 461, eff 12-27-10 through 7-14-11 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-11 (after the 7-14-11 expiration of this emergency action), Section 710:1-11-3 was no longer effective. For the official text of the emergency rule that was in effect from 12-27-10 through 7-14-11, see 28 Ok Reg 461.*

710:1-11-4. [EXPIRED]

[Source: Reserved at 28 Ok Reg 461, eff 12-27-10 through 7-14-11 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action reserving a Section, the Section is no longer effective. Therefore, on 7-15-11 (after the 7-14-11 expiration of this emergency action), the reservation of Section 710:1-11-4 was no longer effective.

710:1-11-5. Retailer Compliance Initiative [EXPIRED]

[Source: Added at 28 Ok Reg 461, eff 12-27-10 through 7-14-11 (emergency)¹]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-11 (after the 7-14-11 expiration of this emergency action), Section 710:1-11-5 was no longer effective. For the official text of the emergency rule that was in effect from 12-27-10 through 7-14-11, see 28 Ok Reg 461.

SUBCHAPTER 13. CONSUMER COMPLIANCE INITIATIVE

710:1-13-1. Purpose

In order to encourage the voluntary disclosure and payment of use taxes owed to the State, the Legislature has authorized the Tax Commission to establish a Consumer Compliance Initiative.

[Source: Added at 28 Ok Reg 929, eff 6-1-11]

710:1-13-2. [RESERVED]

[Source: Reserved at 28 Ok Reg 929, eff 6-1-11]

710:1-13-3. Consumer Compliance Initiative

Relief granted under Initiative. Taxpayers who qualify under the Initiative will be granted a waiver of penalty, interest and other collection fees and the Tax Commission will refrain from assessing use tax for more than one year prior to the date the taxpayer registers to pay consumer use tax.

(1) **Eligibility.** Only businesses that make regular purchases of tangible personal property outside the State of Oklahoma for their own use, storage or consumption in this state are eligible for the relief granted under the Initiative.

(2) **Qualification.** To qualify for the relief granted under the Initiative the taxpayer must:

(A) Voluntarily file delinquent use tax returns and pay the delinquent consumer use taxes reflected thereon; and

(B) Apply with the Oklahoma Tax Commission for an Oklahoma consumer use tax account to report and remit use tax on a monthly basis.

(i) Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, OK 73102, a completed Business Registration, Packet A available online at www.tax.ok.gov.

(ii) No fee is required to obtain the account.

(iii) Upon receipt and review of the application by the Tax Commission, a consumer use tax account will be assigned.

(3) **Exceptions.** The relief provided under the Initiative is not available to a taxpayer with respect to:

(A) Any matter or matters for which the consumer received notice of the commencement of an audit and which the audit is not yet finally resolved including any related administrative and judicial processes; and

(B) Use taxes already paid or remitted to the state.

(4) **Applicability.** The relief provided pursuant to the Initiative applies only to use taxes due from a taxpayer in its capacity as a buyer not to use taxes due from a taxpayer in its capacity as a seller.

[Source: Added at 28 Ok Reg 929, eff 6-1-11; Amended at 38 Ok Reg 1502, eff 9-1-21]

SUBCHAPTER 17. OKLAHOMA VOLUNTARY DISCLOSURE INITIATIVE [EXPIRED]

710:1-17-1. General Provisions [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-1 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

710:1-17-2. Definitions [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-2 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

710:1-17-3. Voluntary Disclosure Initiative [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-3 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

710:1-17-4. Eligible tax liabilities to which Voluntary Disclosure Initiative may apply [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-4 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

710:1-17-5. Eligible taxpayers [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-5 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

710:1-17-6. Modified Voluntary Disclosure Agreement [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-6 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

710:1-17-7. Verification and review [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-7 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

710:1-17-8. Disclosure [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-8 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

710:1-17-9. Payment plan guidelines [EXPIRED]

[Source: Added at 35 Ok Reg 53, eff 9-14-17 through 9-14-18 (emergency)¹]

***EDITOR'S NOTE:** ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 9-15-18 (after the 9-14-18 expiration of this emergency action), Section 710:1-17-9 was no longer effective. For the official text of the emergency rule that was in effect from 9-14-17 through 9-14-18, see 35 Ok Reg 53.*

APPENDIX A. SCHEDULE OF FEES

[Figure 1](#)

[Source: Added at 10 Ok Reg 3819, eff 7-12-93; Amended at 11 Ok Reg 3465, eff 6-26-94; Revoked and reenacted at 13 Ok Reg 3933, eff 9-3-96 (emergency); Revoked and reenacted at 14 Ok Reg 2667, eff 6-26-97; Revoked and reenacted at 18 Ok Reg 2325, eff 5-7-01 (emergency); Revoked and reenacted at 19 Ok Reg 2429, eff 6-27-02]

CHAPTER 10. AD VALOREM

[Authority: 68 O.S., §§ 203, 205(C)(7), 1001.1, 2802.1(C), 2817(B), 2825, 2827, 2829(D), 2830, 2875, 2898, 2902(H), 2902.3(H) and 2946.2(D)]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:10-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to the ad valorem taxation of properties within the state.

710:10-1-2. Assessment percentage guidelines

(a) **Guidelines for the assessment percentage.** Beginning on January 1, 1997, for ad valorem year 1997, Oklahoma's Constitution provides for the capping of the assessment percentage used in Oklahoma's Ad Valorem system, as of December 31, 1996.

(b) **Percentages used for real property and for personal property may differ.**

The assessment percentage used for real and personal property may be different, but all real property must be assessed at the same percentage and all personal property must be assessed at the same percentage.

(c) **Assessment percentages in effect for January 1, 1996 control.** Each county assessor shall continue to use, **for both real and personal property**, the assessment percentages in effect for January 1, 1996, unless those percentages are increased in the future by a vote of the people as provided for by Section 8, Article 10 of the Oklahoma Constitution, or decreased by the County Assessor. Before a county assessor may decrease an assessment percentage the notice and meeting requirements outlined below must be met:

(1) The county assessor must provide written notice of intent to decrease an assessment ratio at least 90 days prior to the decrease taking effect.

(A) The written notice must be made by certified mail with return receipt requested to the county treasurer, county clerk, county sheriff, to each of the county commissioners, and to the governing board of any local government jurisdiction that levies ad valorem taxes upon any property located within the county.

(B) The notice must be mailed not later than 60 days prior to the expiration of the 90 day period and must clearly state the assessment ratio in effect prior to the decrease, the category of property to be affected by the proposed decrease, and the date that such decrease is proposed to take effect.

(C) The assessor must publish notice of intent at least one time for three (3) consecutive weeks in a newspaper of general circulation in the county.

(D) The beginning of the notice must have the following wording: "NOTICE OF INTENT TO DECREASE ASSESSMENT RATIO WITH RESPECT TO REAL OR PERSONAL PROPERTY OR BOTH IN (insert applicable county name) FOR THE (insert applicable year) ASSESSMENT YEAR.

(2) The assessor must conduct at least three (3) public meetings in the county prior to the date the assessment ratio decrease is to take effect. The last of the three (3) meetings must be held at least 30 days prior to the date any assessment percentage decrease is implemented.

(A) Notice of the meetings must be posted in the offices of the county assessor, county treasurer, county commissioners, county clerk and other public places within the county.

(B) The assessor must attend all public meetings to answer questions about the proposed decrease in assessment ratio and any possible effects on budgets of any ad valorem taxing jurisdiction

(d) All other property which is assessed by the State Board of Equalization shall be assessed at the percentage of its fair cash value at which it was assessed on January 1, 1996, as provided for in Article X, Section 8(A)(3) of the Oklahoma Constitution.

710:10-1-3. Procedures for implementation of the ad valorem valuation limitation

(a) **Application of limitation for counties in compliance January 1, 2013 and subsequently.** Pursuant to Article X, Section 8B of the Oklahoma Constitution and 68 O.S. §2817.1, on and after January 1, 2013, the fair cash value of any parcel of locally assessed real property which constitutes homestead property or agricultural land shall not increase by more than 3% in any taxable year. The fair cash value of all other locally assessed real property shall not increase by more than 5%. The limitation on valuation increases set forth in this subsection do not apply in any year when the title of the property is transferred, changed, or conveyed to another person, or if improvements are made to the property unless subject to provisions of subsection (j) of this Section. [See: 68 O.S. § 2802.1] The limitation shall apply January 1, 2013, to all counties in compliance with applicable laws and administrative regulations governing valuation of locally assessed real property. For those counties out of compliance as of January 1, 2013, the limitation shall apply January 1 of the year following the date on which the county was deemed to be in compliance. Once a county is in compliance on or after January 1, 2013 the limitation shall not be removed, even if a county is deemed to be out of compliance.

(b) **Implementation of limitation.** The county assessor will implement the limitation by annually comparing the fair cash value with the constitutionally-limited value. County assessors should continue to determine fair cash value on an annual basis. The limitation does not accumulate. In the event that a final fair cash value of a property changes as the result of a protest with the county assessor, County Board of Equalization, applicable court action, or action by the County Board of Tax Roll Corrections, the applicable valuation limitation shall apply to that property's final taxable value, as determined using accepted appraisal methodology for subsequent years.

(c) **Rights of taxpayers.** Taxpayers shall continue to have all rights of protest with respect to the valuation and assessment of property as currently specified by statute. If the taxpayer demonstrates to the satisfaction of the county assessor or county board of equalization that the fair cash value is below the constitutionally-limited value, it is appropriate for the county assessor to lower the property to that value. The limitation would then be applied annually to that value if all other conditions of the limitation on increases of fair cash value in Article 10, Section 8B, Oklahoma Constitution, are met.

(d) **Review of valuation for error.** The county assessor should review the valuation of the property for clerical errors, incorrect physical characteristics, or other material error affecting valuation in order to protect the taxpayer. This review should **not** include a revaluation of the property because it is below fair cash value.

(e) **Duration of limitation.** The annual valuation limitation is valid on the property as long as title to the property is not transferred, changed, or conveyed. [See: Article 10, Section 8B, Oklahoma Constitution & 68 O.S. §§ 2802.1 & 2817.1]

(f) **Physical improvements on limited property.** In the event that physical improvements are made to the limited property, the improvement shall be valued in the same manner as the improvements are presently valued. Examples of physical improvements may include, but are not limited to, a room addition, additional square footage, a garage, out buildings, enclosed garage, or similar improvements. This additional valuation shall be added to the limited value of the property before the construction occurred. For example, if the improvements added \$5,000 in fair

cash value to the property, it would be increased by that amount. The property may increase up to the applicable valuation limitation in addition to the increased amount added by the improvement. The new total value continues to be limited as long as the title of the property remains the same. Physical additions or changes that are considered normal maintenance such as certain normal repairs, minor remodeling, roof repair or installation, minor energy efficiency improvements, or retro fit improvements such as wheelchair ramps providing access to the property are not generally considered physical improvements affecting the limited value. [See: 68 O.S. §§ 2802.1, 2817.1]

(g) **Effect of conveyance of property.** If title to the property is transferred or conveyed, the parcel of real property shall be assessed at fair cash value as set forth by Section 8 of Article X of the Oklahoma Constitution. This valuation is to be based upon current market value standards rather than simply placing the property on at its sale price, and it is the responsibility of the county assessor to value the property at fair cash value consistent with applicable statutes and ad valorem rules. Any sale occurring during the course of a given calendar year shall be valued at fair cash value as specified by statute for the following tax year. The county assessor shall continue to be responsible for making valuation changes to surrounding properties based on current sales information of comparable property within the constitutional limitations specified for non-sold properties. [See: 68 O.S. § 2802.1]

(h) **Omitted property.** While accomplishing statutorily mandated duties, the county assessor or a deputy will discover unassessed improvements on real property. A house and outbuildings, for example, could be on the assessment rolls, but a detached garage, second dwelling, or barn, previously unassessed, could be discovered. This additional property must be treated as if it was new construction and the county assessor should proceed to establish the fair cash value of the discovered property. It should be added to the assessment rolls, and proper notice provided. The original property will still be subject to the applicable valuation limitation, but the additional structure will **not** be subject to the valuation limitation, **for that year only**. This additional property was not on the assessment rolls before, and is to be placed on the assessment rolls at fair cash value.

(i) **Clerical errors.** When a property has been incorrectly entered on the assessment rolls as a result of clerical or data entry error, any error should be corrected. Clerical errors, however, are **not** to be used for general revaluation of the property, except that when the error results in a substantial impact on the value of the property, it should be corrected when discovered and proper notice provided to the taxpayer. For example, a residence that has been incorrectly entered as 1,000 square feet, instead of 2,000 feet, **because of a clerical error** should be corrected. The clerical error must be a mistake of fact, and the change must reflect the actual physical characteristics of the property itself. Clerical errors of this nature are not subject to the applicable valuation limitation.

(j) **Adjustment of damaged properties.** In valuing property damaged by natural causes, flood, storms, fires, or other disasters, the county assessor shall adjust the value of such properties. When the damage has been repaired, or the property fully restored to its previous usage, the improvements made must be disregarded for purposes of determining the maximum amount of fair cash value subject to ad valorem taxation pursuant to Section 8B of Article 10 of the Oklahoma Constitution unless the improvements increase the square footage. The valuation limitation outlined in subsection (a) of this Section applies to the restoration of the damaged property to the extent the square footage is the same as the original property. However, the limitation does **not** apply to any improvements constituting

increases in square footage to the original property. [See: 68 O.S. §§ 2802.1, and 2817.1]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 18 Ok Reg 2796, eff 6-25-01; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 32 Ok Reg 1335, eff 8-27-15; Amended at 34 Ok Reg 2040, eff 9-11-17; Amended at 35 Ok Reg 2035, eff 9-14-18]

710:10-1-4. Limitation of the fair cash value on homestead property of qualified owners; and additional homestead exemption

(a) The procedures and requirements set out in this Section shall be used to implement the limitation of the valuation on homestead property of qualified owners for ad valorem purposes and the additional homestead exemption:

(b) For purposes of qualifying for the senior valuation limitation and/or the additional homestead exemption "**gross household income**" means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes, including pensions, annuities, federal Social Security, unemployment payments, public assistance payments, alimony, support money, workers' compensation, loss-of-time insurance payments, capital gains and any other type of income received, and excluding gifts. The term "gross household income" shall not include any veterans' disability compensation payments.

(c) "**Senior valuation limitation**" means the implementation of Oklahoma Constitution, Article 10, Section 8C, which directed county assessors to limit the fair cash value of the homestead property of any qualified person who has made proper application. The applicant's property must be a valid homestead property, with proper evidence of a homestead or an application made in 1997 or subsequent years. As with any homestead, the general statutes for homestead qualification apply to the limitation. Only one homestead, and by extension, only one limitation is permitted in any one year. The limitation applies only to the occupied homestead property and may not be applied to non-homestead property. [See: 68 O.S. §§ 2888, 2889, 2890, 2893]

(1) **Relationship to exemptions and other programs.** The senior valuation limitation is available to qualified owners in addition to participation in the circuit breaker and additional homestead exemption. Availability of the senior valuation limitation **is not** dependent upon the county's compliance status with the State Board of Equalization.

(2) **Qualified owner.** The taxpayer must be at least 65 the year before the senior valuation limitation is approved, and the applicant's total household annual income for the previous year must not exceed the amount as provided in the Oklahoma Constitution, Article 10, Section 8C. The income threshold for the gross household income from all sources for an individual head of household under this Section shall not exceed the amount determined by the United States Department of Housing and Urban Development to be the estimated median income for the preceding year for the county or metropolitan statistical area which includes such county. The Tax Commission shall provide this information to each county assessor each year, as soon as it is available.

(3) **Application; qualification; duties of assessor; right of appeal.** In order to be eligible for the senior valuation limitation, the individual must apply at the county assessor's office by completing form **OTC 994, Application for Property Valuation Limitation and Additional Homestead Exemption.** The application must be made between January 1

and March 15. The limitation will be in effect for the tax year in which the application is made and approved, based on the current year valuation.

(A) For the limitation to be valid, form **OTC 994, Application for Property Valuation Limitation and Additional Homestead Exemption**, must be completed in its entirety as to income, age, ownership, and other information.

(B) The county assessor has the right and duty to review the information provided, ask any necessary questions, request documentation of age, income, or other information.

(C) The county assessor shall deny any application that is inaccurate, incomplete, inadequately documented, or otherwise invalid pursuant to this Section.

(D) The county assessor may request assistance from the Oklahoma Tax Commission in determination of income qualifications under 68 O.S. § 2890.

(E) The taxpayer may appeal any denial of a senior valuation limitation application by the county assessor to the county board of equalization in the same manner as an appeal of the denial of a homestead exemption.

(4) **Review of valuation for error.** The county assessor should review the valuation of the property for clerical errors, incorrect physical characteristics, or other material error affecting valuation in order to protect the taxpayer. This review shall **not** include a revaluation of the property solely because it may be below fair cash value.

(5) **Physical improvements to property.** If a physical improvement is made to the property, such as a room addition, additional square footage, garage, out buildings, enclosed garage, or similar improvement, the improvement shall be valued in the same manner as these improvements are presently valued. This additional valuation shall be added to the limited value of the property before the construction occurred. If improvements are added to the property, the fair cash value shall be increased by the amount attributable to the addition. The new total value is then limited again, so long as the owner and property remain qualified. Physical additions or changes that are considered normal maintenance, such as normal repairs, minor re-modeling, roof repair or insulation, minor energy efficiency improvements, or retro fit improvements such as wheelchair ramps to provide access to the property, are not generally considered physical improvements affecting the valuation limitation.

(6) **Duration of, and conditions which terminate the limitation.** The senior valuation limitation is valid on the property as long as the taxpayer owns and occupies the property and title to the property is not transferred, changed, or otherwise modified. If the taxpayer fails to own and occupy the property or if title to the property is transferred, changed, or conveyed to another person, the senior valuation limitation shall expire. It is then the responsibility of the county assessor to value the property at fair cash value consistent with constitutional provisions, statutes and applicable rules. If the person's gross household income from all sources exceeds the amount provided in the Oklahoma Constitution, Article 10, Section 8C, the senior valuation limitation shall expire and the value of the property shall be subject to the three percent limitation increase for that year.

(7) **Instances in which tax amount may increase, despite limitation.** The senior valuation limitation applies to the valuation, however; tax increases may occur under the specific situations outlined as follows:

(A) If an additional millage such as a bond issue or other levy is added;

(B) If judgment is rendered against the county and a judicial order directs an additional levy; or,

(C) If the county voters adopt a measure increasing the assessment percentage within the county under the authority of Section 8, Article 10, of the Oklahoma Constitution.

(8) **Additional homestead exemption.** "Additional homestead exemption" means an exemption in addition to the amount of the homestead exemption authorized and allowed in Section 2889 of this Title 68, to the extent of One Thousand Dollars (\$1,000.00) of the assessed valuation on each homestead of heads of households whose gross household income from all sources for the preceding calendar year did not exceed Twenty Thousand Dollars (\$20,000.00).

(A) To qualify for the additional homestead exemption, the individual must apply at the county assessor's office by completing form **OTC 994, Application for Property Valuation Limitation and Additional Homestead Exemption.**

(B) The application must be made on or before March 15 or within thirty (30) days of taxpayer's receipt of a County Assessor Notice of Increase in Valuation of Real Property form (OTC 926) whichever is later. [68 O.S. § 2890(C)].

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 18 Ok Reg 2796, eff 6-25-01; Amended at 22 Ok Reg 353, eff 1-1-05 (emergency); Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 32 Ok Reg 1335, eff 8-27-15; Amended at 34 Ok Reg 2040, eff 9-11-17; Amended at 35 Ok Reg 2035, eff 9-14-18]

SUBCHAPTER 2. BUSINESS PERSONAL PROPERTY VALUATION SCHEDULES

710:10-2-1. General provisions

(a) **Purpose.** The provisions of this Subchapter have been adopted, pursuant to 68 O.S. § 2875(D)(4), to provide information regarding the schedules of values of personal property given to county assessors to assist in the assessment of personal property.

(b) **Schedules of values.** Schedules of values are intended only to provide the user with an approximation of value for the personalty "typical" for the class, not an absolute value.

(c) **Schedules of trending and depreciation.** Trending schedules are used to adjust historical cost to a current estimated replacement cost new. Depreciation schedules are used to estimate normal depreciation as applied to replacement cost new to estimate current value of the asset. The factors or percentages used are taken from *Marshall and Swift Valuation Service*, a national valuation service contracted by the Division to provide values and schedules of trending and depreciation for real and personal property. This service is updated on a monthly basis.

(d) **Caveat.** Nothing in this Subchapter, nor any other guidelines, procedures, or rates provided to assessors by the Oklahoma Tax Commission Ad Valorem Division ("**Division**") is intended to relieve property owners or assessing officials of their obligations by law to report, value, or assess personal property at its fair cash value.

Though the schedule of values referred to in this Subchapter are typical values for business personal property, actual value of any particular asset may be affected by conditions or use.

(e) **Disclosure.** A copy of the "Business Personal Property Valuation Schedule" may be obtained by accessing the Tax Commission website at www.tax.ok.gov.

[Source: Added at 22 Ok Reg 2241, eff 6-25-05; Amended at 34 Ok Reg 2040, eff 9-11-17; Amended at 38 Ok Reg 1510, eff 9-1-21]

710:10-2-2. Agricultural products and related equipment

(a) **Agricultural products.** The term "**agricultural products**" includes, but is not limited to: wheat, milo, peanuts, alfalfa hay, grass hay, corn, soybeans, native pecans, improved pecans, grains, and cotton.

(b) **Livestock.** The term "**livestock**" includes, but is not limited to: horses, cattle, commercial pigs, commercial chickens, commercial turkeys, table eggs, and other livestock.

(c) **Agricultural related equipment.** The term "**agricultural related equipment**" includes, but is not limited to: balers, combines, cotton pickers and strippers, forage harvesters, mower conditioners, sweepers and brooms, tractors, and windrowers.

(d) **Business related equipment.** "**Business related equipment**" includes, but is not limited to: computers, computer components, copiers, facsimile machines, office equipment, office furniture, office machines, printers, including peripherals, safes, and typewriters.

(e) **Industrial related equipment.** "**Industrial related equipment**" includes, but is not limited to: air equipment, asphalt distributors and finishers, compaction equipment, cranes, crawlers, loaders, crushing equipment, ditchers (trenchers), excavators (hydraulic and mechanical), forestry equipment, generator sets, motor graders, motor scrapers, pavement millers, pumps, reclaimers/stabilizers, skid steer loaders, sweepers/brooms, tractor (backhoes), tractor (crawlers), tractor (wheel), and wheel loaders.

(f) **Petroleum related equipment.** "**Petroleum related equipment**" includes, but is not limited to: cable tool rigs, casing and tubing, crude oil, drill pipe, drilling rigs, gas compressors, meters, natural gas, pipeline costs, tanks, and valves.

(g) **Exploration related equipment.** All taxable personal property used in the exploration of oil, natural gas, or other minerals, including drilling equipment and rigs shall be assessed annually at its fair cash value, based upon the value set by the first *Hadco International* monthly bulletin published for the current tax year and such other available relevant and reliable market data, if any, concerning the fair cash value of property of the same kind, using the appropriate depth rating assigned to the drawworks by its manufacturer and actual condition of the rig. [See: 68 O.S. § 2817(L)]

(h) **Miscellaneous equipment.** "**Miscellaneous equipment**" means, but is not limited to, coin changers, food merchandisers, game machines, golf cars, industrial motors, organs, phonographs, pianos, and vending machines.

[Source: Added at 22 Ok Reg 2241, eff 6-25-05; Amended at 38 Ok Reg 1510, eff 9-1-21]

710:10-2-3. Business related equipment [REVOKED]

[Source: Added at 22 Ok Reg 2241, eff 6-25-05; Revoked at 38 Ok Reg 1510, eff 9-1-21]

710:10-2-4. Industrial related equipment [REVOKED]

[Source: Added at 22 Ok Reg 2241, eff 6-25-05; Revoked at 38 Ok Reg 1510, eff 9-1-21]

710:10-2-5. Petroleum related equipment [REVOKED]

[Source: Added at 22 Ok Reg 2241, eff 6-25-05; Amended at 25 Ok Reg 2029, eff 7-1-08; Amended at 28 Ok Reg 763, eff 4-21-11 (emergency); Amended at 29 Ok Reg 516, eff 5-11-12; Amended at 34 Ok Reg 2040, eff 9-11-17; Revoked at 38 Ok Reg 1510, eff 9-1-21]

710:10-2-6. Other equipment [REVOKED]

[Source: Added at 22 Ok Reg 2241, eff 6-25-05; Revoked at 38 Ok Reg 1510, eff 9-1-21]

SUBCHAPTER 3. EQUALIZATION STUDY

PART 1. GENERAL PROVISIONS

710:10-3-1. Purpose of the equalization study

(a) The equalization study set forth in this Subchapter is mandated by law pursuant to 68 O.S. §2865(a) of the Ad Valorem Tax Code. The purpose of this study is to collect and analyze data for the purpose of formulating recommendations to be presented to the State Board of Equalization. The State Board of Equalization may use the recommendations of the Oklahoma Tax Commission for the equalization and adjustment of the valuation of the real property within and among the several counties pursuant to Article 10, Section 21 of the Oklahoma Constitution and 68 O.S. §2865 of the Ad Valorem Tax Code. See also: **Board of County Commissioners of Canadian County v. State Board of Equalization**, 363 P.2d 242 (Okl. 1961); **In Re McNeal's Appeal**, 35 Okl. 17, 128 P. 285 (1912).

(b) The purpose of the equalization study among the counties is to ensure the legal level of assessment of each county is at the level ordered by the State Board of Equalization. Should the State Board of Equalization determine that new legal levels of assessments be mandated, the purpose of this study among the counties will be to ensure that each county maintains the constitutionally-mandated assessment level.

(c) The purpose of the equalization study within each county is to ensure that all classes of real property are valued uniformly and assessed at one ratio. **Cantrell v. Sanders**, 610 P.2d 227 (Okl. 1980).

(d) The purpose of the equalization study is also to notify the State Board of Equalization as to any inequities that exist within any class or classes of real property within a county or among the several counties. 68 O.S. §2864.

(e) The purpose of such equalization study is to conduct a comprehensive review of the assessments in each county assessor's office. This equalization study shall be the basis for the Oklahoma Tax Commission findings and recommendations presented to the State Board of Equalization under its responsibilities defined by 68 O.S. § 2865.

(f) The provisions of this Subchapter are not to be construed to limit the constitutional and statutory authority of the State Board of Equalization to equalize within and among the counties, nor the statutory authority of the Oklahoma Tax Commission to make recommendations to the State Board of Equalization under the provisions of Section 2865, Title 68, Oklahoma Statutes.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 24 Ok Reg 2343, eff 6-25-07; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-3-2. Definition of terms and statistics used in the equalization study

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Aggregate assessment ratio" means the ratio of the total of assessed values to the total of the market-use values. This measure of central tendency may be distorted in that the ratio of a higher priced property will have a greater impact than the ratio of a lower priced property.

"Assessed value" means the fractional portion of market-use value against which ad valorem tax millage is levied. These statistics are obtained from the assessor's office.

"Average deviation" means the mathematical average of the total deviations and the total number of samples. This is a measure of dispersion or uniformity and deals with the inconsistency between individual ratios and the median or mean.

"Coefficient of dispersion" means the measure which shows the distribution of the individual ratios about the median. It is calculated by dividing the measure of dispersion (the average deviation) by the measure of central tendency (the median). The more uniform the assessments, the lower the coefficient of dispersion.

"Deviation from median" means the distance and direction of the individual assessment-ratio from the median.

"Market use related differential" means the measure calculated by dividing the mean assessment ratio by the aggregate assessment ratio and is used to indicate the direction of the bias of the mean assessment ratio and the aggregate assessment ratio. This measure shows any tendency for assessing relatively high priced properties higher or lower than relatively lower priced properties. A differential of more than 100 indicates lower ratios on the higher priced properties, while a differential of less than 100 indicates lower ratios on the lower priced properties. (Also known as the price-related differential)

"Market-use value" means the property value established by either the market or appraised value of the sample according to the actual use of the sample property.

"Mean assessment ratio" means a mathematical average of all the ratios and represents a measure of central tendency which is weighted.

"Median assessment ratio" means the ratio of the middle term. The median represents a measure of central tendency. The median, rather than the mean or aggregate ratio, is most often used in dispersion analysis.

"Ratio" means the ratio of assessed value to market-use value.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-3. Effective dates [REVOKED]

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Revoked at 14 Ok Reg 2670, eff 6-26-97]

710:10-3-10. Scope of equalization study

(a) The Oklahoma Tax Commission Ad Valorem Division shall perform an equalization study of each county in Oklahoma on annual basis. [See: 68 O.S. § 2865(A)]

(b) The purpose of such equalization study is to conduct a comprehensive review of the levels of assessment in each county assessor's office. This equalization study shall be the basis for the Oklahoma Tax Commission findings and recommendations presented to the State Board of Equalization under its responsibilities defined by 68 O.S. § 2865(A)].

(c) This Section is not to be construed to limit the constitutional and statutory authority of the State Board of Equalization to equalize within and between the counties nor the statutory authority of the Oklahoma Tax Commission to make recommendations to the State Board of Equalization under the provisions of Section 2865 of Title 68 of the Oklahoma Statutes.

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 24 Ok Reg 2343, eff 6-25-07]

710:10-3-11. Equalization study procedure; initial interview; follow-up visits, and exit conference

The equalization study process shall consist of two steps:

- (1) Initial equalization study interview. At the initial interview, the Oklahoma Tax Commission Ad Valorem Division personnel shall review the purpose of the study and schedule for completion with the County Assessor, Chief Deputy, or designated person.
- (2) Follow-up visits, sales research, and field verifications of sales data information.

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-12. Analysis of assessment and valuation equity

(a) The analysis of the assessment and valuation equity of each county shall consist of a comprehensive review of sales and assessments within the county. The purpose of this analysis shall be to prepare a median sales ratio for residential and commercial, and a use-value median ratio for agricultural property within each county in the state. This information shall be used to obtain, at a minimum, the following statistics:

- (1) Median sales assessment ratio for each of the three sub-classes of real property;
- (2) Coefficient of dispersion for each of the three classes of property;
- (3) Comparative data for each class of property to determine the deviation between the three use classifications of real property;
- (4) Other statistical data as deemed necessary by the Director of the Ad Valorem Division to ensure a valid and accurate report.

(b) The sales and assessment information necessary for the analysis shall follow the general procedures for data collection described in this Subchapter.

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97]

710:10-3-13. Analysis of CAMA data base and data entry [REVOKED]

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-14. Sales collection effort and sales file data [REVOKED]

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-15. Field inspection data collection effort [REVOKED]

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-16. Status of visual inspection plan [REVOKED]

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-17. Analysis of cadastral mapping effort [REVOKED]

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-18. Equalization study finding; submission to State Board of Equalization

(a) **Compliance with equalization study requirements.** Upon completion of the equalization study, the Oklahoma Tax Commission Ad Valorem Division shall report median audited assessment percentages for each property classification. Counties found to be within the Constitutional assessment percentage range of 11 to 13.5 percent, with all three classes of real property within the deviation range of 1.5 percent from the highest to the lowest ratio, shall be certified to the State Board, as being in compliance with equalization audit requirements.

(1) **Class deviations.** All counties must have all three classes of real property within the deviation range of 1.5 percent range, from the highest to the lowest ratio, in order to be in compliance, regardless of overall median ratio. [See: Art. 10, Section 8(A)(2), Okla. Const.]

(2) **Annual valuation.** The county must annually value all taxable real and personal property within the county, as required by 68 O.S. §§ 2817; 2829; and 2830, regardless of overall median ratio.

(3) **Constitutional compliance.** The county must be in compliance with Article 10, Section 8, of the Oklahoma Constitution, concerning assessment percentage limitation for real and personal property; with Section 8B, concerning the applicable valuation limitation on increases in fair cash value; and Section 8C, concerning limitations on fair cash value on certain homestead property, regardless of the overall median ratio.

(b) **Categories of noncompliance.** As specified in 68 O.S. §2830, the findings of the equalization study shall constitute the monitoring responsibilities specified in that statute. For purposes of that statute, the following three categories specified are defined:

(1) **Category One noncompliance.** If a county is found out of compliance on its annual equalization study in December, the county would be classed in Category One noncompliance. The county would have until the following June 15 meeting of the State Board of Equalization to correct the deficiencies noted in the equalization study. [See: 68 O.S. § 2830]

(2) **Category Two noncompliance.** If the county did not correct the problems noted in the equalization study by the June 15 date, it shall be included in the Oklahoma Tax Commission's report to the State Board of Equalization with a recommendation to re-classify the county to Category Two noncompliance. At the next State Board of Equalization meeting in December, if all compliance criteria have been achieved, the State Board of Equalization would determine the county in compliance. If the county was found not in compliance at the December meeting, the county would then have until the following June 15 meeting to achieve compliance. If compliance was not achieved, the State Board of Equalization would have the option not to certify the county abstract until all compliance criteria had been achieved and to reclassify the county Category Three noncompliance.

(3) **Category Three noncompliance.** If a county which has been previously classified Category Two and has failed to meet compliance criteria set forth by the State Board, the county would be classified Category Three noncompliance. The State Board of Equalization may elect not to certify the abstract.

(c) **Right of appeal.** Under 68 O.S. § 2882, a district attorney, acting under the direction of the board of county commissioners, can appeal a decision of the State Board of Equalization. Pursuant to 68 O.S. § 2883, a county assessor may appeal the decision of the Oklahoma Tax Commission of Category Two or Three noncompliance.

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 24 Ok Reg 2343, eff 6-25-07; Amended at 32 Ok Reg 1335, eff 8-27-15; Amended at 34 Ok Reg 2040, eff 9-11-17; Amended at 37 Ok Reg 2225, eff 9-11-20]

710:10-3-19. Data collection for assessment and equity analysis

(a) The purpose of data collection under this Subchapter is to develop objective measurement of market value and market-use value statistics within each county for purposes of the development of equalization data, market-use analysis, and other data related to the Oklahoma Tax Commission's responsibility to report to the State Board of Equalization.

(b) The procedures for data collection of sales and assessment information necessary to analyze the assessment and valuation equity component part of the equalization study shall also be addressed in this Subchapter.

(c) The Director of the Ad Valorem Division may prescribe by memorandum specific internal procedures for the Oklahoma Tax Commission staff to utilize to complete the equalization study in a timely and efficient manner.

[Source: Added at 11 Ok Reg 3469, eff 6-26-94; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-20. Classes of property

(a) For the purpose of the equalization study in this Subchapter, the stratum of real property will be subdivided into the following strata (use classification):

- (1) Residential
- (2) Commercial - Industrial
- (3) Agricultural.

(b) The State Board of Equalization may further stratify the classes of property for the purpose of equalization pursuant to Article 10, § 21 of the Oklahoma Constitution.

(c) The Oklahoma Tax Commission may recommend further stratification pursuant to 68 O.S. § 2865.

(d) This Section is not to be construed to limit the constitutional and statutory authority of the State Board of Equalization to equalize within and between the counties, or the statutory authority of the Oklahoma Tax Commission to make recommendations to the State Board of Equalization as to the stratification or consolidation of classes of property for the purposes of equalization. [See: **Poulos v. State Board of Equalization**, 646 P. 2d 1269 (Okla. 1982); **Cantrell v. Sanders**, supra; **Board of Commissioners of Canadian County v. State Board of Equalization**; supra; **Shell Petroleum Corporation v. State Board of Equalization**, 170 Okl. 581, 41 P.2d 106(1935); **In Re McNeal's Appeal**, supra.; Also: Werner W. Doering, "Property Tax Equalization and Conventional Measures of Assessment Performance," **Analyzing Assessment Equity**, (IAAO, 1977) PP. 23-45.]

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 24 Ok Reg 2343, eff 6-25-07; Amended at 34 Ok Reg 2040, eff 9-11-17; Amended at 35 Ok Reg 2035, eff 9-14-18]

710:10-3-21. Data worksheets; confidential work papers; duty to follow regulations [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

PART 3. DATA COLLECTION

710:10-3-22. Collection of assessment and equalization data for purposes of equalization study

(a) For purposes of gathering sales data, the Oklahoma Tax Commission staff will examine verified sales for the period to be included in the equalization study. The study period shall be from January 1st to December 31st of the previous assessment year.

(b) A **verified** sale is indicated by documentary stamps affixed to a warranty deed. This is only a presumption that a sale has occurred.

(c) The verified sale **shall be qualified by one** of the methods set out in this subsection:

- (1) The amount of consideration paid is stated in the warranty deed or attached documents;
- (2) A mortgage or mortgages follows the warranty deed which reasonably indicates that the documentary stamp value is correct;
- (3) Confirmation by one or more of the following:
 - (A) Buyer;
 - (B) Seller;
 - (C) Real estate broker or agent;
 - (D) Bank or other lending institution;
 - (E) Real estate appraiser;
 - (F) Real estate data banks and multi-list services; or
 - (G) Attorneys and other third parties who have knowledge of the transaction.

(4) Commercial and industrial property is to be qualified pursuant to subsection (g) of this Section by the confirmation method.

(5) The residential property data will be qualified by using the methods described in (1), (2) and (3) of this subsection.

(6) Agricultural properties will be appraised using the Oklahoma Tax Commission and State Board of Equalization approved methodology.

(d) Warranty deeds shall be used as the primary source of samples unless the warranty deeds available requires the use of other instruments in order to have an adequate sample. Such instruments shall not be used unless it is determined that they represent arms-length transactions pursuant to 710:10-3-24.

(e) A warranty deed or other instruments which do not have documentary stamps affixed may be used only upon a qualification by confirmation upon determining an arms-length transaction exists.

(f) The book and page numbers of all sale transactions to be included in the equalization study will be submitted to the county assessors for their review and comment.

(g) **All** commercial and industrial properties **shall be verified and then qualified** by the confirmation method to determine the presence of personal property. The value of the personal property will be deducted from the sales consideration. The

adjusted sales price will then be used in the equalization study.

(h) The Oklahoma Tax Commission may use any reasonable method to qualify sales samples.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 35 Ok Reg 2035, eff 9-14-18]

710:10-3-23. Contact between analyst and county assessor [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-24. Screening of sales; exclusions from sampling

(a) Transactions which are presumed not to be arms-length sales may be used in the equalization study after determining that adequate consideration exists.

(b) If one of the following conditions exists, there may be a presumption that a non-arms-length sale exists:

- (1) Sales which secure debt or other obligation.
- (2) Sales without additional consideration, conform, correct, modify or supplement a deed previously recorded.
- (3) Sales between a husband and wife, parent and child, grandparent and grandchild, those deeds within the second degree of consanguinity, without actual consideration thereafter or sales between any person and a revocable trust. See: 68 O.S. § 2802.1(4)(a).
- (4) Sales of release of property which is security for debt or other obligation.
- (5) Sales of partition, those between co-owners, resulting in individual ownership of the interests of each.
- (6) Sales between corporate affiliates with no consideration or sales made pursuant to mergers or sales from a person to a partnership, LLC or corporation.
- (7) Sales pursuant to foreclosure proceedings in which the grantee is the holder of a mortgage on the property being foreclosed.
- (8) Sales pursuant to a judicial ordered sheriff sales.
- (9) Sales of property to the United States Government, State of Oklahoma or the counties and cities within Oklahoma.
- (10) Splits or combinations of non-contiguous property.
- (11) Sales contract for deed in excess of one (1) year.
- (12) Trades of property with no consideration stated.
- (13) Sales of partial interests in property.

(c) Real estate sales including personal property and business goodwill (inventories, furniture, fixtures and etc.) will be excluded unless terms of the sale are known and the personal property value and value attributed to goodwill can be ascertained. [See: **IAAO Standards on Assessment Ratio Studies**, Latest edition.]

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 24 Ok Reg 2343, eff 6-25-07]

710:10-3-25. Collection of assessment data

The Oklahoma Tax Commission staff will collect assessment data for the prior year and current year in the following manner:

- (1) The prior year assessments will be collected immediately upon completion of the data collection process.
- (2) The current year assessments will be collected after June 1st.

(3) The current and previous years' assessments to be included in the equalization study will be submitted to the county assessors for their review pursuant to 710:10-3-36.

(4) The book and page number of the sales to be included in the equalization study may be submitted as soon as available.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 37 Ok Reg 2225, eff 9-11-20]

710:10-3-26. Notification to county assessor on collection of assessment data; county assessor participation [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-27. Agriculture data collection and assessment data collection

(a) The Oklahoma Tax Commission staff will proceed to determine the samples to be used in the agricultural equalization portion of the equalization study.

(b) Following the gathering of agricultural samples to be used in the study, the Oklahoma Tax Commission will prepare appraisals in accordance with the State Board of Equalization approved agricultural use value methodology. Appraisals will be made on at least one taxable parcel of unimproved agricultural land in each full township on a random basis in each county, if available. This is subject to the guidelines on adequate sampling set out in 710:10-3-30.

(1) For purposes of the equalization study, an unimproved sample parcel of at least forty (40) acres is required in each full township.

(2) A physical inspection by the analyst is required to determine the use classification of the land as follows: [See:1999 OK AG 20]

(A) Cropland;

(B) Improved pasture;

(C) Native pasture;

(D) Timber;

(E) Waste; or

(F) Other categories specified by the State Board of Equalization.

(c) A determination of the agricultural use classification other than physical inspection shall be made only with the written permission of the supervisor or the Director of Ad Valorem and with just cause.

(d) The use of orthophotographic aerials for use classifications as a source of additional data is permitted and encouraged, but a physical inspection will also be performed unless otherwise specified in writing by the Director of the Ad Valorem Division.

(e) The Oklahoma Tax Commission staff will use only the approved Oklahoma Tax Commission and State Board of Equalization agricultural use value methodology for the appraisal of each classification of agricultural land.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17; Amended at 35 Ok Reg 2035, eff 9-14-18]

710:10-3-28. Agricultural ratio study; agricultural improvement [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-29. Summary conference [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-30. Adequate sample size

(a) For purposes of assessment and equalization data for the equalization study, a sample size of one (1) percent of the total parcel count of a county will be deemed generally adequate for the equalization study, not to exceed 1,000 samples. The Ad Valorem Division will prepare an annual statewide list of the number of samples to be used in each county.

(b) A substantial deviation from the annual statewide list of the number of samples to be used in each county must be approved in writing by the Director of the Ad Valorem Division prior to the beginning of the study.

(c) Additional samples may be added from the original samples taken in the county for the Equalization Study, if the sample size falls below the minimum sample requirement. These additional samples will be selected on a random basis. The selection process will be documented and made a part of the findings on the county assessor's Equalization Study. Any additional samples will be subject to the same verification process provided for in 710:10-3-24.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 24 Ok Reg 2343, eff 6-25-07]

710:10-3-31. Sample size for metropolitan counties [REVOKED]

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Revoked at 14 Ok Reg 2670, eff 6-26-97]

710:10-3-32. Inspection of sales and use-value data by county assessor on completion of equalization study; objections to sale or appraisal

(a) The Director of the Ad Valorem Division shall submit to each county assessor a listing of the sales data and assessment data for further screening used to determine assessment equity statistics. The Oklahoma Tax Commission Ad Valorem Division staff **shall not** make any corrections, deletions or adjustments without approval of the Director of the Ad Valorem Tax Division or a person designated by the Director with the authority to make such approvals.

(b) Any objection shall be upon forms provided to the county assessors by the Oklahoma Tax Commission.

(c) These forms will be returned with objections noted and properly documented with deeds, instruments or affidavits for exclusion from the study or correction of error.

(d) Objections to sampling techniques and suspected sampling problems will be subject to the procedure outlined in 710:10-3-33.

(e) The county assessor shall be provided the complete list of unedited, raw sales data collected for the county prior to any edits or deletions by the Ad Valorem Division. The sales data list shall be provided to the county assessor upon completion of preliminary equalization study data collection.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-33. Informal protest by the county assessor; detection of sampling problems

(a) A county assessor may file an informal protest related to the findings of his equalization study detailing any suspected problem in sampling which may distort the true picture of the assessment levels and uniformity in his county or any other finding in the study with which he disagrees. This informal protest should be made in writing, as soon as possible after an examination of documents provided by the

Oklahoma Tax Commission which would alert the assessor to a possible problem. This informal protest must be filed before the first Monday in November and should specifically state the suspected problem and the class or classes of property affected.

(b) The Tax Commission may use any generally accepted statistical techniques or methods of observation that would detect problems in sampling.

(c) The county assessor will be notified in writing of any sampling problems and methods used to correct them and will also be notified of the new results to be submitted to the State Board of Equalization. [See: **IAAO Standard on Assessment Ratio Studies**, Latest edition.]

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 24 Ok Reg 2343, eff 6-25-07]

710:10-3-34. Median assessment ratio; central tendency [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-35. Deviation between the three use classifications (STRATA) of real property (STRATUM) [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-36. Time schedule for equalization study of real property

The following time schedule applies to the equalization study of real property described in this Subchapter:

- (1) Complete all data collection by the third Monday in July.
- (2) Provide to County Assessors for examination a listing of sample data study results by the fourth Monday in August.
- (3) Examination by County Assessors for corrections and deletions and return to the Oklahoma Tax Commission by the third Monday in September.
- (4) Final listing of sample data study results to be provided to County Assessor by the second Monday in October.
- (5) Filing of informal protest to the findings of the equalization study shall be filed by the first Monday in November.
- (6) Review and disposition of any informal protest shall be made by the second Monday in November.
- (7) Equalization study final findings and recommendations shall be filed by the second Monday in November.
- (8) Presentation of findings and recommendations made to the Oklahoma Tax Commission by the fourth Tuesday in November.
- (9) Presentation to the State Board of Equalization on December 1st or the first working day thereafter.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 36 Ok Reg 1201, eff 8-11-19]

PART 5. AUTHORITIES AND METHODOLOGY

710:10-3-50. State Board of Equalization Sub-Committee [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-51. Sales data and assessment data collections [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-52. Appraisals used in lieu of sales-equalization [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-53. Inadequate sample size [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-54. Review of assessment and tax rolls

Ad Valorem Division personnel may from time to time compare assessment valuations used in the equalization study from the assessment rolls with the assessment valuation of the tax rolls. If it becomes apparent that there is a pattern of inconsistency between these two rolls, the Oklahoma Tax Commission Ad Valorem Division may conduct an in-depth review of assessment records in the county and report its findings to the State Board of Equalization.

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-3-55. Coefficient of dispersion [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-56. Measure of reliability; tests of hypothesis [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-57. Measure of reliability; nonparametric testing [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-58. Outliers [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-59. Cash equivalence adjustments [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-60. Cash equivalence adjustment guidelines [REVOKED]

[Source: Revoked at 11 Ok Reg 3469, eff 6-26-94]

710:10-3-61. Selective reappraisal of properties sold; investigation; alternate methodology [REVOKED]

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 24 Ok Reg 2343, eff 6-25-07; Revoked at 34 Ok Reg 2040, eff 9-11-17]

710:10-3-62. Adjusting sales prices for time [REVOKED]

710:10-3-63. School funding code compliance

(a) Each assessment and equalization analyst will note sale samples taken from the visual inspection area of the counties assigned.

(b) These samples will be taken in the area shown on the plan filed with the Oklahoma Tax Commission as being inspected for the current year.

(c) These samples are to be used to determine if visual inspection is being implemented according to the plan filed with the Oklahoma Tax Commission and that the filed plan is verifiable.

(d) The analyst will also check a sufficient number of the property assessment records in the visual inspection area against the actual existing structure to determine if actual physical inspections are being made and proper appraisal techniques are being applied.

(e) The analyst will report the lack of property assessment records, inadequate property assessment records, and other discrepancies upon a worksheet for that function. A copy of the present compliance report may be obtained from the Ad Valorem Tax Division and will be updated periodically to conform to current law and changing requirements as determined by the Director of the Ad Valorem Tax Division.

(f) This Section is not part of the normal equalization study but is part of the Oklahoma Tax Commission's parallel duties prescribed by law. The enforcement of the school funding code compliance or visual inspection statutes is not the statutory or constitutional duty of the State Board of Equalization. [See: 70 O.S. §18-109.1(4)]

[Source: Amended at 11 Ok Reg 3469, eff 6-26-94; Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 24 Ok Reg 2343, eff 6-25-07]

SUBCHAPTER 4. ANNUAL VALUATION MANDATE [REVOKED]

710:10-4-1. Purpose [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 23 Ok Reg 2803, eff 6-25-06; Revoked at 30 Ok Reg 1468, eff 7-1-13]

710:10-4-2. Definitions [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 24 Ok Reg 2343, eff 6-25-07; Revoked at 30 Ok Reg 1468, eff 7-1-13]

710:10-4-3. Responsibilities of County Assessor [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 24 Ok Reg 2343, eff 6-25-07; Revoked at 30 Ok Reg 1468, eff 7-1-13]

710:10-4-4. Elements essential to proper visual inspection [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-4-5. Activities essential to visual inspection [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-4-6. Annual valuation of all real and personal property outside visual inspection area [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 24 Ok Reg 2343, eff 6-25-07; Revoked at 30 Ok Reg 1468, eff 7-1-13]

710:10-4-7. CAMA completion requirement as evidence of annual valuation [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 24 Ok Reg 2343, eff 6-25-07; Revoked at 30 Ok Reg 1468, eff 7-1-13]

710:10-4-8. Determination of compliance with annual valuation requirements; certification to the State Board of Equalization [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 24 Ok Reg 2343, eff 6-25-07; Amended at 26 Ok Reg 2323, eff 6-25-09; Revoked at 30 Ok Reg 1468, eff 7-1-13]

710:10-4-9. Findings of the annual valuation audit [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 24 Ok Reg 2343, eff 6-25-07; Amended at 26 Ok Reg 2323, eff 6-25-09; Revoked at 30 Ok Reg 1468, eff 7-1-13]

SUBCHAPTER 5. HOMESTEAD EXEMPTION

710:10-5-1. Status as of January first governs; exception

(a) In order to obtain a homestead exemption, the applicant must be the record actual owner of the property on January 1st and must actually be residing there. If the evidence of title is not executed on or before January 1st and filed of record in the office of the County Clerk on or before February 1st, no exemption can be allowed, even though the person may have owned the property and may have been residing there for a number of years. [See: Op. Att'y Gen. issued 02-20-50; 68 O.S. § 2888]

(b) A natural person actually owning, residing and domiciled in the residence on January 1st shall be deemed to be the record owner of the property on January 1st, if the deed or other evidence of ownership, executed on or before January 1st, is of record in the office of the County Clerk on February 1. [See: 68 O.S. § 2888]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-2. Homestead exemption available to natural persons, citizens; marital status irrelevant

The homestead exemption should be granted to any natural person who is a citizen of the State of Oklahoma, provided other requirements of the Act are satisfied. It is not necessary for a man to be married or be the head of a family. The exemption may be allowed to a single person. [See: 68 O.S. § 2888; Op. Att'y Gen. issued 02-09-37]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-3. What constitutes residence and domicile; temporary absence

(a) **Legal residence.** A person's legal residence must be the place for which a homestead exemption is sought and the person must actually be residing there, as of January 1st assessment date. In most cases, a person cannot obtain the exemption if the home was rented on January 1st. The one exception is that a person in the Armed Services in the time of war, or during a National Emergency, or his family, is not required to be residing on the property and may even rent the property and still receive the exemption, if properly claimed.

(b) **Effect of absence.** Temporary absence for the purpose of making a visit or for other purposes, where the home is not rented and the owner intends to return to the home within a reasonable length of time and does not establish what could properly be considered to be a permanent residence elsewhere, will not serve to deprive the owner of a homestead exemption. For example, a school teacher may own a home and maintain it for her mother and herself, although for nine months of the year,

she is absent from the home, teaching, provided the home is not rented or closed during her absence and she returns during vacation months. In such a case, she is entitled to homestead exemption. In any case where a person is absent from his home and rents his home during his absence, and if the home is rented on the first day of January, the applicant cannot obtain an exemption. [See: Op. Att'y Gen. issued 03-17-54]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-4. Restrictions as to homestead acreage, valuation, and location

(a) **Homestead; one exemption allowed.** There can be only one homestead exemption allowed to one homestead or one piece of property, and only one exemption can be allowed to any single person of legal age, married couple and their minor child or children, or the minor child or children or a deceased person, whether residing together or separated, or surviving spouse. [See: 68 O.S. §§ 2888, 2889]

(b) **Urban homestead defined. "Urban homestead"** as used herein shall mean and include any homestead located within any city or town whether incorporated or unincorporated, or located within a platted subdivision or addition, whether such subdivision or addition be a part of a city or town. In no case shall an urban homestead exceed in area one (1) acre. Any platted subdivision or addition, whether a part of an incorporated city or town, or part of a township, is defined as an **urban homestead** and the one acre restriction applies. If a person owns a five acre tract in a subdivision platted in tracts of that size, he cannot obtain the homestead exemption on more than one acre and the improvements. The exemption as applied to urban homesteads is confined to the lot or lots upon which the residence and other outbuildings necessary or convenient for the family use are located. The exemption may be allowed to a vacant lot where such vacant lot adjoins or is contiguous to the lot or lots upon which the improvements are actually situated, but it must be in one tract, except that an alley between two lots does not deprive a person of the exemption of the lot across the alley, or to a lot in another block across the street from the house, if the barn or other outbuildings are located upon such lot. In no case can the exemption be granted on a vacant lot which does not adjoin or is not contiguous to the lot or lots upon which the improvements are actually situated. [See: 68 O.S. § 2888]

(c) **Rural homestead defined and land included in rural homestead. "Rural homestead"** as used herein shall mean and include any homestead located outside a city or town or outside any platted subdivision or addition. Land included in rural homesteads must be "about and contiguous or adjacent to" the land upon which the house is located. Land across a section line from the house may be included as a part of the homestead. Two tracts of land in one section which do not join, may also, in some cases, be included as a part of the homestead. The homestead exemption is allowed on any land close enough to the tract upon which the house is located to be considered, and actually is, one farm. [See: 68 O.S. § 2888]

(d) **Contiguous property.** The Act contemplates that the homestead selection will be in one contiguous area and not separated by property belonging to someone else. [See: Op. Att'y Gen. issued 05-14-37]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-5. Indian land [REVOKED]

[Source: Revoked at 18 Ok Reg 2796, eff 6-25-01]

710:10-5-6. What constitutes "actual owner"

(a) **Record title.** In any case where a natural person is occupying a home by reason of title by warranty deed, quit claim deed, tax deed, sheriff's deed, or by similar evidence of title, the assessor and board should assume that person is the actual owner of the property. If a person owns title to the property, and it is of record on February 1st, and he is in actual possession of the property, and residing there as of January 1st, the assessor or board should not question the title or ownership of such a person. A person who purchases property under a contract of sale and the contract of sale is on record in the County Clerk's Office on February 1st, and the person has possession of and is residing on the property on January 1st, is entitled to homestead exemption. [See: Op. Att'y Gen. issued 01-19-37 and 01-19-55; Op. Att'y Gen. No. 426 (1967)]

(b) **Life estate.** A person owning a life estate in his residence, provided evidence of title to the residence is of record in the office of the County Clerk, and who is living there, is entitled to a homestead exemption.

(c) **Title by inheritance.** A person owning a home by inheritance is entitled to the exemption provided the Order of the Court determining the ownership is of record in the office of the County Clerk as of February 1st.

(d) **Title in surviving spouse or minor child.** The surviving spouse or minor child of a deceased person shall be considered as the record owner of the homestead where the record title was in the name of the deceased person as of January 1st and the spouse or child meets all other qualifications. [See: 58 O.S. § 311]

(e) **Contracts for deed.** Based on the provisions of 16 O.S. § 11A, a purchaser of real property, under a contract for deed, qualifies for the statutory homestead exemption from ad valorem taxes, if the following conditions are met:

(1) **Bona fide purchase.** The contract for deed was made for the purpose of receiving the payment of money and for the purpose of creating an immediate and continuing right to possession of the real property;

(2) **Filed of record.** The contract for deed is filed of record in the County Clerk's Office; and,

(3) **Residency.** The purchaser under the contract for deed actually resides on the property and meets all other qualification criteria. [See: Op. Att'y Gen. 199 (1987)]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 18 Ok Reg 2796, eff 6-25-01]

710:10-5-7. Undivided interests in homesteads

(a) **Undivided interests in general.** A person who is a citizen of Oklahoma, that resides and is domiciled in a residence is entitled to a homestead exemption, in the amount of his undivided interest. For example, if the person is residing upon land in which he owns an undivided one-half interest, he is entitled to an exemption of \$500.00. If his undivided interest is one-fourth, he is entitled to an exemption of \$250.00. [See: 68 O.S. §§ 2888, 2833]

(b) **Exception for undivided interest in a parent and child.** If a parent and a child or children own a house jointly, but the parent is the only person residing in the house, the parent is entitled to the full exemption, up to One Thousand Dollars (\$1,000.00). [See: 68 O.S. § 2888]

(c) **Retention of homestead by a surviving spouse or minor child.** The surviving spouse or minor children, or both, of a deceased person shall be considered to be the record owners of a homestead if the title of record is in the office of the county clerk on January 1, in the name of the deceased. For example, if one spouse is listed

as the record owner of the residency on January 1, and that spouse dies that year, the surviving spouse or the decedent's children will still be able to claim the homestead exemption for that year, even though they are not listed as the owners of record in the office of the county clerk. [See: 68 O.S. § 2888]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 22 Ok Reg 1518, eff 6-11-05]

710:10-5-8. Keeping of roomers or boarders [REVOKED]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Revoked at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-9. Homesteads used partially for business or commercial purposes; allocation of value and exemption [REVOKED]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Revoked at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-10. Filing an application

(a) **Application restriction.** In order for any person to obtain an exemption on his homestead an application must be filed with the County Assessor on on form OTC 921, on or before March 15th of that year. However, the time within which to apply for the homestead exemption may be extended by thirty (30) days from receipt by the taxpayer of a County Assessor Notice of Increase in Valuation of Real Propertyform (OTC 926). Applications may be accepted by the county assessor throughout the year, however, applications filed after March 15, or after 30 days from receipt of a County Assessor Notice of Increase in Valuation of Real Property, whichever is later, will not be effective until the following year.

(b) **Who may sign application.** The application shall be signed by the owner of the property, or in case of minors or incompetents, by the guardian. Either husband or wife may sign an application if joint title is held by both parties. Similarly, an adult child may sign for the parents, if title to the property is jointly held between them. Other agents for taxpayers may not sign an application for an exemption, unless the owner is currently a member of the Armed Services of the United States, during time of war or a national emergency. Persons sixty-five (65) years of age or older, as of March 15, who have previously qualified for the additional homestead exemption or the limitation of fair cash value of homestead property, shall **not** be required to make an annual application, provided all qualifications are maintained. [See: 68 O.S. § 2892]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 18 Ok Reg 2796, eff 6-25-01; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-11. What levies exempt

Homesteads are not exempt from levies for interest and sinking fund requirements, for bonded indebtedness incurred prior to the effective date of the Act. They are exempt from all General Fund levies, including the additional millage voted by school districts. [See: 68 O.S. § 2889]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-12. Exemption limited to natural persons

A homestead exemption cannot be granted on a home if the title is in the name of a corporation, since a corporation is not a **natural person**, as required by the Act. [See: 68 O.S. § 2888]

[Source: Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-5-13. Parents and children as co-owners

A parent or parents may be granted a full homestead exemption if the parents reside on and own the homestead property in joint tenancy with one or more of their children, whether parents are residing together or separated, provided the joint tenancy instrument is recorded in the County Clerk's office. [See: 68 O.S. § 2888]

[Source: Added at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

SUBCHAPTER 6. STORM SHELTER EXEMPTION

710:10-6-1. Purpose

The provisions of this Subchapter have been adopted for the purpose of compliance with the Administrative Procedures Act, 75 O.S. § 250 et seq., and to facilitate the administration of the exemption from the ad valorem taxation for storm shelters approved by popular vote on November 5, 2002 (Laws 2002, H.J.Res.No. 1001; State Question 696).

[Source: Added at 20 Ok Reg 2154, eff 6-26-03; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-6-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

[Source: Added at 20 Ok Reg 2154, eff 6-26-03]

710:10-6-3. Status as of January 1 controls

In order to obtain the exemption for a storm shelter, the applicant must be the actual owner of the property on January 1 of the year for which the exemption is sought. If evidence of title is not executed on or before January 1 and filed of record in the office of the County Clerk on or before February 1, no exemption can be allowed.

[Source: Added at 20 Ok Reg 2154, eff 6-26-03]

710:10-6-4. Ownership

In any case where title is proffered by warranty deed, quit claim deed, tax deed, sheriff's deed, or by similar evidence of title, the assessor and county board of equalization shall assume that the person or entity for whom application is made is the actual owner of the property. A person who purchases property by a contract for sale, or contract for deed, on or before January 1, and who is designated as the purchaser in proper documents filed of record in the County Clerk's office on or before February 1, is entitled to the exemption. Refer to *OAC* 710:10-5-6 for additional ownership clarification.

[Source: Added at 20 Ok Reg 2154, eff 6-26-03]

710:10-6-5. Period of exemption

Beginning January 1, 2002, any storm shelter which meets the definition set out in 710:10-6-2 shall be exempt from Ad Valorem tax. Thereafter, if title to the property is transferred, changed, or conveyed to another person or entity, the exemption will be terminated and the property assessed as set forth in Article 10, Section 8 of the Oklahoma Constitution.

[Source: Added at 20 Ok Reg 2154, eff 6-26-03]

710:10-6-6. Exemption not restricted to homestead property

A storm shelter located in a residential or commercial property may qualify for the exemption. Article 10, Section 6, of the Oklahoma Constitution.

[Source: Added at 20 Ok Reg 2154, eff 6-26-03; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-6-7. Undivided interests

A person or entity who owns an undivided interest in the property and occupies the property shall be entitled to the entire storm shelter exemption allowed by Article 10, Section 6, of the Oklahoma Constitution. In no circumstances shall a person or entity be allowed more than One Hundred (100) square feet of total exempt area, regardless of the number of undivided interests in the property.

[Source: Added at 20 Ok Reg 2154, eff 6-26-03]

710:10-6-8. Filing an application

(a) **Application by taxpayer.** Unless the exempt storm shelter property has been identified and designated by the county assessor, an application to obtain a storm shelter exemption must be filed with the county assessor on form OTC 905. Such an application may be filed at any time. However, the county assessor shall, if the applicant qualifies, grant an exemption for a storm shelter for the current tax year only if the application is filed on or before March 15 of the current tax year. An application filed after March 15 of the current tax year will only entitle the applicant, if otherwise qualified, to an exemption for storm shelter property beginning the following tax year. There is no requirement for annual reapplication once the exemption is granted.

(b) **Assessor may identify exempt storm shelter property.** If the county assessor identifies a storm shelter that, in the assessor's opinion, qualifies for the exemption, the assessor may designate the shelter on the permanent property record in the assessor's office. In this case, there will be no requirement for the property owner to make application for the exemption. The exemption will be subject to all other requirements set out in this Subchapter.

[Source: Added at 20 Ok Reg 2154, eff 6-26-03; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-6-9. County assessor to make determination of status

(a) The county assessor shall examine each application and shall determine if the storm shelter meets the requirements set out by law. In determining if the application is to be approved, the assessor may, if necessary, make inspections, make a written request for additional information, or examine any person under oath, as provided by law.

(b) The assessor shall complete the assessor's portion of the application and shall deliver all applications, whether approved or rejected, to the County Board of Equalization on or before the fourth Monday in April, for the Board's review.

(c) If the county assessor finds an application for exemption should not be allowed by reason of non-conformity with the law, the applicant shall be notified of the disapproval and advised of the appeal process. [See: 68 O.S. §§ 2893-2895]

[Source: Added at 20 Ok Reg 2154, eff 6-26-03; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-6-10. County recording procedure for real property assessment and tax rolls

The county recording procedure shall separately show each approved storm shelter exemption in the same manner as other exemptions from Ad Valorem Tax.

[Source: Added at 20 Ok Reg 2154, eff 6-26-03]

SUBCHAPTER 7. MANUFACTURING FACILITIES

710:10-7-1. Purpose

The provisions of this Subchapter have been adopted for the purpose of compliance with the Administrative Procedures Act, 75 O.S. § 250 et seq., and to facilitate the administration, determination, and application of the exemption from the ad valorem taxation of property for certain new or expanded manufacturing facilities.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 22 Ok Reg 1518, eff 6-11-05]

710:10-7-2. Requirements for exemption for qualified manufacturing facilities established, expanded, or acquired, on or before July 1, 2003 [REVOKED]

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 18 Ok Reg 2796, eff 6-25-01; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 21 Ok Reg 2563, eff 6-25-04; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Revoked at 24 Ok Reg 2343, eff 6-25-07]

710:10-7-2.1. Manufacturing facility exemption for facilities which are established, expanded, or acquired on or after January 1, 2000 [REVOKED]

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 21 Ok Reg 2563, eff 6-25-04; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Revoked at 24 Ok Reg 2343, eff 6-25-07]

710:10-7-2.2. Exemption requirements for qualified manufacturing and research and development facilities established, expanded or acquired

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

(1) **Manufacturing facilities** means manufacturing facilities as defined in 68 O.S. § 2902(B)(1).

(2) **Facility or facilities** means and includes the land, building, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process. 68 O.S. § 2902(B)(2).

(3) **Research & development** means activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity. 68 O.S. § 2902(B)(3).

(4) **Base payroll** means total payroll for the calendar year the construction, acquisition, or expansion assets are first placed in service and the subsequent four (4) calendar years of eligibility.

(5) **Initial payroll** means payroll for the calendar year immediately preceding the initial construction, acquisition or expansion. In the event initial payroll is not comprised of a complete year's payroll, the amounts reported must be computed to arrive at an annual figure.

(b) **Qualification or statutory requirements.** Except as otherwise provided in (6) and (7) of this subsection, facilities must meet the requirements mandated by statute and summarized in (1) through (5) of this subsection:

- (1) Facilities must satisfy the requirement of being new, expanded, or acquired.
- (2) The investment cost of the construction, acquisition or expansion of the manufacturing facility must be Two Hundred Fifty Thousand Dollars (\$250,000.00) or more within the calendar year in which the construction, acquisition or expansion occurred. Investment Cost shall not include the cost of direct replacement, refurbishment, repair or maintenance of existing machinery or equipment, except that "investment cost" shall include capital expenditures for direct replacement, refurbishment, repair or maintenance of existing machinery or equipment that qualifies for depreciation and/or amortization pursuant to the Internal Revenue Code of 1986, as AMENDED, and such expenditures shall be eligible as part of an "expansion" that otherwise qualifies under this section.
- (3) Base payroll for the calendar year the assets are placed in service must be increased over initial payroll by at least Two Hundred Fifty Thousand Dollars (\$250,000.00) if the facility is located in a county with a population of less than seventy-five thousand (75,000) persons according to the most recent federal decennial census or by at least One Million Dollars (\$1,000,000.00) if the facility is located in a county with a population of seventy-five thousand (75,000) or more, according to the most recent federal decennial census. For the subsequent four years of eligibility, base payroll must be maintained in an amount equal to, or greater than, the base payroll amount established for the calendar year the assets are first placed in service.
 - (A) To determine initial and base payroll, the Tax Commission must verify all payroll information through the Oklahoma Employment Security Commission (OESC) utilizing reports filed with the OESC for the applicable calendar years. [See: 68 O.S. § 2902(C)(4)].
 - (B) The amount of increased payroll shall include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has qualified to receive an exemption pursuant to the provisions of this Section and who are leased or otherwise provided to the facility, if such employment did not exist in this state prior to the start of initial construction or expansion of the facility.
 - (C) A manufacturing facility shall have the option of excluding certain components from its payroll. Manufacturing facilities electing to exclude either of the options in (i) or (ii) of this subparagraph, shall document the election by an attached addendum to the application at time of filing which states in detail any payroll exclusions. (See: 68 O.S. § 2902(C)(4)
 - (i) Payments to sole proprietors, members of partnerships, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company, or stockholder employees of a corporation who own at least ten percent (10%) of the stock in the corporation may be excluded from payroll.
 - (ii) Nonrecurring bonuses, exercise of stock option or stock rights, or other nonrecurring, extraordinary items included in total payroll numbers as reported by the OESC may be excluded from payroll. Nonrecurring bonuses shall not

include additional wages or other compensation paid on the basis of length of service.

(D) A manufacturing concern which does not meet the amount of increased payroll shall submit to the Tax Commission, with the initial application year of exemption, an affidavit, signed by an officer. The signed affidavit must state that from the start of initial construction, acquisition, or expansion, to the completion of said construction, acquisition, or expansion, or for three (3) years, whichever occurs first, the establishment or expansion of the facility will result in a net increase of the required base payroll. When the increased payroll requirement is met, the affidavit will be considered satisfied and no longer in effect.

(4) The facility will offer within one hundred eighty (180) days of the date of employment, a basic health benefit plan to the full-time employees of the facility. [See: 68 O.S. § 2902(C)(4)(b)] Calculation of the number of employees shall be made in the same manner as required pursuant to 68 O.S. § 2357.4 for an investment tax credit.

(5) A manufacturing facility requesting an exemption must hold title to real or personal property, or have an equity interest in real or personal property.

(6) Effective January 1, 2017, an entity engaged in the generation of electric power by means of wind, as described in the North American Industry Classification System No. 221119, shall not be defined as a qualifying manufacturing concern for purposes of the exemption authorized pursuant to Section 6B of Article X of the Oklahoma Constitution or qualify as a manufacturing facility as defined in this Section. While facilities which qualified for exemption pursuant to the filing of an exemption application before 2018 will be allowed to claim the exemption for any periods remaining in the five years provided all qualification requirements are met, no initial application for exemption shall be filed by or accepted from an entity engaged in electric power generation by means of wind on or after January 1, 2018.

(7) For applications received after November 1, 2007, establishments primarily engaged in distribution as defined under industry Numbers 49311, 49312, 49313 and 49319 and Industry Sector Number 42 of the NAICS Manual latest revision, must meet all criteria required by statute and outlined in (4) and (5) of this subsection and the following subparagraphs:

(A) Initial capital investment of at least Five Million Dollars (\$5,000,000.00);

(B) Employment of at least one hundred (100) FTE as certified by OESC;

(C) Wages and salaries equal to or exceeding one hundred seventy-five percent (175%) of the federally mandated minimum wage; and

(D) Commencement of construction on or after November 1, 2007, to be completed within three (3) years from the date of commencement of construction. [See: 68 O.S. § 2902(B)(1)(e)].

(c) **Review of facility eligibility.** To confirm eligibility, the Tax Commission may request any information from the applicant or require verification of any information as needed.

(d) **Requirements for acquired existing facility.** An acquired existing facility must be unoccupied for a period of twelve (12) months prior to acquisition for initial qualification. [See: Art. 10, Section 6B, Okla. Const. and 68 O.S. §

2902(A)].

(e) **Transfer of exemption.** If the ownership of a qualified facility currently enrolled in the exemption program changes during the five-year exemption period, the exemption shall continue in effect for the balance of the five-year period, so long as all other qualifications are maintained.

[Source: Added at 24 Ok Reg 2343, eff 6-25-07; Amended at 25 Ok Reg 2029, eff 7-1-08; Amended at 27 Ok Reg 2272, eff 7-11-10; Amended at 29 Ok Reg 516, eff 5-11-12; Amended at 33 Ok Reg 1070, eff 8-25-16; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-7-2.3. Delayed application of five year exemption period

(a) **General provisions.** Manufacturing facilities initially applying for exemption pursuant to Section 2902 of Title 68 on or after November 1, 2017 are eligible to delay the five-year period of exemption from ad valorem taxes to begin January 1 of the calendar year following the expiration of the ad valorem exemption or abatement provided through a tax incentive district established pursuant to the Local Development Act.

(b) **Definitions.** The following words and terms, when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

- (1) **"Act"** means the Local Development Act at 62 O.S. §§ 850 et seq.
- (2) **"Exemption"** means the exemption authorized by Section 6B of Article X of the Oklahoma Constitution and Section 2902 of Title 68 of the Oklahoma Statutes.
- (3) **"Manufacturing facilities"** means manufacturing facilities as defined in 68 O.S. § 2902(B)(1).
- (4) **"Tax Commission"** means the Oklahoma Tax Commission.
- (5) **"Commerce Department"** means the Oklahoma Department of Commerce.

(c) **Conditions of exemption delay.** In order to delay the exemption the following must occur:

- (1) Creation pursuant to the Local Development Act of a tax incentive district and the governing body established by the Act must notify the Tax Commission and the Oklahoma Department of Commerce of the tax incentive district's creation by the time the manufacturing facility initially applies for exemption.
- (2) A manufacturing facility must:
 - (A) Submit a completed OTC Form 900XM with the county for each of the five exemption years beginning with the initial year immediately following the initial qualifying use of the property in the manufacturing process adhering to current statutory filing requirements and deadlines.
 - (B) Indicate its intent to delay application of the five year exemption on the initial application for exemption by completing the applicable section of OTC Form 900XM.
 - (C) Meet all exemption criteria required by statute and outlined in (4) and (5) of subsection (b) of Section 710:10-7-2.2 and the following subparagraphs:
 - (i) Create at least 100 new jobs at the state index wage provided in Section 3604(F)(2) of Title 68; and
 - (ii) Invest at least 10 times the investment cost in new depreciable property required in Section 2902(B)(1) of Title 68.

- (3) Preparation of a fiscal and economic impact of the project by the Commerce Department, in conjunction with the Tax Commission.
- (4) In the event it is determined that the project has no adverse fiscal impact with a positive economic impact, referral to the Incentive Approval Committee created in Section 3603(b) of Title 68 for review of the project.
- (5) Approval of the project by the Incentive Approval Committee for delay of exemption.
- (6) Preparation of a contract between the Commerce Department and the manufacturing facility awarded the delay of exemption to be forwarded to the Ad Valorem Division of the Tax Commission for monitoring of the contract's terms and conditions.

(d) **Ineligibility of exemption delay.** The delay of the exemption shall not be available for the following

- (1) Any job creation or investment of new depreciable property that occurred prior to November 1, 2017, or the date of the creation of the tax incentive district, whichever is later.
- (2) Electric power generation facilities.

[Source: Added at 35 Ok Reg 2035, eff 9-14-18]

710:10-7-3. Strict compliance

All persons claiming or administering the manufacturing exemption provided for by the Constitution and the laws of this State shall strictly comply with the law and this Subchapter, under penalty of law, to the end that the objectives of the law be accomplished.

710:10-7-4. Qualifying manufacturing concerns exempt; forms

Qualifying manufacturing concerns as defined by law shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities for a period of five (5) years. Exemptions will be allowed only upon approved application filed with the county assessor for each year the exemption is requested on forms prescribed by the Oklahoma Tax Commission. The application shall be fully completed, sworn to and signed by the applicant, if an individual, or by a duly authorized officer or general partner or authorized agent of entities applying for the exemption. Authorized agents must file a Power of Attorney, OTC Form BT 129, with the initial and each annual application. Form BT 129 is available online at www.tax.ok.gov. Any additional information requested in writing by the county assessor, the County Board of Equalization, or the Oklahoma Tax Commission shall be furnished in a sworn and signed statement.

[Source: Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 24 Ok Reg 2343, eff 6-25-07; Amended at 28 Ok Reg 931, eff 6-1-11; Amended at 29 Ok Reg 516, eff 5-11-12; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-7-5. Date of qualification; application for exemption

(a) The period of exemption granted to qualifying manufacturing concerns shall be computed from the assessment date immediately following the initial qualifying use of the property in the manufacturing process and subject to the statutory requirements for qualification in place at the time of the initial qualifying use. Applicants may claim any remaining eligibility not to exceed five years from the initial qualifying use.

(b) When completion of a facility or facilities will occur after January 1 of a given year, a facility may apply to claim the ad valorem tax exemption for that year. If the facility is found to be qualified, the exemption shall be available for the entire year

and shall apply to the ad valorem valuation as of January 1st of that given year.

(c) Qualifying manufacturing concerns owning facilities engaged in manufacturing in Oklahoma on the first day of January may file an application for ad valorem manufacturing exemption on or before March 15, or as otherwise provided by law. Approved applications signed by the county assessor and the county board of equalization shall be filed by the county assessor with the Oklahoma Tax Commission no later than June 15 of the **TAX YEAR** in which the facility desires to take the exemption. Incomplete applications and applications filed after said date will be declared null and void by the Commission. [See: 68 O.S. § 2902(F); Article 10 § 22A Okla. Const.]

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 18 Ok Reg 2796, eff 6-25-01; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 25 Ok Reg 2029, eff 7-1-08; Amended at 27 Ok Reg 2272, eff 7-11-10; Amended at 28 Ok Reg 931, eff 6-1-11; Amended at 29 Ok Reg 516, eff 5-11-12; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-7-6. Beginning date of exemption; failure to claim

The five-year period of allowable ad valorem manufacturing exemption for any qualifying manufacturing facility property shall begin on January 1 following the initial qualifying use of the property in the manufacturing process as provided by law. Failure to claim an exemption for which a qualifying manufacturing concern may be eligible shall not toll or extend the five-year period of allowable exemption. Any remaining eligibility for previously acquired assets may be claimed for the following year based on the initial year of acquisition. Oklahoma Constitution Article 10 Section 22A prohibits the filing of an exemption application for any prior year(s) beginning January 1, 2009. The application must be made in the same year as the exemption is requested.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 21 Ok Reg 2563, eff 6-25-04; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 24 Ok Reg 2343, eff 6-25-07; Amended at 26 Ok Reg 2323, eff 6-25-09]

710:10-7-7. Continuance of operation of all facilities

If a manufacturing concern which is engaged in business in this State or has property subject to ad valorem tax in this State is allowed an exemption upon new or acquired facilities, as provided by law, then constructs an additional manufacturing facility, at a different location from the existing facility or facilities, and is allowed an exemption for the new facility/facilities, the manufacturing concern must continue to operate **all** of its facilities during the five-year period of allowable exemption, or forfeit its exemption for **all** of its facilities.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97]

710:10-7-8. Property used in a manufacturing facility

Real and personal property exempted from ad valorem taxation pursuant to this Subchapter must be used directly and exclusively in the manufacturing process. [See: 68 O.S. § 2902(B)(2)]

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 24 Ok Reg 2343, eff 6-25-07]

710:10-7-9. Inventories not exempt

Inventories are not exempt from ad valorem taxation under the manufacturing exemption, although they may be exempted, in whole or in part by the provisions of Article 10, Section 6A of the Oklahoma Constitution, the "freeport" amendment.

710:10-7-10. Examination and inspection of property and records

Manufacturing facilities claimed for ad valorem manufacturing exemption, as well as facilities not claimed for exemption, in the case of expanded facilities, and all books, records and papers pertaining thereto, shall be made available by the owner for inspection by the county assessor or deputies, the County Board of Equalization, or authorized representatives of the Tax Commission. Failure or refusal by a property owner to allow inspection or to furnish all information requested or required within thirty (30) days from written notification, shall be reason for voiding the application for exemption, and the property shall be assessed from the best information available and the property owner shall be estopped from contesting the amount or validity of any assessment as to that property. [See: 68 O.S. § 2945]

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 18 Ok Reg 2796, eff 6-25-01; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-7-11. County assessor to make initial determination of status; examination and valuation of the facility; notice upon rejection

(a) The county assessor shall examine each application for the manufacturing exemption from ad valorem taxation and shall determine whether the facility is exempt under the law. In determining whether the exemption application is to be approved, the assessor shall, if necessary, make inspections, make a written request for additional information, or examine any person under oath as provided by law.

(b) The assessor shall complete the assessor's portion of each application, whether approved or rejected, and shall consecutively number each application, retain a copy, and deliver the original application, whether approved or rejected, to the County Board of Equalization, on or before the fourth Monday in April each year for its review. After the County Board of Equalization has approved or rejected the application, the original application shall be forwarded to the Oklahoma Tax Commission Ad Valorem Division by June 15th of the current year.

(c) If the manufacturer's application is approved, the assessor shall mark the Notice of Approval or Disapproval (OTC Form 900 XMA-B) "**APPROVED**" and notify the applicant at the address shown on the application. It shall then be the duty of the Oklahoma Tax Commission to make a physical inspection of each facility approved for the exemption, determine the fair cash value of the real property, if necessary, and the personal property separately, and to determine the assessed value of each by applying the assessor's assessment percentage to that value. The Tax Commission shall then notify the county assessor of the valuation.

(d) If the county assessor finds that the exemption should not be allowed by reason of not being in conformity to the law, he shall mark the Notice of Approval or Disapproval (OTC Form 900 XMA-B) "**DISAPPROVED**", stating the reason for the disapproval, and shall notify the applicant at the address shown in the application. The notice shall be mailed on or before the fourth Monday in April. The assessor shall then immediately proceed to value and assess the property, as provided by law.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 27 Ok Reg 2272, eff 7-11-10; Amended at 28 Ok Reg 931, eff 6-1-11; Amended at 29 Ok Reg 516, eff 5-11-12; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-7-12. County Board of Equalization to review

The County Board of Equalization shall review each application for manufacturing exemption from ad valorem taxation in the same time and manner as provided for reviewing homestead exemptions and shall give written notice to the applicant if the board disallows an exemption which had been allowed by the county assessor. The notice shall state the reason for the rejection and the board shall forward a copy of the notice to the Oklahoma Tax Commission, on forms prescribed by the Tax Commission.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-7-13. Hearings before County Board of Equalization

In case the county assessor or County Board of Equalization disallows or rejects an application for a manufacturing exemption from ad valorem taxation, the applicant may obtain a hearing before the Board of Equalization by filing a written complaint with the Secretary of said Board (the county clerk) within ten (10) days from the receipt of the notice. The complaint shall specify the grievances and the pertinent facts in relation the matter, and the County Board of Equalization shall conduct hearings, as provided by statute. The final decision of the County Board of Equalization must be sent to the Tax Commission on or before June 15. [See: 68 O.S. §§ 2895, 2902]

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 29 Ok Reg 516, eff 5-11-12]

710:10-7-14. Appeal from Board of Equalization to district court

The decision of the County Board of Equalization as to the exemption of a manufacturing concern from ad valorem taxation may be appealed to the District Court by either the applicant or the county assessor, as provided by law. [See: 68 O.S. § 2879]

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-7-15. Review; protest; appeal

(a) **Notice of erroneous exemption; assessment.** If the Tax Commission determines that an ad valorem manufacturing exemption has been erroneously or unlawfully granted to a manufacturing concern, in whole or in part, shall notify the appropriate county assessor, who shall, after notice to the applicant as required by law has been given, immediately value and assess the property and place the property on the tax rolls for Ad Valorem taxation. [See: Attorney General Opinion 03-16]

(b) **Notice to applicant.** The Tax Commission shall mail a copy of the notice pursuant to the terms of 68 O.S. § 208 to the applicant at the mailing address shown on the application. The copy shall notify the applicant of his right to protest the Commission's determination.

(c) **Protest.** Within sixty (60) calendar days after the mailing of the notice, the applicant may file with the Oklahoma Tax Commission, a written protest, under oath, signed by himself or his duly authorized representative, in the manner and subject to the requirements set out in 68 O.S. § 207 of the Uniform Tax Procedure Code. A copy of the protest shall be mailed or delivered by the applicant to the county assessor.

(d) **Law governing protest procedure.** The Applicant's right of protest, hearing and procedure to be followed shall be governed by the provision of the Uniform Tax Procedure Code. [See: 68 O.S. §§ 201, et seq. and the Rules of Practice and

Procedure before the Office of Administrative Law Judges, promulgated at 710:1-5-20 through 710:1-5-49 of the **Oklahoma Administrative Code.**]

(e) **Appeal.** Appeals from the decision of the Oklahoma Tax Commission regarding any protest shall be made directly to the Supreme Court of Oklahoma, as provided by law.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 21 Ok Reg 2563, eff 6-25-04; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 27 Ok Reg 2272, eff 7-11-10; Amended at 32 Ok Reg 1335, eff 8-27-15]

710:10-7-16. County recording procedure for assessment and tax rolls; reimbursement payments

The county recording procedure will separately show each approved "exempt manufacturing" facility, which shall include exempt research and development facilities, in its proper place on each real or personal assessment and tax roll, as other taxable property. Exempt property shall be designated as "exempt manufacturing" property, the tax calculated, and charged to the county treasurer. The Treasurer **will not** bill the owner or post any public notice of delinquent or unpaid tax pursuant to the exemption. The tax for all "exempt manufacturing" property in the county will be reimbursed to the county treasurer by the State Treasurer before the end of the fiscal year, or installment reimbursement payments if the Ad Valorem Reimbursement fund is insufficient to reimburse the full amount with one (1) payment, until the full amount is paid in full. All reimbursements will be based upon a county claim for reimbursement. [See: Attorney General Opinion 03-16 and 62 O.S. § 193]

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 21 Ok Reg 2563, eff 6-25-04; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-7-17. Actual fair cash value

The fair cash value used for exempt manufacturing personal property for ad valorem tax purposes will be the amount determined by the Oklahoma Tax Commission. The fair cash value used for exempt manufacturing real property may be determined by the county assessor with the assistance and review of the Oklahoma Tax Commission.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 27 Ok Reg 2272, eff 7-11-10]

710:10-7-18. Designation on assessment roll; real property

The first year a manufacturing facility is allowed an ad valorem exemption, the real property is to be designated as XM-1 on the assessment roll under homestead exemptions allowed. The second year the exemption is allowed, XM-2 will be shown under homestead exemptions allowed for that year. The third, fourth and fifth year, the designation will be XM-3, XM-4, and XM-5, respectively. The sixth year, no designation will be shown, and the property will be assessed and taxed as other property.

710:10-7-19. Designation on assessment roll; personal property

Each exempt manufacturing personal property assessment shall be placed on the personal property assessment roll, as if it were taxable, except it shall be designated the first year the exemption is allowed, XM-1. The second year the exemption is allowed on the same property, the designation shall be XM-2, etc. The designation shall be entered under the less exemptions column.

710:10-7-20. Exemptions forwarded to tax rolls

Each real or personal "exempt manufacturing" assessment shall be forwarded to the proper tax roll and its "exempt manufacturing" designation (XM-1, etc.) shall be posted in the Treasurer's receipt number space, first half, and in addition, "TXM Reimbursement" shall be entered under "by whom paid " on the same line.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97]

710:10-7-21. Tax charge to County Treasurer

The tax shall be calculated and charged to the County Treasurer for each "exempt manufacturing" real and personal property.

710:10-7-22. Owner not billed for tax

The county treasurer shall not bill the owner of a manufacturing concern for the portion of ad valorem tax on "exempt manufacturing" property. The county treasurer shall send a copy of the tax bill to the Oklahoma Tax Commission Ad Valorem Division for notification purposes at the same time the tax bill would be otherwise sent to the taxpayer.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 21 Ok Reg 2563, eff 6-25-04; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-7-23. No late payment charges

No late payment interest or penalty on county reimbursements will be charged to the State by the County Treasurer. No late penalty or interest shall be charged to the applicant upon the disallowance by the county or the Oklahoma Tax Commission of any assets properly claimed on the application.

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-7-24. The county assessor's report to the County Excise Board; abstract of assessment

The exempt manufacturing valuations shall be included in the county assessor's Report to Excise Board (SA&I Form 263) and in the Annual Abstract of Valuation and Assessment (OTC Form 917), as for other properties.

[Source: Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-7-25. County claim for reimbursement; funding shortfall

Manufacturers tax exemption reimbursements are to have first priority before any other program utilizing the fund ear-marked for the "**Five-year Ad Valorem Tax Exemption for Oklahoma Manufacturers**". In the event of a shortfall of State funding, the county treasurer's would receive less than a full payment. In that event, the Oklahoma Tax Commission shall advise the county treasurer of the proportion to be applied to each tax bill. [See: Attorney General Opinion 03-16]

[Source: Amended at 14 Ok Reg 2670, eff 6-26-97; Amended at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 35 Ok Reg 2035, eff 9-14-18]

710:10-7-26. Rulings of State Auditor and Inspector

Any specific instruction by the State Auditor and Inspector pertaining to recording or to the handling of public funds shall take precedence over the provisions of this Subchapter.

710:10-7-27. Revisions of rules [REVOKED]

[Source: Revoked at 15 Ok Reg 3451, eff 7-11-98]

SUBCHAPTER 8. EXEMPTION FOR CERTAIN OIL AND GAS PROPERTY UPON WHICH OKLAHOMA GROSS PRODUCTION TAX IS PAID

710:10-8-1. General provisions

The provisions of this Subchapter have been adopted for the purpose of compliance with the Administrative Procedures Act, 75 O.S. § 250 et seq., and to establish guidelines, as authorized by 68 O.S. § 1001.1, for the determination of properties exempt from ad valorem taxes under the terms of 68 O.S. §§1001(S) and (T) by payment of the "*in lieu*" gross production tax.

[Source: Added at 21 Ok Reg 2570, eff 6-25-04; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-8-2. Exempt properties

(a) The following property shall be eligible for exemption from ad valorem taxation pursuant to the provisions paragraphs (S) and (T) of Section 1001 of Title 68:

- (1) Wellhead equipment, including compression equipment that is used for injection purposes on enhanced oil and gas recovery projects or compression equipment actually used in the process of bringing oil or gas, or both, to the surface;
- (2) Pumping units and any other devices designed to raise hydrocarbons to the surface;
- (3) Tubing, casing and other downhole equipment;
- (4) Lease production tanks, including flow tanks and water tanks;
- (5) Production units, separators, heaters, treaters, and any other devices designed to remove water and contamination from the hydrocarbons which are located upstream from lease production tanks, custody transfer points, or where production is commingled with that of other leases;
- (6) Flow lines going from the wellhead to production units, separators, heaters, treaters, and lease production tanks, including flow tanks and water tanks;
- (7) Residue lines used to return processed gas to the lease for use in powering production equipment or for injection purposes. If the lines transport gas which is sold or used for any other purpose, only that percentage of the value of the lines that equals the percentage of the volume of gas used to power production equipment or for injection shall qualify for the exemption;
- (8) Lease production meters;
- (9) Miscellaneous production equipment, including but not limited to valves, piping, and electrical accessories; and,
- (10) Disposal systems which are not for commercial purposes and wellbore and non-recoverable down-hole material, including casing, actually used in the commercial disposal of waste materials produced with oil and gas.

(b) Items enumerated in (a) of this Section are not intended to be exclusive or exhaustive.

[Source: Added at 21 Ok Reg 2570, eff 6-25-04; Amended at 34 Ok Reg 2040, eff 9-11-17]

SUBCHAPTER 9. MANUFACTURED HOMES

710:10-9-1. Listing and assessment of manufactured homes for ad valorem taxes

(a) **Manufactured homes subject to ad valorem taxation.** On the first day of January of each year, the county assessor of the county in which a manufactured home is located shall list, assess and tax such manufactured homes as required by the Ad Valorem Tax Code as it pertains to real and personal property. [See: 68 O.S. §§2811-2813] If a manufactured home is permanently affixed to the real estate, the original document of title may be surrendered to the Oklahoma Tax Commission for cancellation, in accordance with 47 O.S. § 1110, provided there is no outstanding lien recorded on the title. Thereafter, these homes will be assessed as other real property improvements.

(b) **New manufactured homes sold and properly registered between December 1st and January 31st.** New manufactured homes which are sold and properly registered between December 1st and January 31st pursuant to this subsection shall be exempt from ad valorem taxes for the assessment period beginning January 1st. [See: 710:10-9-4 for proper listing and assessment of used manufactured homes held for resale.]

(c) **New manufactured homes.** The purchaser of a new manufactured home will not be subject to ad valorem taxes until January 1st of the following year, if the new manufactured home is properly registered, titled, and tagged, as required by law.

(d) **Information required.** Data elements required for listing a manufactured home with a **completed certified** OTC Form 936 (Manufactured Home Certificate 936) consist of:

- (1) Receipt or Release for taxes paid;
- (2) Type of manufactured home transaction;
- (3) Date to be moved;
- (4) Name of current manufactured home owner(s);
- (5) Seller's current mailing address;
- (6) Seller's new mailing address;
- (7) Name of manufactured home buyer;
- (8) Buyer's current mailing address;
- (9) Buyer's new mailing address;
- (10) Information describing where manufactured home is being **moved from**, such as:
 - (A) Landowner's or park's name,
 - (B) City,
 - (C) County, and
 - (D) Legal description, or
 - (E) Situs description;
- (11) Current physical address;
- (12) Real property account number or personal property account number;
- (13) Information describing where manufactured home is being **moved to**, such as:
 - (A) Landowner's or park's name,

- (B) City,
- (C) County, and
- (D) Legal description, or
- (E) Situs description;
- (14) New physical address;
- (15) School district;
- (16) Certificate of Title information, consisting of:
 - (A) Vehicle identification number (VIN);
 - (B) Year of manufacture;
 - (C) Size;
 - (D) Make;
 - (E) Title number;
 - (F) Body type;
 - (G) Model;
 - (H) Agent number;
 - (I) Factory delivered price;
 - (J) Total delivered price.
- (17) Fair cash value;
- (18) Total current estimated taxes due;
- (19) Taxes due from prior years, if unpaid;
- (20) Total of prior years' taxes due, if unpaid;
- (21) Signature of applicant and date;
- (22) Certification by assessor's office, evidenced by signature and date;
- (23) Certification by treasurer's office that all current and prior years' taxes have been paid, evidenced by signature, date, and a statement substantially as follows: "**THIS DOCUMENT SHALL NOT BE CERTIFIED BY THE TREASURER'S SIGNATURE UNLESS ALL SPACES HAVE BEEN COMPLETED WITH THE INFORMATION REQUESTED**"
- (24) Column for remarks;
- (25) Legal certification of the Manufactured Home Certificate 936 requires the **signatures of the assessor and treasurer**;
- (26) Other information necessary for CAMA valuation;
- (27) Such other information as may be required by the Oklahoma Tax Commission.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 20 Ok Reg 2154, eff 6-26-03; Amended at 34 Ok Reg 2040, eff 9-11-17; Amended at 38 Ok Reg 1510, eff 9-1-21]

710:10-9-2. License plates and decal (initial and annual) for manufactured homes

(a) **Requirements to obtain license plate.** The following manufactured homes shall require a license plate:

- (1) Any manufactured home entering Oklahoma requiring registration under the Motor Vehicle Code, or establishing taxable situs;
- (2) Any manufactured home previously registered and subject to ad valorem taxation as provided by law;
- (3) Any manufactured home which remains in Oklahoma for a period in excess of sixty (60) days; and
- (4) Any manufactured home with taxable situs in Oklahoma which has not applied for registration and a certificate of title under the Motor Vehicle Code as required by law.

(b) **Initial decal requirement.**

(1) The initial decal will be affixed to the license plate which is issued by the motor licensing agent (commonly referred to as a tag agent). Thereafter, the decal will be issued on an annual basis by the county treasurer. New or used manufactured homes entering Oklahoma will receive a license plate and validation decal upon registering with the Motor Vehicle Division of the Oklahoma Tax Commission.

(2) The initial decal will be issued with the license plate as follows:

(A) If the manufactured home is not moving, the taxpayer is required to obtain a Manufactured Home Certificate 936 (OTC Form 936) from the county assessor of the county in which the manufactured home was assessed and taxed;

(B) The taxpayer should bring his registration papers and certificate of title to the county assessor's office and then to the treasurer's office to complete the Manufactured Home Certificate 936 (OTC Form 936);

(C) The county treasurer shall collect all current and delinquent ad valorem taxes due on the manufactured home and any delinquent special assessments due before issuance of a Manufactured Home Certificate 936 (OTC Form 936);

(D) The cost of the license plate will be \$1.00. An additional \$1.25 may be charged for a license plate purchased from a motor license agent (commonly referred to as a tag agent) as a processing fee for a total cost of \$2.25.

(3) The decal shall be obtained on an annual basis from the county treasurer in the county in which the manufactured home is located as follows:

(A) The taxpayer must pay all current and delinquent ad valorem taxes levied on the manufactured home and any delinquent special assessments due.

(B) The county treasurer then shall issue the decal as prescribed by the Motor Vehicle Division of the Oklahoma Tax Commission.

(4) If the manufactured home is to be moved, the taxpayer shall be charged a registration fee by the motor license agent, in lieu of current ad valorem tax.

[Source: Amended at 13 Ok Reg 3093, eff 7-11-96; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 35 Ok Reg 2035, eff 9-14-18]

710:10-9-3. Transfer of manufactured home with real property

When ownership of the manufactured home is transferred with the land upon which it is located with real property, the registration and certificate of title will be transferred in the new ownership as follows:

(1) The new owner will obtain a "Manufactured Home Certificate 936" (OTC Form 936) from the county assessor's office; and

(2) The new owner will present the "Manufactured Home Certificate 936" (OTC Form 936) to the Oklahoma Tax Commission or a motor license agent (tag agent) who will prepare the registration and certificate of title pursuant to the rules and regulations of the Motor Vehicle Division of the Oklahoma Tax Commission. A registration would not be issued unless the initial registration fee was never collected.

(3) All taxes due, as required by this Subchapter and the statutes of Oklahoma, including the current year's ad valorem taxes, will be collected before issuance of the "Manufactured Home Certificate 936" (OTC Form

936). However, there will be no excise tax due on the change in registration and certificate of title.

(4) If the manufactured home owner has surrendered the title in accordance with 47 O.S. § 1110, no title work or OTC Form 936 will be required, provided the home is not being moved.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 20 Ok Reg 2154, eff 6-26-03; Amended at 21 Ok Reg 2563, eff 6-25-04; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-9-4. Used manufactured homes held for resale; dealers

Used manufactured homes shall be exempt from ad valorem taxation if all the following requirements are met:

- (1) The used manufactured home must be registered or assigned to a licensed Oklahoma manufactured home dealer.
- (2) The used manufactured home is held for resale on a sales lot by a licensed Oklahoma manufactured home dealer on January 1st of the assessment year. The dealer shall be required, however, to obtain a current certificate of title (Title must be brought up in dealer's name.) and registration decal for any used manufactured home held for resale by January 31st in lieu of payment of ad valorem taxes. No certificate of title and registration decal shall be issued to the dealer without a completed "Manufactured Home Certificate 936" (OTC Form 936) in the dealer's name from the assessor's office in the county in which the manufactured home is located. A manufactured home held for resale without a current certificate and registration decal is subject to ad valorem tax on January 1st of the assessment year.
- (3) A licensed Oklahoma manufactured home dealer must meet these qualifications:
 - (A) A lawful dealers license obtained from the Used Motor Vehicle and Parts Commission. The license permits the buying, selling, or exchange of manufactured homes;
 - (B) The licensed manufactured homes are bought, sold and exchanged at an established place of business in this state. An established place of business shall include the sales lot. A sales lot is an established place of business at which:
 - (i) The licensed manufactured home dealer places his inventory;
 - (ii) The licensed manufactured home dealer maintains his books and records on the sale of manufactured homes; and
 - (iii) The licensed manufactured home dealer buys for resale and sells or exchanges used manufactured homes.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 21 Ok Reg 2563, eff 6-25-04]

710:10-9-5. Exemption for persons in active military service-owned manufactured homes

(a) **Manufactured homes.** The manufactured home of an active duty nonresident service person residing in the State of Oklahoma in compliance with military orders is exempt from ad valorem taxation and is to be registered with the Motor Vehicle Division of the Oklahoma Tax Commission annually for a fee of twenty dollars (\$20.00). A U.S. Armed Forces Affidavit (OTC Form 779) must be submitted with the OTC copy of the registration receipt. **Snapp v. Neal**, 382 U.S. 398, 86 S.Ct.

485 (1966).

(b) **Personal property.** Section 574 of the Civil Relief Act of 1940 exempts household personal property from ad valorem taxation for servicemen qualifying under this act.

(c) **When exemption not applicable.** The provisions of (a) and (b) of this Section do not apply when a serviceman establishes residency by the filing of a homestead exemption.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 21 Ok Reg 2563, eff 6-25-04]

710:10-9-6. Registration and ad valorem taxation of manufactured homes of nonresident owners

(a) **Registration.** A manufactured home properly registered or not properly registered in another state which remains in Oklahoma for a period in excess of sixty (60) days shall be registered under the same terms and conditions as an Oklahoma resident.

(b) **Ad Valorem Taxation.**

(1) A manufactured home improperly registered which remains in Oklahoma in excess of sixty (60) days establishes taxable situs and will be assessed ad valorem taxes for failure to properly register the manufactured home.

(2) Manufactured homes properly registered as provided by Section 1117 of the Motor Vehicle Code who pay the proper fees and excise taxes will not be liable for ad valorem taxes until the following tax year.

(c) **College Students.** Any full-time student of an institution of higher learning paying nonresident tuition shall not be required to purchase an Oklahoma license plate for a manufactured home provided that the state of residence of such student affords a similar exemption to Oklahoma students attending institutions of higher learning in such state. [See: 47 O.S. §1125(B)]

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95]

710:10-9-7. Moving manufactured homes

(a) **License plates.** Except as described in subsection (b), a current manufactured home license plate, in the form of a permanent metal or temporary dealer plate, is to be displayed at all times when upon a public roadway. [See: 47 O.S. § 1113(E)] An "M" tag is issued to manufactured home dealers and can only be used for the purchase and delivery of manufactured homes for the dealer's place of business. A "K" tag is an "in-transit" license plate issued to transporters and can be used only for transporting a new manufactured home or in the case of manufactured homes coming into Oklahoma from another state. Neither an "M" tag, nor a "K" tag may be used to transport a repossessed manufactured home, which requires use of a repossession affidavit.

(b) **Permit to transport or move; exceptions to payment of ad valorem tax paid in advance.** The Department of Public Safety shall **not** issue a permit to any person to transport or move a manufactured home without evidence of a current calendar year registration and decal on that manufactured home, except:

(1) To the holder of a dealer's license plate ("M" tag) issued by the Oklahoma Tax Commission;

(2) To the holder of a transporter's in-transit license plate ("K" tag) issued by the Oklahoma Tax Commission;

(3) In the case of a manufactured home which is in the state of Oklahoma for less than sixty (60) days and the tax receipts of the state in which

residency is claimed are provided; or,

(4) When a properly-completed repossession affidavit, issued pursuant to the terms of Sections 1110 and 1126 of Title 47, has been obtained for use in moving a repossessed manufactured home to a secure location. [See: 47 O.S. § 1113(E)]

(c) **Ad valorem taxes.** Issuance of a permit to transport a manufactured home does not relieve the holder of a perfected security interest of the ultimate responsibility for the payment of ad valorem taxes in the county of origin. The repossession lender must obtain a Repossession Affidavit (OTC Form 737) before hiring a manufactured home transporter and has thirty (30) days from the date shown on the repossession affidavit to obtain an OTC Form 936 and pay any fees or taxes which may be due.

(d) **Required documentation.** In all instances other than those described in (1) through (4) of subsection (b), the Department of Public Safety will require that the following documentation be presented:

(1) A current registration and current year decal; or,

(2) A current OTC Form 936 may also be used, providing the current year decal is affixed. [See: 68 O.S.1997, § 2813]

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 20 Ok Reg 2154, eff 6-26-03; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-9-8. Manufactured homes subject to ad valorem assessment on real property; real property assessment records

(a) **Property subject to this regulation.** A manufactured home which is located on land owned by the owner of the manufactured home is subject to real property assessment.

(b) **Separation of records of value kept by county assessor.** [See: 68 O.S. §2813(B)] Records kept by the county assessor must comply with the following:

(1) The calculation of fair cash value will be located in a area on the record separate and apart from other improvement calculations.

(2) Compliance with this Section is met if the manufactured home is separately described and the value is set out separately from the land and other improvements located on the property.

(3) The Vehicle Identification Number (VIN) must be shown on an assessment record.

(c) **Applicability of this Section.** The requirements of this Section are subject to any superseding legislation or rulemaking governmental subdivision created by law to regulate the valuation and assessment of manufactured homes.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 21 Ok Reg 2563, eff 6-25-04]

710:10-9-9. Homestead exemption requirements; improper registration of title

(a) **Qualification for homestead.** An owner of a manufactured home may apply for homestead exemption if all the following requirements are met:

(1) The land and the manufactured home are in the ownership of the same person; or,

(2) The applicant for homestead exemption is residing in a manufactured home that is owned by someone else. The applicant must own the land that the manufactured home is located on to qualify for homestead exemption. The owner or agent of the owner must render the manufactured home to the county assessor as personal property; [See: OAC 710:10-9-10 and 710:10-9-11] and,

- (3) The owner of the land and manufactured home is residing upon the property and domicile thereon; and
- (4) The owner meets the record ownership requirements for the land as set out in the Ad Valorem Tax Code to qualify for homestead exemption; and
- (5) The land, improvements and manufactured home are valued and assessed as real property.

(b) **Registration and certificate of title.** The county assessor should refer any applicant for a homestead which presents improper registration of title to the local motor licensing agent (tag agent) before approving the homestead application with an OTC Form 936 for proof of all taxes paid.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 21 Ok Reg 2563, eff 6-25-04]

710:10-9-10. Calculation of homestead exemption

The homestead exemption described by 710:10-9-9 shall be calculated as follows:

- (1) The land is valued at fair cash value;
- (2) The county assessor's current fractional assessment percentage is applied to the fair cash value of the land to obtain the assessment;
- (3) The one-thousand dollar (\$1,000) homestead exemption is deducted from the assessment of the land and the manufactured home; and
- (4) Any excess homestead exemption value **cannot** be applied to the manufactured home if the manufactured home is assessed as **personal property**.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 19 Ok Reg 1205, eff 5-11-02]

710:10-9-11. Manufactured homes as personal property

(a) **Requirements.** A manufactured home will be valued and assessed as personal property when the following circumstances exist:

- (1) The record owner of the land is not the owner of the manufactured home; or
- (2) The manufactured home is registered and the certificate of title indicates that ownership is in the name of an individual other than the record owner of the land unless a valid bill of sale and an OTC Form 936 is produced; or
- (3) The manufactured home is omitted from the assessment and tax rolls.

(b) **Examples.** The following are examples of instances wherein the manufactured home will be treated as personal property.

- (1) Manufactured home owner rents space in manufactured home park.
- (2) Manufactured home owner rents acreage in a platted or unplatted subdivision.
- (3) Manufactured home owner places manufactured home on the land of a son, daughter or other relatives.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95]

710:10-9-12. Manufactured homes not registered or assessed for ad valorem taxation

(a) **Manufactured homes escaping ad valorem taxation for previous years.**

- (1) The county assessor shall value and assess all manufactured homes in his/her county at fair cash value (market value) as prescribed by law.
- (2) The county assessor or a duly appointed and authorized deputy is empowered to go upon any premises to view and appraise any

manufactured home as prescribed by law.

(3) The county assessor or a duly appointed and authorized deputy may examine a person under oath in regard to the value of a manufactured home.

(4) A manufactured home shall not be valued and assessed for any assessment year in which the manufactured home was previously assessed for ad valorem taxation in any other county in this state.

(b) Assessment as omitted property; manufactured homes; omitted property; valued and assessed.

(1) The county assessor shall place a value upon a manufactured home for each prior year omitted from the assessment and tax rolls. Upon the determination of the valuation for each prior year omitted, the county assessor shall assess the manufactured home by applying the assessment ratio percentage of the applicable prior year omitted against the valuation of the applicable prior years omitted. The number of prior years which a manufactured home shall be determined to be omitted from the assessment and tax rolls shall not exceed three (3) years. [See: Attorney General Opinion 00-23]

(2) When presented to the county assessor, county treasurer, Motor License Agent (tag agent) or the Department of Public Safety, a properly completed OTC Form 936 shall be conclusive as to the proper payment of ad valorem taxes for the current year of issuance and all prior years.

(3) A tax receipt shall not be conclusive as to the payment of current or prior years' taxes.

(c) Manufactured homes not properly registered. A manufactured home not properly registered as required by the Motor Vehicle Code will be entered upon the assessment roll and the tax roll as omitted property pursuant to the Ad Valorem Tax Code. A manufactured home not properly registered will be treated as omitted property for the prior years not to exceed three (3) years preceding the current year.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 21 Ok Reg 2563, eff 6-25-04]

710:10-9-13. Adding manufactured homes omitted in previous years to assessment and tax rolls

The procedure for adding manufactured homes to the ad valorem assessment and tax rolls, which has been omitted for previous years, shall be as follows: [See: Attorney General Opinion 00-23]

(1) **Notice of assessment.** The county assessor shall value the omitted manufactured home and give notice as prescribed by law.

(2) **Certificate of assessment (Extension of taxes against tax rolls).** The county assessor will complete a certificate of assessment of omitted property. Thereafter, the county assessor will forward the certificate of assessment to the county treasurer.

(3) **Calculation.** Calculation of taxes due is made in the following fashion:

(A) A fair cash value is to be placed on the manufactured home for each of the years omitted.

(B) The fractional assessment percentage of the years omitted is to be applied to the fair cash value of the years omitted.

(C) The mill levy of the appropriate years omitted is to be placed against the assessment for that particular year.

(D) If the manufactured home is omitted for more than one year, a certificate of assessment of omitted property will be calculated by the county assessor.

(E) The assessor will place the amount of taxes due upon the appropriate tax roll. The amounts will be noted by the year omitted. The treasurer will prepare a separate tax statement for each taxable year.

(4) **Proper mill levy.** The prior year(s) taxes will be calculated using the mill levy for the year omitted from the assessment and tax roll. The current year taxes will be calculated using the preceding year's mill levy unless the excise board has set the mill levy for the current year.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 21 Ok Reg 2563, eff 6-25-04]

710:10-9-14. Registration of new or used non-registered manufactured homes; payment of taxes; failure to show proof of registration

(a) **Who shall register.** The following shall apply for registration and obtaining an original certificate of title with the Oklahoma Tax Commission or a motor license agent (tag agent):

(1) **New manufactured home.** A person that purchases a new manufactured home which acquires taxable situs in this state;

(2) **Used manufactured home.** A person that purchases a used manufactured home which acquires taxable situs in this state;

(3) **Manufactured home which obtains taxable situs.** A nonresident owner of a manufactured home which obtains taxable situs by the presence of the manufactured home in this state in excess of sixty (60) days.

(b) **Registration of new manufactured homes.** Proper registration of a manufactured home is described as follows:

(1) A person lawfully filing an application for registration and original certificate of title for a manufactured home shall be required to make payment of the following:

(A) License fee; and,

(B) Excise tax, if applicable. Used manufactured homes entering Oklahoma and owned over sixty (60) days are exempt from payment of the excise tax.

(2) The Oklahoma Tax Commission or motor license agent (tag agent) shall, upon the proper application and payment of required fees, issue to the owner of the manufactured home the following:

(A) A certificate of original title;

(B) A manufactured home registration receipt;

(C) A manufactured home registration decal;

(D) A manufactured home license plate; and

(E) An excise tax receipt, if applicable.

(c) **Payment of excise tax in lieu of ad valorem tax.** The owner of a manufactured home that pays the fees set out in (b)(1) of this Section as evidenced by the presentation of the documents set out in (b)(2) of this Section will not be required to pay ad valorem taxes for the year of registration of the manufactured home. The manufactured home shall be valued and assessed for ad valorem taxes as provided by the Ad Valorem Tax Code on January 1st of the year following registration.

[See: 68 O.S. § 2813]

(d) **Failure to register and pay excise tax as required by the Motor Vehicle Code.** The owner of a manufactured home which fails to register a manufactured

home and pay the fees and excise tax required by the Motor Vehicle Code shall have his manufactured home listed and assessed as omitted property and entered upon the assessment and tax rolls for prior years not to exceed three (3) years. The subsequent registration of a manufactured home by the owner, as required by the Motor Vehicle Code, after the county assessor lists and assesses the manufactured home as omitted property, as required by the Ad Valorem Tax Code, does not entitle the owner to a one (1) year refund on the ad valorem taxes. **The duties mandated by the Motor Vehicle Code and the Ad Valorem Tax Code are mandatory and mutually exclusive.** That is, they operate independently of each other, which require that both the proper late registration fees be paid and also the ad valorem taxes be paid.

(e) Proof of registration; loss of registration and title; refusal to furnish proof of registration.

(1) **Proof of registration.** The county assessor of the county where a manufactured home is located shall require proof of the following to assure proper payment of ad valorem taxes and fees:

- (A) Proof of proper registration;
- (B) Proof of payment of excise taxes, if applicable; and,
- (C) Proof of payment of ad valorem taxes (OTC Form 936).

(2) **Loss of registration and certificate of title.** The procedure outlined in this paragraph will be utilized when an owner of a manufactured home seeks to render it as personal property or the county assessor discovers it while listing and assessing property and the owner is unable to locate or find the registration and certificate of title.

(A) The county assessor is required to list and assess all taxable property located in the county on an annual basis. The lack of registration papers does not relieve the assessor of that duty.

(B) The county assessor shall proceed to place the manufactured home on the assessment and tax rolls as omitted property unless:

- (i) The county assessor ascertains the manufactured home is on the assessment and tax rolls of the county;
- (ii) The owner of a manufactured home presents the county assessor a Manufactured Home Certificate 936 (OTC Form 936) - RECEIPT OF TAXES PAID - from another county showing that no taxes are due for current or prior years. Thereafter, the county assessor will value the manufactured home as of January 1st of the subsequent year if its taxable situs is still within the county.

(iii) The owner of a manufactured home presents the county assessor a Manufactured Home Certificate 936 (OTC Form 936) - RELEASE OF TAXES PAID - from another county for the current year. Thereafter, the county assessor will value the manufactured home as of January 1st of the subsequent year if its taxable situs is still within the county.

(C) The county assessor shall refer those owners of manufactured homes who have failed to present their registrations and certificates of title to either the local motor vehicle agent (tag agent) or the Oklahoma Tax Commission upon a determination of their taxable situs and assessment pursuant to (B) of this paragraph. If the title has been lost, the owner must apply for a duplicate title. A new registration will not be issued by the local motor vehicle agent (tag

agent).

(3) **Failure to present proof of registration.** Any person owning a manufactured home and failing to present satisfactory proof of registration of such manufactured home or who fails to make payment of ad valorem taxes upon demand by the county assessor of the county in which the manufactured home is located, upon conviction, shall be guilty of a misdemeanor.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-9-15. Preparation and content of assessment rolls

(a) Authority to prescribe forms.

(1) The Oklahoma Tax Commission is authorized by law to prescribe forms for the use of the county assessors in the ad valorem assessment process.

(2) The annual assessment roll prepared by each county assessor shall be prepared in such form as may be prescribed by the Oklahoma Tax Commission.

(b) Assessment roll preparation and content.

(1) Real estate.

(A) Land and improvements will be listed and valued separately on the assessment roll.

(B) An additional column contiguous to the land and improvement assessment will show the assessed value of the manufactured home.

(2) **Personal Property.** The manufactured home section of the personal property assessment roll shall be prepared by the method prescribed by law for personal property assessment roll.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 38 Ok Reg 1510, eff 9-1-21]

710:10-9-16. Preparation and content of tax rolls

(a) **Authority to prescribe forms.** The ad valorem tax rolls shall be made up as required by and in the form prescribed by the State Auditor and Inspector. The tax rolls shall contain such other information as may be required by the State Auditor and Inspector.

(b) **Tax rolls content.** The tax roll will show the presence of a manufactured home as prescribed by the State Auditor and Inspector. The taxes for the manufactured home will be calculated separate and apart from the land and other improvements.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 38 Ok Reg 1510, eff 9-1-21]

710:10-9-17. Procedure for calculation and payment of taxes

(a) The county assessor shall value and assess the manufactured home pursuant to the Ad Valorem Tax Code if the manufactured home is not listed on the assessment rolls. A manufactured home which has not been placed on the assessment rolls, obtained a license plate and annual decal, or has not been properly registered as required by law, shall be treated as omitted property for prior years, not to exceed three (3) years. However, a manufactured home shall not be treated as omitted property past the last valid OTC Form 936 presented to the county assessor.

(b) The county assessor will use the following procedure to determine the assessed valuation and taxes due for the current year on manufactured homes:

(1) The manufactured home will be valued and assessed separately from the land and other improvements;

- (2) The county assessor shall complete a Manufactured Home Certificate 936 (OTC Form 936).
- (c) Ad valorem taxes and special assessments shall be paid prior to a move within a county or to another county within the State of Oklahoma, or out of state. The county treasurer shall collect the following taxes:
 - (1) The estimated taxes due for the current year;
 - (2) Any taxes due for prior years as omitted property up to three (3) years;
 - (3) Any taxes due for prior years that are delinquent;
 - (4) Any other taxes due because of special assessments as prescribed by law.
- (d) The county treasurer shall affix the tax receipt number and the decal number, and sign the Manufactured Home Certificate 936 (OTC Form 936) upon payment of all ad valorem taxes and special assessments due. This is the owners RECEIPT OF TAXES PAID.
- (e) The Department of Public Safety shall not issue a permit to any person to transport or move a manufactured home, with the exception of holders of dealers license tags ("D" tag) or in-transit license tags ("K" tag), without evidence of payment for all the following:
 - (1) The required registration fees;
 - (2) The excise taxes due on such manufactured home, if applicable.
- (f) If using OTC Form 936, the Department of Public Safety will require the tax receipt number to be affixed to the OTC Form 936 in the appropriate location.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-9-18. Required registration information; duties of county assessor and treasurer

- (a) Upon the registration of a manufactured home in the State of Oklahoma, the Oklahoma Tax Commission will collect the following information and enter into its computer system:
 - (1) The name and address of the owner of the manufactured home;
 - (2) The serial number or vehicle identification number (VIN) of the manufactured home;
 - (3) The registration number (Title number) given to the manufactured home by the Motor Vehicle Division of the Oklahoma Tax Commission;
 - (4) The Tag number/validation decal number;
 - (5) The situs (physical address) or legal description where the manufactured home is to be located;
 - (6) The actual retail selling price of the manufactured home, excluding Oklahoma state taxes; and
 - (7) Any other information necessary to enable the county assessor to list and assess the proper ad valorem taxes for the manufactured home for the following year.
- (b) The county treasurer, in cooperation with the county assessor, shall transmit a quarterly report of all decaled manufactured homes listed on the tax roll of the county.
 - (1) The information shall be transmitted either on a form prescribed by the Oklahoma Tax Commission, or by computerized data compatible with the Oklahoma Tax Commission computer and formatted as prescribed by the Oklahoma Tax Commission.
 - (2) Information submitted to the Oklahoma Tax Commission shall be as follows:

- (A) Title number;
- (B) Vehicle identification number (VIN);
- (C) Decal number; and
- (D) Tag number.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95]

710:10-9-19. Obtaining a release of taxes paid for ad valorem tax liability before the subsequent move of a manufactured home from initial situs within the tax year

If a manufactured home is moved more than one time within any given calendar year, a current year registration and decal will be required by the Department of Public Safety before issuing a permit.

(1) **Release of taxes paid.** Requirements for obtaining a **release** of taxes paid are as follows:

- (A) Current registration and current decal or payment of ad valorem taxes due for the current year and prior years.
- (B) Possession of a Manufactured Home Certificate 936 (OTC Form 936) showing receipt of taxes paid, signed by a county assessor and county treasurer may also be used.

(2) **Issuance of release.** Procedure for issuing a **release** of taxes paid are as follows:

- (A) Upon meeting the requirements for obtaining a **release** of taxes paid, the county assessor shall complete Manufactured Home Certificate 936 (OTC Form 936) and forward it to the county treasurer.
- (B) The county treasurer shall check for any tax warrants from another county, and any special assessment or taxes delinquent on the manufactured home.
- (C) The county treasurer shall collect any outstanding taxes or assessment due on the manufactured home.
- (D) If no taxes are due, the county treasurer will place "NTD" in the space designated total estimated taxes due.
- (E) The treasurer will sign and return the OTC Form 936 to the county assessor.
- (F) The county assessor will sign the OTC Form 936 and forward the yellow copy of the **release** of taxes paid to the county assessor of the county in which the new taxable situs of the manufactured home is to be located.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 20 Ok Reg 2154, eff 6-26-03]

710:10-9-20. Repossession of manufactured home where ad valorem taxes due
(a) Repossession of a manufactured home listed, valued and assessed as real estate.

(1) The reposessor of a manufactured home will have thirty (30) days from the date of the repossession affidavit to comply with the terms of this subsection. [See: 68 O.S. §2813]

(2) The requirements of a reposessor of a manufactured home listed, valued and assessed as real estate are as follows:

- (A) The reposessor must be a holder of a perfected security interest on the manufactured home;

(B) The reposessor or his agent must be lawfully repossessing a manufactured home;

(C) The manufactured home must be valued and assessed as real estate on the assessment rolls.

(3) Procedures for issuance of an OTC Form 936 as a **receipt** for taxes paid are as follows:

(A) The county assessor will determine the assessment of the manufactured home apart from the real property and the other improvements thereon;

(B) The county assessor will determine the amount of taxes due upon the manufactured home apart from the real property and the other improvements thereon;

(C) The county assessor will determine the valuation and assessment of the manufactured home for any prior years omitted and calculate the taxes due on the manufactured home for those prior years;

(D) The county assessor will complete the required Manufactured Home Certificate 936 (OTC Form 936) and forward to the county treasurer;

(E) The county treasurer will add any delinquent taxes due on the manufactured home as described in Section 710:10-9-23;

(F) The county treasurer, upon the collection of all taxes due on the manufactured home, will sign the Manufactured Home Certificate 936 (OTC Form 936);

(G) The county assessor will assure that the applicant's signature (or written authorization to sign) is affixed to the Manufactured Home Certificate 936 (OTC Form 936);

(H) Only the completed Manufactured Home Certificate 936 (OTC Form 936) shall constitute the **receipt** for taxes paid.

(b) Repossession of a manufactured home valued and assessed as personal property.

(1) The requirements for obtaining an OTC Form 936 as a **receipt** for taxes paid on a repossessed manufactured home valued and assessed as personal property are set out in paragraphs (A) through (C) of this subsection. The reposessor of a manufactured home will have thirty (30) days from the date of the repossession affidavit to comply with the terms of this subsection.

(A) The reposessor must be a holder of a perfected security interest on the manufactured home;

(B) The reposessor or the agent must be lawfully repossessing a manufactured home; or

(C) The manufactured home is valued and assessed as personal property and currently on the personal property assessment rolls.

(2) Procedures for issuance of an OTC Form 936 as a **receipt** for taxes paid are as follows:

(A) The county assessor will determine current valuation and assessment of the manufactured home;

(B) The county assessor will determine the taxes due for the current year;

(C) The county assessor will determine the valuation and assessment of the manufactured home for any prior years omitted

- and calculate the taxes due for those prior years;
- (D) The county assessor will complete the required Manufactured Home Certificate 936 (OTC Form 936) and forward to the county treasurer;
- (E) The county treasurer will add any delinquent taxes due on the manufactured home as described in 710:10-9-23;
- (F) The county treasurer, upon the collection of all taxes due on the manufactured home, will sign the Manufactured Home Certificate 936 (OTC Form 936);
- (G) The county assessor will assure that the applicant's signature (or written authorization to sign) is affixed to the Manufactured Home Certificate 936 (OTC Form 936);
- (H) Only the completed Manufactured Home Certificate 936 (OTC Form 936) shall constitute the **receipt** for taxes paid.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-9-21. Calculation of taxes due on repossessed or relocated manufactured home

Manufactured homes valued and assessed as real property; lawful repossession. The amount of taxes due on a manufactured home being repossessed by the holder of a perfected security interest, or his agent, which is located upon real property that qualified for a homestead January 1st, or is granted prior to repossession, will be calculated as follows:

- (1) The assessed valuation of the manufactured home will be determined separately and apart from the land and other improvements;
- (2) The appropriate mill levy will be applied against the assessed valuation of the manufactured home to determine the taxes due;
- (3) The amount of homestead value in excess of the land value or other improvements shall not be applied to the assessment of the manufactured home.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 19 Ok Reg 1205, eff 5-11-02]

710:10-9-22. Collection of taxes on repossessed manufactured homes

(a) County treasurer's authority to collect taxes on repossessed manufactured homes. The Ad Valorem Tax Code allows the county treasurer to collect taxes due on a repossessed manufactured home separate from the land and improvement for the following years:

- (1) The current assessment year; and
- (2) The previous tax years.

(b) Collection of taxes by the county treasurer for the current year. The county treasurer is authorized to collect taxes due for the current assessment year from a lawful reposessor of a manufactured home who holds a perfected security interest based on the value of the manufactured home apart from land and improvements when valued and assessed as real estate. The taxes due for the current year shall be calculated as follows:

- (1) The assessed value of the manufactured home apart from land and improvements will be calculated;
- (2) The homestead exemption will be calculated as determined in Section 710:10-9-10, if applicable.

(3) The mill levy for the previous year will be applied to determine the amount of taxes due for the current year if the current year's mill levy is not calculated when the application for a Manufactured Home Certificate 936 (OTC Form 936) is made.

(4) The calculation of the current year's taxes for a manufactured home using the current mill levy will be substantially the same as outlined in paragraphs (1) through (3) of this subsection.

(c) Collection of previous years' taxes by county treasurer The county treasurer is authorized to collect taxes on the manufactured home apart from the land and improvements when valued and assessed for a previous year. This does not relieve the treasurer of the duty to assess any interest and penalties due on the portion of taxes allocated to the manufactured home.

(d) Determination of taxes after issuance of a resale tax deed.

(1) The county treasurer shall issue a resale tax deed to a successful bidder at an original tax sale if the following conditions are met:

(A) The ad valorem taxes are unpaid as of January first of the subsequent tax year;

(B) The county treasurer shall give notice of the sale of tax lien for delinquent taxes, by publication thereof once a week for the two (2) consecutive weeks immediately prior to the third Friday in September following the year the taxes were first due and payable, in some newspaper in the county, to be designated by the county treasurer. The sale will; be held on the second Monday of June each year.

(C) If a manufactured home is involved in the original sale, the notice of sale published by the county treasurer pursuant to (B) of this paragraph shall contain the following language (See: 68 O.S. §3106): **"The sale hereby advertised involves a manufactured home which may be subject to the right of a secured party to repossess. A holder of a perfected security interest in such manufactured home may be able to pay ad valorem taxes based upon the value of the manufactured home apart from real property.**

(D) The record owner as reflected by the tax rolls will be given notice by certified mail of the original sale. The county treasurer's office shall give notice of the sale stating the amount of delinquent taxes owed and informing the owner that the subject property will be sold as provided for in Section 3105 of title 68 if the delinquent taxes are not paid and showing the legal description of the property being sold.

(E) The person redeeming the property pays the full amount of the taxes, penalty, interest and costs due and unpaid. If there is no successful bidder, the county acquires all the rights both legal and equitable that any other purchaser could acquire by reason of said purchase. A person may acquire the county's legal and equitable right in the property by paying to the county treasurer the amount of all taxes, penalties, interest, cost of sale and transfer. Thereupon, the county treasurer will assign and deliver a resale tax deed to the purchaser. The county's right to the tax deed is subject to a holder of a perfected security interest right to redeem the manufactured home for the sale by paying a pro rata sales of the taxes, interest, penalties

and cost due and unpaid.

(2) The county treasurer is authorized to prorate the payment of taxes, interest, penalties and cost due and unpaid for a holder of a perfected security interest exercising his right to redeem a manufactured home apart by the land and other improvements (**See:** 68 O.S. § 3105; 3105.1; 3106).

(3) The county treasurer is authorized to collect taxes, interest, penalties and cost from a person redeeming a tax certificate from a successful bidder, a purchaser of a county certificate or the certificate in the name of the county.

(4) Any person holding a tax lien pursuant to 68 O.S. §§ 3101 to 3125 prior to April 28, 2008 shall be authorized to continue the tax lien or tax certificate.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 26 Ok Reg 2323, eff 6-25-09]

710:10-9-23. Manufactured homes as personal property; delinquent taxes; deeds in lieu of foreclosure; liens

(a) **Taxes due.** The county treasurer is authorized to collect all taxes due on the manufactured home before signing a Manufactured Home Certificate 936 (OTC Form 936). Taxes due will include:

- (1) The current year's taxes due on a manufactured home;
- (2) The previous year's taxes due from being omitted from the assessment and tax rolls;
- (3) Taxes on the manufactured home that are due and owing from previous years.

(b) **Personal property; tax lien.**

(1) **Personal property lien.** The personal property lien shall be a lien on **all** real and personal property of a delinquent taxpayer for a period of seven (7) years when perfected as follows (**See:** 68 O.S. §3102):

(A) Within sixty (60) days after taxes on personal property shall become delinquent, the county treasurer shall;

- (i) Mail notice to the delinquent taxpayer,
- (ii) Publish one time in a newspaper of general circulation in the county;

(B) Thereafter, if not paid within thirty (30) days of publication, the taxes due will be entered upon the personal property lien docket.

(2) **Personal property lien priority.** Personal property liens are superior to all other liens, conveyances or encumbrances filed subsequent thereto, on real or personal property. (**See:** 68 O.S. §3103)

(c) **Deeds in lieu of foreclosure.**

(1) The owner of a mortgage, contract for deed or other instrument showing lien on the title of real property who accepts a deed in lieu of foreclosure may have tax liens upon the real property if:

- (A) The grantor is delinquent upon real property taxes; or
- (B) The grantor is delinquent upon personal property taxes.

Remember that delinquent personal property taxes entered upon the personal property tax lien docket become a lien on **all** property of the taxpayer and may become a cloud on the title of real property.

(2) Taxes upon real property are a lien for seven (7) years from the date upon which a tax becomes due and payable. All taxes levied upon an ad valorem basis for each fiscal year shall become due and payable on the first

day of November. (See: 68 O.S. §2913)

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95]

710:10-9-24. Personal property tax lien against a manufactured home

(a) **Payment of taxes on manufactured home.** The Ad Valorem Tax Code allows the holder of a perfected security interest to pay the delinquent taxes of the repossessed manufactured home separate and apart from the land and other improvements. (See: 68 O.S. §2913)

(b) **Household personal property liens.** Manufactured homes will become subject to personal property liens, including household property liens, once the personal property is entered upon the personal property lien docket by the treasurer.

(c) **Policy statement; appraisal of manufactured homes.** The county assessor should include all built-in appliances and permanent fixtures with the valuation and assessment of the manufactured home, and not with the household personal property valuation and assessment.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95]

710:10-9-25. Tax warrant; unauthorized moving of manufactured home to another county

The following procedure shall apply in the event of unauthorized moving of a manufactured home.

(1) The county assessor will upon request notify the county treasurer of the following information available upon locating the real and personal property of the owner of a manufactured home that is entered upon the personal tax lien docket;

(A) The legal description of any real property located in the county;

(B) The location of any personal property located in the county;

(2) The county treasurer shall forward a copy of the record of an existing personal tax lien, with a demand that a warrant be issued, to the county treasurer of the county where the delinquent taxpayer resides, the delinquent manufactured home is located, or any other real or personal property of the taxpayer is located.

(3) The county treasurer of the county to which the personal tax lien and demand are forwarded will complete the statutory procedure as follows:

(A) A tax warrant will be issued for the collection of delinquent personal property taxes to the sheriff of that county;

(B) The tax warrant shall command the sheriff to collect the taxes due, with interest, penalties and cost.

(4) The sheriff will execute the tax warrant by levy upon the taxpayer as follows:

(A) A sheriff's sale of the manufactured home subject to any perfected security interest, liens, and encumbrances which are prior to the personal tax lien;

(B) A sheriff's sale of the manufactured home unless exempt from sale as the principal residence of the delinquent taxpayer pursuant to 31 O.S. §1(A)(2);

(C) A sheriff's sale of other personal property of the delinquent taxpayer unless exempt pursuant to 31 O.S. §1, as homestead personal property;

(D) A sheriff's sale of all real property, if the sale of personal property is insufficient to cover taxes, interests and costs, unless

exempt as the homestead of the delinquent taxpayer pursuant to 31 O.S. §1(A)(1).

(5) The tax warrant shall be returned by the sheriff within sixty (60) days after its issuance.

(6) Upon receiving the total amount due from the sheriff, the county treasurer shall release the personal tax lien and forward the sum, less the lawful fees for collection, to the treasurer of the county where the tax lien originated.

(7) The county treasurer will use substantially the same procedure as outlined in this section for levy and execution within a county on personal tax liens. (See: 68 O.S. §3103)

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95]

710:10-9-26. Unclaimed warrants on tax refunds

(a) The funds held by the county treasurer as a refund of taxes on a manufactured home will be governed by the Uniform Unclaimed Property Act. [See: 60 O.S. §651 et seq.]

(b) A tax refund unclaimed for three (3) years comes within the Unclaimed Property Act which states the following: *Intangible property held for the owner by a court, state or other government, governmental subdivision or agency, public corporation, or public authority which remains unclaimed by the owner for more than one (1) year after becoming payable or distributable is presumed abandoned.* [60 O.S. §657]

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-9-27. Procedures for overages and underages on tax roll

(a) The county treasurer shall note in the margin of the column of the tax roll the following:

(1) The amount of the difference between the tax amount calculated on the tax rolls and the amount actually collected;

(2) The receipt number of the tax receipt which resulted in the difference; and

(3) The difference is the result of a Manufactured Home Certificate 936 (OTC Form 936) being issued.

(b) The county assessor will provide the county treasurer a copy of all Manufactured Home Certificates 936 (OTC Form 936) issued after the effective date of this Subchapter.

(c) In lieu registration payments shall be administered according to Tax Commission procedures for other such reimbursements, with approval of the State Auditor and Inspector's Office.

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-9-28. Implementation and compliance [REVOKED]

[Source: Amended at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98]

SUBCHAPTER 10. VISUAL INSPECTION PLAN

PART 1. GENERAL PROVISIONS

710:10-10-1. Purpose

- (a) Pursuant to 68 O.S. §2820(C), each county assessor shall develop a detailed visual inspection plan and conduct a continuing comprehensive program within their respective counties, and shall leave in place an on-going system which will effectively maintain property valuations in future years.
- (b) Each county assessor shall submit a visual inspection plan, which conforms to the requirements described in 68 O.S. §2820(C) and the provisions of this Subchapter, to the Ad Valorem Division of the Oklahoma Tax Commission by the first working day in October preceding the January 1 beginning of a new four-year cycle. The county shall keep a copy of the approved visual inspection plan and any amendment(s) on file for the current four year-cycle and shall retain the plan for five years after the last year of this cycle.
- (c) Following Tax Commission approval of the county visual inspection plan, the county assessor shall timely submit a copy of the approved visual inspection plan to each school superintendent within the county.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-10-2. Definitions [RESERVED]

[Source: Reserved at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-3. Elements required of the visual inspection plan

- (a) Prior to the beginning of the first four-year visual inspection cycle and each subsequent visual inspection cycle, the county assessor shall develop a detailed visual inspection plan, to be submitted to the Oklahoma Tax Commission, which shall contain the comprehensive elements set out in (1) through (10) of this Section.
- (1) The county assessor shall develop a plan that specifies the number of real property parcels to be inspected in each year of the cycle.
 - (2) The county assessor shall further detail the number of real property parcels to be inspected in each year of the cycle by use category.
 - (3) The county assessor shall designate in this plan the number of real property parcels to be inspected and covered in each year of the cycle by geographic area.
 - (4) The county assessor shall develop a visual inspection plan that describes the resources and proposed budget to complete the four year visual inspection.
 - (5) The county assessor shall propose a detailed plan to complete the valuation methodology to be used in determining the fair cash value of the property and improvements thereon.
 - (6) The plan shall be adequate to ensure the visual inspection of all parcels of property within the county at least once each four-year cycle.
 - (7) The plan shall also be adequate to ensure that the information collected from the visual inspection of real property each year is sufficient to establish a representative sample from each use category in order to conduct the proper valuation of all taxable property within each use category.
 - (8) The plan shall also be adequate to ensure that the information collected from the visual inspection of real property each year is sufficient in order to conduct the proper valuation of all taxable property by means of an accepted standard(s) established by the Oklahoma Tax Commission for mass appraisal practice.
 - (9) The county assessor shall allow the Oklahoma Tax Commission to review copies of all contracts using monies from the visual inspection fund.

- (10) The county assessor shall attest that all funds in the visual inspection program are being used exclusively to carry out the visual inspection program as authorized by 68 O.S. § 2820 et. seq.
- (b) The Oklahoma Tax Commission shall approve or reject the plan in writing. The plan and resources need to be detailed to assure completion of the cycle. The plan will result in a representative sample from each use category in order to value all taxable property each year. If rejected by the Tax Commission, the county assessor shall correct and modify the plan in order to establish a program for visual inspection that shall be completed by the end of the cycle.
- (c) An approved plan shall be in place for each county as of January 1 of the first year of each cycle and a copy of such plan shall be filed with the Ad Valorem Division of the Oklahoma Tax Commission.
- (d) The county assessor shall submit the proposed plan to the Ad Valorem Division of the Oklahoma Tax Commission by the first working day in October preceding the beginning of the four-year cycle.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 18 Ok Reg 2796, eff 6-25-01; Amended at 19 Ok Reg 1205, eff 5-11-02]

PART 3. PLANNING AND ORGANIZATION

710:10-10-10. Administrative

- (a) Submission of a list of detailed administrative objectives shall be required as an essential component of the visual inspection plan.
- (b) Each county assessor in the state shall annually prepare an assessment roll, which shall be generated by the counties in a format prescribed by the Oklahoma Tax Commission pursuant to title 68 O.S. §2842.
- (c) The Oklahoma Tax Commission shall provide a standard visual inspection template which may be utilized by all counties.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-10-11. Work allocation

The county shall list in the visual inspection plan all in-house and contracted work allocations.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-12. Mapping

- (a) The Mapping Program shall include a comprehensive, continuous cadastral mapping schedule that shall be based upon use of State standards (68 O.S. §2821) summarized as follows:
- (1) On-going collection, maintenance and inventory for the mapping program.
 - (2) Use of the most recent aerial photographs furnished by the State of Oklahoma or obtained from other sources, provided that they comply with established mapping standards.
 - (3) Data concerning soil type and soil use.
- (b) The mapping software utilized by the county must function to display the following:
- (1) Boundaries of all parcels, whether the parcels are taxable or nontaxable.
 - (2) Parcel dimensions and/or acreage.

- (3) Lot and block number and, if scale permits, names and boundaries of subdivisions and plats.
- (4) Boundaries of political subdivisions, i.e., county, city, town.
- (5) Boundaries of geographic subdivisions, i.e., section, township and range, government lot boundaries and numbers, land districts, land lots and numbers.
- (6) Location and names of roads, streets, highways, alleys, railroads, rivers, lakes and other such features.
- (7) Printed maps with title block, publish date, legend, north arrow and map scale.

(c) The above information shall be used as a minimum with other supplemental information that may also be included for cadastral mappings.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17; Amended at 35 Ok Reg 2035, eff 9-14-18]

710:10-10-13. Public relations [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-10-14. Organization chart

An organizational chart for the entire office, by position, shall be listed in the visual inspection plan. In addition, a copy is to be retained by the assessor for office use and reference.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-10-15. Provisional support

(a) The Oklahoma Tax Commission, along with other State and County Government offices, shall provide administrative support to the office of the county assessor during the visual inspection program. These services may include:

- (1) Fiscal services may be made available by the State Auditor and Inspector, County Treasurer, County Clerk, and County Budget Maker.
- (2) Procurement of supplies and equipment may be handled by the County Purchasing Agent.
- (3) Legal counsel may be available from the District Attorney.
- (4) Property transfer data and records may be obtained from the County Clerk.

(b) All of the agencies described in this Section shall be listed in the visual inspection plan as provisional administrative support for the county.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

PART 5. DIRECTION AND GUIDANCE

710:10-10-20. Production rate

The Oklahoma Tax Commission shall provide a standard chart range in the visual inspection template for this production rate. These estimates assume field personnel shall be measuring and verifying information on each existing property record card. Each house and all improvements shall be verified each cycle; no "drive-by" inspections are contemplated. For field data collection on new construction, parcel production levels shall be lowered by 50% or more. A daily production rate record is recommended for each data collector.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-10-21. Valuation methodology

(a) The information set out in this Section, related to valuation methodology and the valuation process, shall be listed in the visual inspection plan.

(b) The first phase of the valuation methodology shall be data analysis components. With the gathering of all physical data and an analysis of all market/economic data, an appraised value shall be calculated by computer-assisted mass appraisal system (C.A.M.A.) for each property. All three approaches shall be considered, depending upon the applicability of these approaches to specific properties or classes of property, including the sales comparison approach, cost approach, and the income approach. After choosing the best approach, the final valuation shall be carefully reviewed and field checked for accuracy. A check shall be made for any changes which have occurred to properties since the time of the original or last field inspection. In most cases, the sales approach shall receive the most attention.

(c) All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of the first day of January. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it on the tax rolls for the ensuing year, as required by 68 O.S.1991, §2817(A).

(d) Upon completion of the valuation process, the county shall be responsible for a careful review of the estimates for each appraised parcel. This review and inspection shall be conducted by members of the appraisal staff to identify any errors which may have occurred and to ensure the accuracy and quality of the data collected. The county shall consider the indicated value of the structure and indicated value of the land against sales information concerning comparable parcels. The reviewer shall ensure that each property has been valued in relation to other properties and in accordance with state statutes and shall be assessed for ad valorem taxation based upon the highest and best use for which such property was actually used. This shall be completed without delay before the change of value notification deadline.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-22. Valuation of land

(a) The information set out in this Section, related to fair cash valuation of land, shall be specified in the visual inspection plan.

(b) A separate estimate or appraisal of the "fair market value in money" shall be made for each parcel of non-agricultural land as if vacant. The sales data covering fair market sales of vacant non-agricultural land in all property classifications shall be secured from all available sources and shall be compiled, checked, and analyzed for use in the determination of non-agricultural land values and their unit of comparison throughout the county.

(c) The county shall carefully consider all factors affecting the value of land, such as zoning, location, shape, size, topography, access to railroads, roads, waterways, present use, etc., and appropriate allowances made in establishing final values.

(d) Land value computations shall be made in accordance with the three categories described in (1) through (3) of this subsection:

(1) Computations for residential property shall refer to front foot, square foot, per acre, or per lot values.

(2) Computations for commercial property shall refer to front foot, square foot, per lot, or per acre values.

(3) Computations for industrial property shall refer to square foot or per acre values.

(e) All established base land values shall be recorded on the appropriate fields of the record card and carefully checked for accuracy. All appraisals of land values shall be reviewed with the same accuracy and diligence as the buildings in conjunction therewith. Land values shall be established before field inspection begins and reviewed after data entry has been completed.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98]

710:10-10-23. Improved property

Material related to cost estimates, depreciation, and local market adjustment factors shall be included in the visual inspection plan. The county shall make a careful analysis of the replacement cost of newly constructed buildings and analyze local sales data in order to arrive at appropriate cost estimates, depreciation percentages and the two local market adjustment factors required to calibrate the cost system. The county shall study and analyze the useful life expectancies and observed condition of recently sold buildings in the preparation of value. The market sales data shall receive the most attention in most cases.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-24. Exterior inspection

These details set out in this Section, pertaining to visual inspection and data collection shall be listed in the visual inspection plan:

(1) The county shall inspect the exterior of each improved structure. As to any residential property, interior data that is necessary for accurate appraisal information shall be obtained through personal interviews when possible. Construction features, characteristics, appendages, accessory buildings or irregularities for each property shall be recorded on the data collection card. Grade classification shall be expressly considered and state appraisal manual guidelines shall be followed as appropriate for each building appraisal. Periodic inspections of work of all appraisal personnel shall be made by the project supervisor in the grading (or classifying) of dwellings to ensure correct, uniform, and consistent grade classification use.

(2) A perimeter sketch of each residential building shall be drawn (if not already done) in the graph space provided on the data collection card together with all dimensions and identification symbols. Appendages such as attached garages, porches, and similar structures shall be carefully shown with all dimensions, and labeled. All other requested information on the approved data collection sheet or C.A.M.A. field card shall be furnished.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-25. Multi-family income producing property

Information related to income-producing, multifamily residential properties shall be listed in the visual inspection plan. All income-producing, multifamily residential properties shall be inspected and appraised from schedules and guidelines as set out in state rules and regulations. All building features, components, and characteristics shall be identified, measured, listed and recorded. The year of construction of the building shall be obtained and listed. Other

improvements such as paved drives, fencing, pools, patios, and similar structures shall be identified, measured and listed. Occupancy units of each building shall be determined at the time of inspection and recorded along with any other pertinent information that could affect value or be used as the basis for units of comparison. Rental data or other information affecting the data collection card shall be requested from either owners or tenants. All three approaches to value shall be used where applicable with the sales comparison approach having the most weight. The appraised value of all properties shall be critique during final review by supervisory personnel and adjustments or corrections made where applicable.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-26. Commercial/Industrial property

As part of the visual inspection plan, all commercial/industrial properties shall be inspected and appraised from schedules and guidelines as set out in the most current **STATE OF OKLAHOMA COMMERCIAL APPRAISAL MANUAL**, and all building features, components, or characteristics, as outlined therein, shall be identified, measured and listed. The year of the building construction shall be obtained and listed. Other improvements, such as paved drives, fencing, mechanical features and equipment, and similar structures, shall be identified, measured and listed. Occupancy of each building shall be determined at the time of inspection and recorded along with other pertinent information that could affect value. Appraisal procedures of listing, measuring, and year built shall be followed as detailed in the commercial/industrial property manual. Lease or rental information shall be requested from either owners or tenants, when applicable. The income approach, the cost approach, and the sales comparison approach shall be considered in arriving at the final property value, when sufficient data is available. The appraisal of all commercial property shall be supported by detailed computations.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-27. Agricultural property

(a) All agricultural properties shall be inspected and appraised from schedules and guidelines as set out in 68 O.S. §2817(C) and shall be listed in the visual inspection plan. A sketch of the dwelling and the outbuildings shall be drawn, showing all structures and buildings in proper size and location including dimensions and suitable symbols used to identify each building. All farm and urban dwellings with other improvements shall be described and valued in the same manner. The object being to establish a fair, equitable, and realistic value by comparison with other like properties, and to maintain the same level of market values placed on all other classes of property within the county.

(b) The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including; soil type, soil productivity and use categories, using the same methodology that Center for Local government Technology (CLGT) prescribes.

(c) Agricultural land shall be valued according to the specifications set forth by 68 O.S. §2817(C). The agricultural "per point system" mandated for use by the State shall be adjusted annually as determined necessary and applied to all agricultural parcels within the county. Each soil type shall be identified for every agricultural parcel using the latest published soil survey of the county from the U.S. Natural Resources Conservation Service (NRCS). The acreage of each soil type shall be

calculated and its usage determined both by physical inspection and by using the most recent aerial photographs available. A detailed report indicating each soil type, its usage, number of acres of each soil type, value per acre of each soil type and total calculated value of each soil type and total value of the land shall be provided on each defined agricultural parcel within the county.

(d) A methodology was adopted by the State Board of Equalization that gives 75 percent weight to the rental value of agricultural land and 25 percent weight to the sales value of land.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-10-28. Notification of valuation changes; hearings

(a) Information and procedures related to valuation changes shall be included in the visual inspection plan. Notices shall then be mailed to all property owners having an increase in valuation. The notice shall include the fair cash value, taxable value, assessed value and the assessment percentage for the current and previous year.

[See: 68 O.S. § 2876]

(b) The taxpayer shall have thirty (30) calendar days from the date the notice was mailed to file a written complaint with the county assessor. A taxpayer may even file a complaint if the valuation of property has not increased or has decreased from the previous year if the complaint is filed on or before the first Monday in May, as required by 68 O.S. §2876(E).

(c) Staff members in each county shall conduct informal hearings to resolve any errors in appraisal or assessment. Informal decisions by the assessor may be appealed to the County Board of Equalization within ten (10) working days of the date the decision is mailed.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-10-29. Safety procedures [REVOKED]

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Revoked at 15 Ok Reg 3451, eff 7-11-98]

PART 7. CONTROLS AND EVALUATION

710:10-10-40. Property inspection

Information related to effective dates shall be registered in the visual inspection plan. The visual inspection shall begin on January 1 and end on December 31, using a calendar year, in the proper four-year cycle coverage. This visual inspection plan shall detail the number of property parcels to be inspected in each year of the four-year cycle by use category, geographic area. The visual inspection plan shall be adequate to ensure the visual inspection of all parcels of property within the county at least once every four years and may include provisions for follow-up visits. The county shall use only a state approved property record cards.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 19 Ok Reg 1205, eff 5-11-02]

710:10-10-41. Color-coded maps required

(a) A color-coded map is required with assigned colors legend to show each area of visual inspection. The first year of the visual inspection map shall be colored blue, second year green, third year red, and the fourth year shall be colored yellow. One map shall be retained in the assessor's office and one sent to the Ad Valorem

Division with the completed visual inspection plan.

(b) One copy of the visual inspection map is to be retained in the assessor's office for administrative use, and shall be updated with respect to the colored codes as calendar year in which the property is inspected proceeds.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-42. Coverage

(a) The visual inspection plan shall estimate the total number count of property parcels to be inspected by use category and geographic area, including exempt parcels and the number to be inspected each year. The plan shall include ranges, townships, and school districts. If the actual number of parcels inspected is close (generally 2% to 5% of the estimated parcels to be inspected in the county's visual inspection plan for that year), the county is not required to file an amended visual inspection plan for the following year.

(b) If a newly elected or appointed assessor discovers the need to modify the approved visual inspection plan, a time period of 90 days will be allowed from the date they take office, in which an amended plan may be filed with the Oklahoma Tax Commission Ad Valorem Division.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 19 Ok Reg 1205, eff 5-11-02]

710:10-10-43. Sample of use categories

The visual inspection plan shall be adequate to ensure that the information collected from the visual inspection of property each year is sufficient to establish a representative sample from each property use category. To ensure the proper valuation practice of all taxable properties within each use category, an accepted standard for mass appraisal shall be used.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 19 Ok Reg 1205, eff 5-11-02]

710:10-10-44. Computer-assisted mass appraisal

(a) Data related to computer-assisted mass appraisal shall be listed and described in the visual inspection plan. The counties shall use computer-assisted mass appraisal (C.A.M.A.) to value all properties and the depreciation. The C.A.M.A. system provides the county with C.A.M.A. support and provides cost, market, and income valuation support. The C.A.M.A. system is capable of valuing residential, commercial, industrial, agricultural and special purpose real estate. The visual inspection plan shall have quality assurance, performance analysis and data accuracy control for the data entry.

(b) The records control section shall check all property record cards for missing data and similar errors. All incomplete or incorrect record cards shall be returned to the field division for correction. Random reinspection of all properties shall be conducted by personnel to check on the accuracy of the data collection.

(c) The operation of the data system shall be the responsibility of the in-house personnel who shall not only receive, store, and dispense the data, but shall also review it for accuracy and be responsible for monitoring all data used in the program. A back-up of C.A.M.A. shall be done daily.

(d) The counties shall have the capability of valuing all taxable property annually.

(e) There shall be no modifications in the state provided CAMA systems without approval from the Ad Valorem Division.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-10-45. Sales questionnaire

(a) The county shall develop a comprehensive sales data collection program using the latest approved sales questionnaire. Any correspondence which accompanies the sales questionnaire shall define the purpose and intent of the questionnaire in a manner which fully and completely promotes its effectiveness. This questionnaire and other data may be mailed to at least one or more data sources, including those set out in (1) through (8) of this subsection:

- (1) Buyers of real estate.
- (2) Sellers of real estate.
- (3) Real estate brokers or agents.
- (4) Mortgage companies or other lending institutions.
- (5) Builders.
- (6) Real estate appraisers.
- (7) Attorneys and other third parties who have knowledge of the transaction.
- (8) Real estate sales listings.

(b) The sales questionnaire phase shall be on-going throughout the visual inspection cycle and shall be listed in the plan. Sales questionnaires should be sent as soon as possible (generally, within two or three weeks) after being notified of the sale. A follow-up questionnaire is recommended if no response is received within 30 days.

(c) When in the field, a detailed interview shall be conducted (when possible) with the resident, in-lieu of an interior inspection of each home. During field inspections, when data is in doubt and no one is home, an attempt should be made to gather additional information. In most cases, an interior inspection may be performed when a new house is under construction.

(d) Since the data collection process occurs over an extended period and property characteristics may change during that period, a sales data maintenance program shall be established. C.A.M.A. sales files shall be maintained at all times. The principle means of data maintenance shall be monitoring building permits issued in the county. If permits are not available, other monitoring means shall be set up.

(e) Each county assessor shall utilize the information gathered from the visual inspection of real property conducted during each year of the four-year cycle, 68 O.S.1991, §2829(C).

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98]

PART 9. PERSONNEL

710:10-10-50. Employee training and education

A training program shall be developed and included in the visual inspection plan, which shall teach basic data collection procedures. Actual training shall be provided by in-house personnel to new employees and on a continuing basis to existing employees. Appraisers or any staff members may be sent to IAAO or related courses on a regular basis to supplement training and education offered by the State. The Ad Valorem Division of the Oklahoma Tax Commission will offer training sessions on a regular basis.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-51. Employee accreditation

The visual inspection plan shall reflect the information that the Oklahoma State University Center for Local Government Technology (CLGT) shall provide for accreditation and for an advanced accreditation program for all employees or personnel involved in the actual appraisal of real property, as prescribed by 68 O.S.1991, §2816.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-52. Job description

The assessor shall keep a job description of each staff position in the office. The assessor shall outline procedures, policies, responsibilities and all standards to be followed. The outline description shall be reviewed when hiring, presenting annual reviews or as needed. It shall include required knowledge, skills, abilities and minimum qualifications needed for the job. The description shall illustrate the tasks to be performed and nature of work. Information related to the job descriptions shall be listed in the visual inspection plan.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97]

710:10-10-53. Organizational chart

(a) Information related to an organizational chart should be listed in the visual inspection plan, including the work-flow for accomplishing the visual inspection. The county assessor should employ one individual who, under the direction of the county assessor, should be responsible for the comprehensive part of the visual inspection plan. One employee should be responsible for data collection and valuation.

(b) In addition to the above-mentioned individuals who form the core of the appraisal staff, additional trained personnel are needed to perform the various phases of the program. In some counties, one person may be doing multiple work flow tasks.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98]

PART 11. BUDGET

710:10-10-60. Estimated budget

A complete four-year budget shall be established for the visual inspection cycle, and published in tabulated form, including personnel costs, job descriptions, and numbers of employees.

[Source: Added at 14 Ok Reg 2670, eff 6-26-97; Amended at 15 Ok Reg 3451, eff 7-11-98]

SUBCHAPTER 11. REIMBURSEMENTS AND ASSISTANCE TO COUNTIES [REVOKED]

710:10-11-1. Purpose [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 19 Ok Reg 1205, eff 5-11-02; Revoked at 36 Ok Reg 1201, eff 8-11-19]

710:10-11-2. Definitions [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 19 Ok Reg 1205, eff 5-11-02; Amended at 35 Ok Reg 2035, eff 9-14-18; Revoked at 36 Ok Reg 1201, eff 8-11-19]

710:10-11-3. Reimbursement program [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Revoked at 19 Ok Reg 1205, eff 5-11-02]

710:10-11-4. Program for assistance to counties to upgrade existing hardware and software; systems compatibility [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 19 Ok Reg 1205, eff 5-11-02; Revoked at 35 Ok Reg 2035, eff 9-14-18]

710:10-11-5. Assessor Hardware Upgrade Cash Fund [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 13 Ok Reg 3093, eff 7-11-96; Amended at 19 Ok Reg 1205, eff 5-11-02; Revoked at 35 Ok Reg 2035, eff 9-14-18]

710:10-11-6. Approved plan [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 19 Ok Reg 1205, eff 5-11-02; Revoked at 35 Ok Reg 2035, eff 9-14-18]

710:10-11-7. Requirement of additions to current funding levels [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Revoked at 19 Ok Reg 1205, eff 5-11-02]

710:10-11-8. Application for reimbursements [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 19 Ok Reg 1205, eff 5-11-02; Revoked at 35 Ok Reg 2035, eff 9-14-18]

710:10-11-9. Distribution of reimbursement funds to the counties [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 15 Ok Reg 3451, eff 7-11-98; Amended at 19 Ok Reg 1205, eff 5-11-02; Revoked at 35 Ok Reg 2035, eff 9-14-18]

710:10-11-10. Bid procedures [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Revoked at 15 Ok Reg 3451, eff 7-11-98]

710:10-11-11. Limitation on obligations [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Revoked at 35 Ok Reg 2035, eff 9-14-18]

710:10-11-12. Review and monitoring of funds [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Amended at 34 Ok Reg 2040, eff 9-11-17; Revoked at 35 Ok Reg 2035, eff 9-14-18]

710:10-11-13. Requests for review [REVOKED]

[Source: Added at 12 Ok Reg 2603, eff 6-26-95; Revoked at 36 Ok Reg 1201, eff 8-11-19]

**SUBCHAPTER 12. AGRICULTURAL LAND CONSERVATION
ADJUSTMENT**

710:10-12-1. Purpose

The provisions of this Subchapter have been adopted for the purpose of compliance with the Administrative Procedures Act, 75 O.S., § 250 et seq, and to facilitate the administration, determination, and application of agricultural land conservation adjustments concerning ad valorem taxes.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-12-2. Requirements for approval as agricultural land conservation adjustment

(a) In order to be approved for the "Agricultural Land Conservation Adjustment" the applicant must currently be participating in an Oklahoma Conservation Commission state cost-share program or in a federal conservation cost-share program through the USDA. Eligibility for federal programs shall be based on the Natural Resources Conservation Service Field Office Technical Guide, Buffer Strip Standards, and eligibility for the state programs shall be based on the requirements of the local conservation district.

(b) Each year the adjustment is requested, the applicant must complete OTC Form 999 which must be filed by March 15th with the county assessor. Because the state reimburses counties for revenue lost due to this adjustment, the application must be filed annually. The specific conservation area must be applied for and identified as required on OTC Form 999. Any additional legal descriptions or directions to the area may be attached as an addendum. The specific location of the conservation area must also be identified by an aerial photo or soil map supplied by the applicant and certified by the conservation district to the county assessor which matches the Conservation Cost-Share Agreement.

(c) The information found in Part 2 of OTC Form 999 must be identical to the information on the Conservation Cost-Share Agreement. Failure to comply will result in denial of the reimbursement by the Tax Commission.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-3. Strict compliance

All persons claiming or administering the conservation land adjustment program provided for by the laws of this State shall strictly comply with the law and this Subchapter, under penalty of law, to the end that the objectives of the law be accomplished.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-4. Qualifying conservation land exempt; forms

Qualifying conservation land shall be defined by law. [See: 68 O.S. § 2817.2] Adjustments on applications prescribed by the Oklahoma Tax Commission will only be allowed pursuant to filing and approval of the county assessor. The application must be fully completed, sworn to, and signed by the applicant. Any additional information requested in writing by the County Assessor, the County Board of Equalization, or the Oklahoma Tax Commission shall be furnished in a sworn and signed statement.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-12-5. Beginning date of adjustment; failure to claim

The period of allowable conservation land adjustment shall begin on January 1, following the initial qualifying use of the property in the conservation program as provided by law. Application must be made in the tax year for which the adjustment is requested. Failure to claim an adjustment shall not toll or extend the period of allowable adjustment. No claims may be retroactive.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-6. County assessor to determine eligibility; examination and valuation of the application; notice upon rejection

(a) The county assessor shall examine each application for the conservation land adjustment and shall determine whether the application and supporting documentation is valid. In determining whether the application is valid, the assessor shall, if necessary, make inspections, make a written request for additional information, or examine any person under oath as provided by law.

(b) The assessor shall complete the assessor's portion of each application, shall consecutively number each completed application received, and shall forward a copy of each application to the Oklahoma Tax Commission Ad Valorem Division. The original of each application shall be delivered to the County Board of Equalization, on or before the fourth Monday in April each year for review. If an application is rejected the applicant shall be notified in writing at the mailing address indicated on the original application and advised of the informal and formal protest procedure as outlined in 68 O.S. §§ 2893, 2894, 2895.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 35 Ok Reg 2035, eff 9-14-18]

710:10-12-7. Method of valuation

(a) All agricultural land is to be valued according to the Oklahoma Constitution Article 10 Section 8 according to the actual fair cash value for its highest and best use. The Oklahoma statutes specifically outline the methodology as to use value for agricultural properties. [See: 68 O.S. § 2817(C)]

(b) The Oklahoma statutes make provision for valuation of certain designated conservation lands in 68 O.S. § 2817.2. For the purposes of this section qualified and approved conservation lands shall be valued using current approved use-value methodology presently in use for all other agricultural lands in the county based on the latest approved dollar-per-point from the Tax Commission. All Agricultural Conservation Land will be valued by classifying these lands at their current use classification as approved by the State Board of Equalization, and methodology developed by the Tax Commission. Land area may be rounded to the nearest tenth of an acre.

(c) These rules shall not be construed in a manner which is inconsistent with the State Board of Equalization's duties, powers, and authority as to equalization of valuation of the counties as determined and defined by Section 21 of Article 10 of the Oklahoma Constitution.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-12-8. County Board of Equalization to review

The County Board of Equalization shall review each application for conservation land adjustment exemption in the same time and manner as provided for reviewing new homestead exemptions and shall give written notice to the applicant if the board disallows an exemption. If an application is rejected, the applicant shall be notified in writing, and advised of the protest procedure as outlined in 68 O.S. §§ 2894, 2895.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-12-9. Hearings before County Board of Equalization

In case the county assessor or County Board of Equalization disallows or rejects an application for Conservation Land Adjustment, the applicant may obtain

a hearing before the County Board of Equalization by filing a written complaint with the Secretary of said Board (the county clerk) within ten (10) days from the receipt of the notice. The complaint shall specify the grievances and the pertinent facts in relation to the matter, and the Board shall conduct hearings, as provided by statute. [See: 68 O.S., § 2895]

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-12-10. Appeal from Board of Equalization to district court

The decision of the Board of Equalization as to the conservation land adjustment may be appealed to the District Court by either the applicant or the county assessor, as provided by law. [See: 68 O.S., § 2879]

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-12-11. Review; protest; appeal

(a) **Notice of erroneous adjustment or; assessment.** If the Tax Commission determines that a Conservation Land Adjustment has been erroneously or unlawfully granted, in whole or in part, it shall notify the appropriate county assessor, who shall immediately value and assess the property without the Conservation Adjustment.

(b) **Notice to applicant.** The Commission shall mail a copy of the notice pursuant to the terms of 68 O.S. § 208 to the applicant at the mailing address shown on the application. The copy shall notify the applicant of his right to protest the Commission's decision.

(c) **Protest.** Within thirty (30) calendar days after the mailing of the notice, the applicant may file with the Oklahoma Tax Commission, a written protest, under oath, signed by himself or his duly authorized representative, in the manner and subject to the requirements set out in 68 O.S. § 207 of the Uniform Tax Procedure Code. A copy of the protest shall be mailed or delivered by the applicant to the county assessor.

(d) **Law governing protest procedure.** The Applicant's right of protest, hearing and procedure to be followed shall be governed by the provisions of the Uniform Tax Procedure Code. [See: 68 O.S. § 201, et seq. and the Rules of Practice and Procedure before the Office of Administrative Law Judges, promulgated at 710:1-5-20 through 710:1-5-49 of the *Oklahoma Administrative Code*.]

(e) **Appeal.** Appeals from the decision of the Oklahoma Tax Commission regarding any protest shall be made directly to the Supreme Court of Oklahoma, as provided by law. [See: 68 O.S. § 225]

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 32 Ok Reg 1335, eff 8-27-15]

710:10-12-12. County recording procedure for real property assessment and tax rolls

The county recording procedure will be to separately show each approved parcel, in its proper place on the assessment and tax roll, as if it were non-adjusted property. "Adjustment property" shall be designated, the tax calculated, and charged to the treasurer. The Treasurer **will not** bill the owner, for the difference between actual tax and adjusted tax. The difference in tax will be paid by the State Treasurer at the end of the fiscal year, based upon a county claim for reimbursement filed in June of the following year.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-13. Actual Fair Cash Value

The use value used for the conservation land adjustment for ad valorem tax purposes will be the amount determined by the county assessor with the assistance of the Oklahoma Tax Commission, if required. [See: 710:10-12-7]. In calculating the use value of Buffer Strips as defined in 68 O.S. § 2817.2, exclusive consideration shall be based only on income from production of agriculture from such Buffer Strips, not including federal or state subsidies, when valued as required by 68 O.S. § 2817.2(C).

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-12-14. Designation on assessment roll; real property

Each conservation land adjustment assessment shall be placed on the assessment roll, as if it were taxable, except it shall be designated CL-1. The second year the exemption is allowed on the same property, the designation shall be CL-2, etc. The designation shall be entered under the less exemptions column.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-15. Adjustments forwarded to tax rolls

Each conservation land adjustment assessment shall be forwarded to the proper tax roll and its designation (CL-1, etc.) shall be posted in the Treasurer's receipt number space, first half, and in addition, "CL Reimbursement" shall be entered under " by whom paid " on the same line. The amount shall be the difference between the adjusted and non adjusted amount.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-16. Tax charge to County Treasurer

The tax shall be calculated and the difference between the adjusted and non-adjusted amount will be charged to the County Treasurer for each conservation land adjustment. This amount will be the amount any state reimbursement will be based on.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-17. Owner not billed for tax

The County Treasurer shall not bill the owner of conservation land for the portion of ad valorem tax on "conservation land adjustment" property.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-18. No late payment charges

No late payment interest, penalty, or tax liens on county property reimbursements will be charged to the State by the County Treasurer. No late penalty or interest shall be charged to the applicant upon the disallowance by the county or the Oklahoma Tax Commission of any assets properly claimed on the application.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-19. Assessor's report to Excise Board; abstract of assessment

Conservation land adjustment assessments shall be included in the Assessor's Report to Excise Board (SA&I Form 263) and in the Annual Abstract of

Valuation and Assessment (OTC Form 917), as if they were non adjusted agricultural lands.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

710:10-12-20. County claim for reimbursement; funding shortfall

(a) The tax on "Conservation Land Adjustment" properties allowed ad valorem adjustment will be included on a County Claim for Reimbursement Form OSF-3 which will be filed by the County Commissioners by April 30, in the following year for reimbursement in June, of that same year, as provided by the law. [See: 62 O.S. § 193] Manufacturers tax exemption reimbursements are to have first priority and additional homestead second priority before any other program utilizing the fund designated for the "**Five-year Ad Valorem Tax Exemption for Oklahoma Manufacturers**". In the event of a shortfall of State funding, county treasurers would receive less than a full payment. In that event, the Oklahoma Tax Commission shall advise the county treasurer of the proportion to be applied to each tax bill, and how to administer the shortfall.

(b) If the Ad Valorem Reimbursement Fund is insufficient to pay all claims, the claims will be paid proportionally from remaining funds. If no funds exist to pay any claims the claims are extinguished. (Ref: Ok AG Opinion 03-16).

[Source: Added at 18 Ok Reg 2796, eff 6-25-01; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-12-21. Rulings of State Auditor and Inspector

Any specific instruction by the State Auditor and Inspector pertaining to recording or to the handling of public funds shall take precedence over the provisions of this Subchapter.

[Source: Added at 18 Ok Reg 2796, eff 6-25-01]

**SUBCHAPTER 13. VALUATION EXCLUSION FOR
DESULPHURIZATION EQUIPMENT**

710:10-13-1. Purpose

The provisions of this Subchapter have been adopted for the purpose of compliance with the Administrative Procedures Act, 75 O.S. § 250 et seq., and to facilitate the valuation of certain locally-assessed oil refinery assets for ad valorem tax purposes.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-2. Requirements for qualification of certain assets for valuation exclusion

An eligible facility must be one which:

(1) Is a "**facility, device or method for the desulphurization of gasoline or diesel fuel**" including any device or method for the desulphurization of gasoline or diesel fuel, including any structure, building, installation, excavation, machinery, equipment, or device and any attachment or addition to, or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed on or after January 1, 2003; and

(2) Is used, constructed, acquired or installed wholly or partly to meet or exceed rules adopted by the Oklahoma Environmental Quality Board or by the United States Environmental Protection Agency with respect to any

program which has been delegated to the Department of Environmental Quality for the prevention, monitoring, control, or reduction of the amount of sulfur in gasoline or diesel fuel. 68 O.S. § 2817.3

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-3. Strict compliance

All persons claiming, utilizing, or administering the valuation method detailed in 68 O.S. § 2817.3 shall strictly comply with the law and this subchapter, under penalty of law, to the end that the objectives of the law be accomplished.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-13-4. Application for valuation exclusion of assets

- (a) The firm, company, facility, or person seeking the exclusion shall make a written request to the Executive Director of the Department of Environmental Quality for a determination that certain assets qualify for valuation exclusion.
- (b) The request shall be made in accordance with rules promulgated by the Department of Environmental Quality.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-5. Notification to County Assessor and Tax Commission

- (a) On or before March 15 of the year in which valuation exclusion is sought, all persons requesting valuation exclusion pursuant to this Subchapter shall provide a copy of the letter issued by the Department of Environmental Quality certifying specific assets for valuation exclusion to the County Assessor and to the Director of the Ad Valorem Division of the Oklahoma Tax Commission.
- (b) The County Assessor or the Ad Valorem Division may require a person that has been granted a valuation exclusion in a prior year to file a new application or letter of continued qualification by March 15 of each year to confirm the continuation of the qualification for the exclusion.
- (c) The qualification letter from the Department of Environmental Quality shall be conclusive evidence that the assets are used wholly for the desulphurization of gasoline and diesel fuel.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-6. Further determination by the County Assessor or Ad Valorem Division

- (a) The County Assessor or the Director of the Ad Valorem Division shall further determine if the property for which the exclusion is sought is qualified as provided by law.
- (b) The County Assessor or the Ad Valorem Division may request any additional information from the Department of Environmental Quality, from another state or federal agency, or from the applicant, as required to determine qualification or valuation of any assets used in the desulphurization process. All information shall be held confidential by the Tax Commission and the County Assessor pursuant to 68 O.S. § 205.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-7. Further determination of eligibility by the County Assessor

The County Assessor shall examine each application or letter of qualification and shall determine whether the application and supporting

documentation is sufficient and valid. In making this determination the Assessor shall, if necessary, make inspections, make a written request for additional information, or examine any person under oath as provided by law. The Ad Valorem Division and Department of Environmental Quality shall assist the Assessor in the determination, if requested.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-8. Exclusion of valuation for qualified assets

Qualified assets, as defined in 68 O.S. § 2817.3, shall not be included in the valuation used in determining the fair market value of oil refineries if such property would qualify as exempt property pursuant to 68 O.S. § 2902, whether or not an application for such exemption is made by an otherwise qualifying manufacturing concern owning the property described by 68 O.S. § 2817.3. The County Assessor shall indicate on the permanent property record the amount of any valuation exclusion and any other information that the Assessor deems necessary.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04; Amended at 34 Ok Reg 2040, eff 9-11-17]

710:10-13-9. Denial by the County Assessor

If an application is rejected the applicant shall be notified in writing and advised of the procedure provided by law to protest the denial. The protest procedure for contesting denial by the county assessor is found at 68 O.S. §§ 2894 and 2895.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-10. Hearings before the County Board of Equalization

If the County Assessor or County Board of Equalization disallows or rejects an application for valuation exclusion, the applicant may obtain a hearing before the County Board of Equalization by filing a written complaint with the secretary of the board (County Clerk) within ten days of the receipt of the notice of denial. The complaint shall specify the grievances and the pertinent facts in relation to the matter, and the board shall conduct hearings as provided by law. [See: 68 O.S. § 2895]

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-11. Appeal from Board of Equalization to district court

The decision of the Board of Equalization as to the valuation exclusion may be appealed to the district court by either the applicant or the County Assessor, as provided by law. [See: 68 O.S. § 2879]

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

710:10-13-12. Erroneous adjustment or assessment; review; protest; appeal

(a) **Determination of erroneous or unlawful exclusion.** If the Tax Commission or the County Assessor determines that an valuation exclusion has been erroneously or unlawfully granted, in whole or in part, the Commission shall so notify the appropriate County Assessor, who shall immediately value and assess the property which was previously excluded from value.

(b) **Notice to applicant.** The Tax Commission shall mail a copy of the notice pursuant to the terms of 68 O.S. § 208 to the applicant at the address shown on the application or certification letter from the Department of Environmental Quality. The copy shall notify the applicant of the right to protest the Tax Commission's

decision.

(c) **Protest.** Within sixty (60) calendar days after the mailing of the notice, the applicant may file a written protest, under oath, with the Oklahoma Tax Commission, signed by an authorized representative, in the manner and subject to the requirements set out in 68 O.S. § 207 of the Uniform Tax Procedure Code. The applicant shall mail or deliver a copy of the protest to both the County Assessor and the Tax Commission.

(d) **Law governing protest procedure.** The applicant's right of protest, hearing, and procedure to be followed shall be governed by the provisions of the Uniform Tax Procedure Code, 68 O.S. § 201 et seq., and the Rules of Practice and Procedure before the Office of Administrative Law Judges, *OAC 710:1-5-20* through *710:1-5-49*.

(e) **Appeal.** Appeals from the decision of the Tax Commission regarding any protest shall be made directly to the Supreme Court of Oklahoma, as provided by law. [See: 68 O.S. § 225]

[Source: Added at 21 Ok Reg 2563, eff 6-25-04; Amended at 32 Ok Reg 1335, eff 8-27-15]

710:10-13-13. County recording procedure for real and personal assessment and tax rolls

The County recording procedure for properties which are determined to qualify for valuation exclusion pursuant to this Subchapter will be no different from that applicable to other real and personal property. Property that has a valuation exclusion will be carried forward on the assessment and tax rolls at the net valuation after any valuation adjustments have been made.

[Source: Added at 21 Ok Reg 2563, eff 6-25-04]

SUBCHAPTER 14. DISABLED VETERANS IN RECEIPT OF COMPENSATION AT THE ONE HUNDRED PERCENT RATE

710:10-14-1. General provisions

(a) The procedures and requirements set out in this Subchapter shall be used to implement the exemption of the full fair cash value for homestead property and household personal property of qualified owners for ad valorem purposes.

(b) The "one hundred percent disabled veterans exemption" refers to the implementation of the constitutional amendments added to the Oklahoma Constitution, Article 10, § 8E, by State Question 715, effective January 1, 2006 and Article 10, § 8D, by State Question 735, effective January 1, 2009. The amendments direct county assessors to exempt the total amount of the actual fair cash value of the homestead real property and household personal property of any qualified person who has made proper application. The applicant's real property must be a valid homestead property, with evidence of a homestead exemption, or eligible for homestead exemption. As with any homestead-based exemption, the general statutes governing homestead exemption qualification apply to the one hundred percent disabled veterans exemption. Only one homestead, and by extension, only one exemption, is permitted in any one year, per applicant. The exemption applies only to owner-occupied homestead property and may not be applied to any non-homestead property. [See: 68 O.S. §§ 2888, 2889, 2890, 2893]

(c) The passage of State Question 770, effective November 4, 2014, adds an amendment to Article 10 Section 8E to allow for the transfer of the exemption set forth therein under the circumstances where a qualifying veteran or surviving

spouse of the veteran sells a previously exempted homestead property in Oklahoma and acquires, in the same calendar year, a new homestead property in the state. The full fair cash value of the newly acquired property shall be exempt from ad valorem tax. The exemption on the property sold will remain in effect through the end of the calendar year.

[Source: Added at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 26 Ok Reg 2323, eff 6-25-09; Amended at 29 Ok Reg 516, eff 5-11-12; Amended at 32 Ok Reg 1335, eff 8-27-15; Amended at 33 Ok Reg 1070, eff 8-25-16]

710:10-14-2. [RESERVED]

[Source: Reserved at 22 Ok Reg 1518, eff 6-11-05]

710:10-14-3. Relationship to other exemptions and programs

Although the general law applies to applicants, since the actual fair cash value is exempt from ad valorem tax for qualified applicants, applications for other homestead specific property tax exemptions are unnecessary.

[Source: Added at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06]

710:10-14-4. Qualified owner

Applicants must be heads of households who have been honorably discharged from active service in a branch of the Armed Forces of the United States or Oklahoma National Guard, and who have been certified by the United States Department of Veterans Affairs, or its successor, to have one hundred percent (100%) permanent disability sustained through military action or accident, or resulting from a disease contracted while in active service. The exemption extends to the surviving spouses of such veterans who are certified by the United States Department of Veterans Affairs to receive benefits under the terms of this Subchapter. Each applicant must provide to the county assessor, a current United States Department of Veterans Affairs benefits award letter that certifies the one hundred percent service-related disability, or that the individual is in receipt of compensation at the one-hundred percent rate.

[Source: Added at 22 Ok Reg 1518, eff 6-11-05; Amended at 28 Ok Reg 931, eff 6-1-11]

710:10-14-5. Application

(a) In order to be eligible for the one hundred percent disabled veterans exemption, the individual must apply at the county assessor's office by completing an Application for 100% Disabled Veterans Property Tax Exemption, Oklahoma Tax Commission Form 998. The application should be made between January 1 and March 15th in the same manner as for homestead exemptions. However, if the county assessor becomes aware of an otherwise-qualified applicant at any time during the current tax year, the county assessor may, upon compliance with all qualification criteria, make the appropriate adjustment. Providing all homestead requirements are met, if an otherwise qualified applicant receives their one hundred percent (100%) disability rating effective on or before the date of application, the property is exempt for the entire year regardless of the status of disability on January 1. If an otherwise-qualified applicant is discovered after the tax roll has been certified, then a tax roll correction may be made pursuant to 68 O.S. § 2871(C)

(2). Any applications that are denied by the county assessor shall be subject to the same protest procedure as provided for homestead exemption. If the disability rating of any veteran participating in the exemption program is reduced by the U.S.

Dept. of Veterans Affairs to less than one hundred percent, the veteran shall immediately notify the county assessor of the change in status. Failure to do so will result in loss of any future homestead exemption pursuant to 68 O.S. §§ 2892(K) and 2900.

(b) To transfer the exemption to a newly acquired homestead property the qualified veteran or surviving spouse of the veteran must file **Form 998-B, Application For 100% Disabled Veterans Exemption Acquired Homestead Property** with the county assessor. Beginning with the month the deed instrument is filed of public record and the application is approved the homestead property will be exempt to the same extent as the homestead property previously owned in this state by such person or persons for the year during which the new homestead property is acquired and each year thereafter providing qualifications are maintained.

(c) The exemption application must be filed in the year requested. Filing for previous years is prohibited pursuant to Oklahoma Constitution Article 10 § 22A.

[Source: Added at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 25 Ok Reg 2029, eff 7-1-08; Amended at 32 Ok Reg 1335, eff 8-27-15; Amended at 33 Ok Reg 1070, eff 8-25-16]

710:10-14-6. Duties of the assessor

(a) The county assessor has the authority to review any information provided by the applicant, ask any necessary questions, request documentation including, but not limited to: Military I.D., Veterans Administration benefits card, current Oklahoma driver license or any other information that the assessor may feel is relevant for the initial application, transfer, or any time in subsequent years. The county assessor shall deny any application that is inaccurate, incomplete, inadequately documented, or otherwise invalid pursuant to this Subchapter.

(b) Any adjustment after the adjournment of the County Board of Equalization must be approved by the Board of Tax Roll Corrections.

[Source: Added at 22 Ok Reg 1518, eff 6-11-05; Amended at 23 Ok Reg 2803, eff 6-25-06; Amended at 32 Ok Reg 1335, eff 8-27-15]

710:10-14-7. Right of appeal

The taxpayer may appeal any denial of the exemption application by the county assessor to the county board of equalization in the same manner as an appeal of the denial of a homestead exemption. [See: 68 O.S. § 2895]

[Source: Added at 22 Ok Reg 1518, eff 6-11-05]

710:10-14-8. Duration; conditions which terminate the exemption

The 100% Disabled Veterans Exemption is valid on the property as long as the taxpayer or surviving spouse owns and occupies the property and remains eligible for homestead exemption. If title to the property is transferred or qualifications are no longer met, the exemption shall be terminated and the value of the property shall be subject to valuation the following year pursuant to Oklahoma Constitution, Article 10, § 8.

[Source: Added at 22 Ok Reg 1518, eff 6-11-05; Amended at 32 Ok Reg 1335, eff 8-27-15]

SUBCHAPTER 15. FREEPORT EXEMPTION

710:10-15-1. General provisions

(a) The procedures and requirements set out in this Subchapter shall be used to administer the exemption.

(b) The "Freeport Exemption" refers to the Oklahoma Constitutional provision contained in Oklahoma Constitution Article 10, Section 6A relating to property moving through the state and goods, wares and merchandise held for assembly, storage, manufacturing, processing or fabricating purposes if not for more than nine (9) months.

[Source: Added at 25 Ok Reg 2029, eff 7-1-08]

710:10-15-2. Application

(a) In order to be eligible for the "Freeport Exemption" the owner or owner's agent must apply at the county assessor's office in the county where the property was located on the assessment date of January 1.

(b) The initial and any subsequent applications shall be made on Oklahoma Tax Commission Form 901-F, latest revision. Applications on non-approved Tax Commission forms or other submissions shall not be accepted by the county assessor.

(c) Applications shall be filed during each year in which the tax is due, on or before March 15 or within thirty (30) days from and after the receipt of a notice of valuation increase, whichever is later.

(d) Claims for previous years shall be declared null and void by the county assessor.

(e) Eligibility for the "Freeport Exemption" shall be established by annually filing an application for exemption using Oklahoma Tax Commission Form 901-F latest revision, on or before March 15 or within thirty (30) days from the receipt of a notice of valuation increase. [See: 68 O.S. § 2902.2]

(f) Effective January 1, 2009, the application must be made in the same year as the exemption is requested. The Oklahoma Constitution Article 10 Section 22A prohibits the filing of any exemption application in a subsequent year.

[Source: Added at 25 Ok Reg 2029, eff 7-1-08; Amended at 26 Ok Reg 2323, eff 6-25-09]

710:10-15-3. Duties of the assessor

The county assessor has the authority to verify any information provided by the applicant, ask any necessary questions, request documentation and conduct interviews. The county assessor may physically inspect the property and access applicant's books and records and any other information that the assessor may feel is relevant to the exemption application. The county assessor shall deny any application that is inaccurate, incomplete, inadequately documented, or otherwise invalid pursuant to this Subchapter.

[Source: Added at 25 Ok Reg 2029, eff 7-1-08]

710:10-15-4. Right of appeal

Each application shall be examined by the county assessor in the manner provided for homestead exemptions pursuant to 68 O.S. § 2893. The applications for "Freeport Exemption" shall be reviewed by the county board of equalization in the same manner as homestead exemption applications pursuant to 68 O.S. § 2894 and shall be subject to the same review and appeal process as provided in 68 O.S. § 2895.

[Source: Added at 25 Ok Reg 2029, eff 7-1-08]

SUBCHAPTER 16. UNREMARRIED SURVIVING SPOUSES OF PERSONS WHO DIED IN THE LINE OF MILITARY DUTY

710:10-16-1. General provisions

(a) The procedures and requirements set out in this Subchapter shall be used to implement the exemption for the full fair cash value of homestead property of qualified unremarried surviving spouses.

(b) The exemption for "unremarried surviving spouses of military personnel who died in the line of duty" refers to the implementation of an amendment added to the Oklahoma Constitution, Article 10 § 8F, by State Question 771, effective for the 2014 calendar year and years thereafter. The amendment directs county assessors to exempt the full amount of the actual fair cash value of the homestead property. The applicant's real property must be a valid homestead property with evidence of a homestead exemption or be eligible for homestead exemption. Only one homestead and by extension only one exemption, is permitted in any one year. The exemption applies only to owner-occupied homestead property and may not be applied to non-homestead property. [See: 68 O.S. §§ 2888, 2889, 2890, and 2893]

(c) The exemption provided by this Section may be transferred under circumstances where a qualifying spouse sells a homestead property previously exempted pursuant to this Section and acquires, in the same calendar year, a new homestead property in this state. The full fair cash value of the newly acquired property shall be exempt from ad valorem taxation. The exemption on the property sold will remain in effect through the end of the calendar year.

[Source: Added at 32 Ok Reg 1335, eff 8-27-15; Amended at 33 Ok Reg 1070, eff 8-25-16]

710:10-16-2. Relationship to other exemptions and programs

Although the general law applies, since the actual fair cash value is exempt from ad valorem tax for qualified applicants, applications for other homestead specific property tax exemptions may be unnecessary.

[Source: Added at 32 Ok Reg 1335, eff 8-27-15]

710:10-16-3. Qualified owner

An applicant must be the unremarried surviving spouse of military personnel who is determined by the United States Department of Defense or any branch of the U.S. military to have died in the line of duty. Each applicant must provide the county assessor in the county where the homestead property is located, an original or certified copy of the Department of Defense Form DD-1300 which shall certify the applicant is the surviving spouse of such military personnel.

[Source: Added at 32 Ok Reg 1335, eff 8-27-15]

710:10-16-4. Application

In order to be eligible for the exemption the individual must apply in the initial year the exemption is requested at the county assessor's office by completing **Form 998-C, Application for Unremarried Surviving Spouse of Veterans Deceased in the Line of Duty Property Tax Exemption**. The application should be made between January 1 and March 15 in the same manner as the homestead exemption. However, if a county assessor becomes aware of an otherwise qualified applicant at any time during the current tax year or the exemption is transferred to another homestead eligible property the county assessor shall, upon compliance with all identification and qualification criteria, make the appropriate adjustment. Providing all homestead and other requirements are met, if an otherwise qualified applicant is in receipt of the Form DD-1300 certifying they are the surviving

spouse of military personnel who died in the line of duty, on or before the date of the application, the homestead property is exempt for the remainder of the current year. If an otherwise qualified applicant is discovered after the tax roll has been certified, a tax roll correction shall be made pursuant to 68 O.S. § 2871(C)(2). Any application denied by the county assessor shall be subject to the same protest procedure as provided for homestead exemption. If the qualified unremarried surviving spouse subsequently remarries, they shall immediately notify the county assessor of the change in marital status. Failure to notify the county assessor may result in the loss of future homestead exemptions pursuant to 68 O.S. §§ 2892(K) and 2900. The application must be filed in the year requested, filing for previous years is prohibited pursuant Oklahoma Constitution Article 10 § 22A.

[Source: Added at 32 Ok Reg 1335, eff 8-27-15]

CHAPTER 15. AIRCRAFT

[Authority: 3 O.S., §§ 251, 254.1(G), and 257; 68 O.S., §§ 203 and 6007]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:15-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to aircraft.

710:15-1-2. Definitions [RESERVED]

SUBCHAPTER 2. AIRCRAFT DEALER LICENSES

710:15-2-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq, and to facilitate the implementation, administration, and enforcement of Section 254.1 of Title 3 of the Oklahoma Statutes, which requires that any person engaged in the business of selling, or serving in the capacity of, or acting as, a dealer of new or used aircraft in this state first obtain a license from the Oklahoma Tax Commission.

[Source: Added at 18 Ok Reg 2805, eff 6-25-01]

710:15-2-2. Definitions [RESERVED]

[Source: Reserved at 18 Ok Reg 2805, eff 6-25-01]

710:15-2-3. General provisions

(a) Any person engaging in the business of selling either new or used aircraft in this state must obtain an aircraft dealer license. The holder of a valid Oklahoma Aircraft Dealer License shall be exempt from both the registration requirements of 3 O.S. § 254(C) and from the excise tax levied by 68 O. S. § 6002 on aircraft held in inventory for sale, and reflected in the monthly, certified dealer sales report. [See: 710:15-3-30]

(b) A separate license is required for each location at which an Aircraft Dealer's business is carried out, and an application and fee must be submitted to obtain a license for each location.

[Source: Added at 18 Ok Reg 2805, eff 6-25-01]

710:15-2-4. Qualification for Aircraft Dealer License

(a) **Status as a bona fide dealer.** In addition to all conditions mandated by statute, compliance with the prerequisites and qualifications described in this Section must be established in order to qualify for issuance or renewal of an Aircraft Dealer License:

- (1) If the applicant is a new dealer who has not previously engaged in the business of making sales of aircraft, the applicant shall provide a business plan or other documentation that will show that the applicant may reasonably be expected to be actively engaged in the sale of aircraft.
- (2) The applicant must provide information showing that the location to be licensed is an establishment that has been consistently identified as an aircraft dealership in advertising signs, telephone book listings, or other documentation which will show that anyone visiting the location to be licensed will be able to clearly identify the location as being in the business of buying and selling aircraft.
- (3) The applicant must provide a financial statement, contracts, business plans that are indicative of the applicant's ability to carry on the business of buying and selling aircraft consistent with the safeguarding of the public interest and the public welfare.
- (4) The applicant must provide any other pertinent information which the Tax Commission may require.

(b) **Tax compliance status.** The applicant shall be in good standing with all tax laws of the State of Oklahoma.

[Source: Added at 18 Ok Reg 2805, eff 6-25-01; Amended at 21 Ok Reg 1123, eff 5-13-04]

710:15-2-5. Application

(a) Application for an Aircraft Dealer License may be made to the Business Tax Services Division, Oklahoma Tax Commission, Box 26920, Oklahoma City, OK 73126-0920.

- (b) All applications must be accompanied by the fee of \$250.00 which shall be refundable if the application is denied.
- (c) The application shall be on the form prescribed by the Oklahoma Tax Commission and complete and correct in all material aspects.
- (d) The application must be verified under the oath or affirmation of the applicant.
- (e) Each application, whether for a new license or for renewal of an existing license must be accompanied by a listing of the aircraft owned by the applicant, as of the day the application is made, using the Aircraft Dealer Report form.
- (f) Each applicant must timely submit an Aircraft Dealer Report form showing all subsequent purchases and sales, if any, during the time that the license is pending.

[Source: Added at 18 Ok Reg 2805, eff 6-25-01; Amended at 38 Ok Reg 1514, eff 9-1-21]

710:15-2-6. Exemptions of licensed aircraft dealer

Aircraft owned by a licensed dealer and in that dealer's inventory of aircraft held for sale, are exempted from the levy of the Aircraft Excise Tax and from the payment of Aircraft registration fees, provided that:

- (1) The aircraft was acquired during the period of time that the dealer held a valid license;
- (2) The aircraft has been listed on the aircraft dealer report as being purchased for resale; and,
- (3) The aircraft is not used by the dealer for personal or business use.

[Source: Added at 18 Ok Reg 2805, eff 6-25-01]

710:15-2-7. Granting of license; options available upon denial

- (a) The Tax Commission shall be the sole judge of an applicant's qualifications and may deny an application or refuse to issue an Aircraft Dealer License.
- (b) Proceedings related to the refusal to issue a license pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49, which set out general rules of Practice and Procedure before the Office of the Administrative Law Judges.

[Source: Added at 18 Ok Reg 2805, eff 6-25-01; Amended at 36 Ok Reg 102, eff 8-11-19]

710:15-2-8. Cancellation, suspension, revocation of license

- (a) An Aircraft Dealer License may be cancelled by the Commission if the dealer's sales of aircraft fall below the qualifying threshold.
- (b) The Commission may revoke a license upon information that the license has been used by persons other than to whom it was issued.
- (c) The Commission may suspend, cancel, or revoke an Aircraft Dealer License, at any time, for non-compliance with the provisions of this Subchapter, with applicable Oklahoma tax statutes, or for other good cause shown.
- (d) Proceedings related to the cancellation or revocation of a license pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49, which set out general rules of Practice and Procedure before the Office of the Administrative Law Judges.

[Source: Added at 18 Ok Reg 2805, eff 6-25-01; Amended at 36 Ok Reg 102, eff 8-11-19]

710:15-2-9. Cancellation, revocation, or forfeiture

- (a) Any entity whose aircraft dealer license is refused, expires and is not renewed, is voluntarily forfeited, or is cancelled or revoked by action of the Commission, must immediately register and remit the aircraft excise tax and registration fees on any aircraft owned by the entity on which the aircraft registration fees and the aircraft excise tax were not paid at the time of the aircraft's acquisition by the dealer. Failure to do so may result in the assessment of the registration fees, the excise tax, and the possible imposition of an administrative fine.
- (b) The Tax Commission may impose a fine not to exceed Five Hundred Dollars (\$500.00) for each day that a dealer is in violation of 3 O. S. Section 254.1(F), any of the rules set out in this Subchapter, or for any of the following reasons:
 - (1) Failure to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;
 - (2) Failure to maintain an established place of business;
 - (3) Proof of the unfitness of any applicant for a license;
 - (4) Making a material misstatement in any application for a license;
 - (5) A change in condition after a license is granted which results in the dealer no longer qualifying for the license;
 - (6) Use of false or misleading advertising in connection with the business as a dealer; or,

(7) Commission of any unlawful act which resulted in the revocation of any similar license in another state, failure or refusal to perform any written agreement with any retail buyer involving the sale of an aircraft, conviction of a crime involving moral turpitude, commission of a fraudulent act in selling, purchasing, or otherwise dealing in aircraft, or misrepresentation in the terms and conditions of a sale, purchase, or contract for sale or purchase of an aircraft. [3 O. S. Section 254.1]

[Source: Added at 18 Ok Reg 2805, eff 6-25-01; Amended at 21 Ok Reg 1123, eff 5-13-04]

SUBCHAPTER 3. REGISTRATION

PART 1. GENERAL REGISTRATION PROVISIONS

710:15-3-1. Purpose and authority for annual registration fee on aircraft

The provisions of this Subchapter have been promulgated in compliance with the Oklahoma Administrative Procedures Act and pursuant to the authority and power granted the Oklahoma Tax Commission, Aircraft Registration Fees levied by statute shall be administered and implemented in accordance with the provisions set out in this Subchapter establishing procedures for payment of the registration fee on an annual basis. [See: 3 O.S. §§251, 257]

710:15-3-2. Time fees are to be paid

Oklahoma Aircraft Registration Fee is to be paid annually. The fee is due on January 1 of each year, or upon basing or operating an aircraft from any airport in this State for thirty (30) days or longer. [See: 3 O.S. §254]

710:15-3-3. Schedule of fees; personal property assessment in lieu of registration fee

(a) **General classification for fee purposes.** Registration and renewal of registration of aircraft are subject to registration fees and taxes as set forth by statute. [See: 3 O.S. § 256(A)]

(b) **Fee reduction for subsequent years; reduction limit.** The fees in 3 O.S. § 256 (A)(1)-(5) are to be *reduced at a rate of ten percent (10%) each year following the date of manufacture until the fee is equal to fifty percent (50%) of the original fee, which shall then be the fee for each year thereafter.* [3 O.S. §256(A)(7)]

(c) **Special flat rate fee for certain aircraft.** *Antique aircraft as defined by the Federal Aviation Administration, sailplanes, balloons, and home-built aircraft shall be subject to a flat-rate fee of Ten Dollars (\$10.00).* [3 O.S. §256(A)(6)]

(d) **Option to pay personal property assessment in lieu of registration.** Every aircraft owner has the right to appeal the assessment of the fee levied by 3 O.S. §256(A) and the Commission will appraise the aircraft and its avionics as personal property at its fair market value and apply a 12% assessment rate and levy the tax at the appropriate county millage rate. [3 O.S. §256(A)(8)].

[Source: Amended at 35 Ok Reg 2043, eff 9-14-18]

PART 3. ORIGINAL APPLICATIONS

710:15-3-10. Procedures for making original application for registration of aircraft

(a) **Duty to register.**

(1) An application for registration of an aircraft operating on or from any airport within the State of Oklahoma shall be supplied to each purchaser of an aircraft by the dealer of the aircraft, if purchased within the state. The Oklahoma Tax Commission shall supply blank application forms to Oklahoma dealers of aircraft for dissemination.

(2) An application for registration of an aircraft purchased outside the State of Oklahoma which is operating on or from any airport within the state with the intent to remain for more than thirty (30) cumulative days, shall be supplied by the Oklahoma Tax Commission upon request of the owner. Application forms shall also be made available upon request at all airports within the State of Oklahoma.

(3) Aircraft not registered in any other state which are operating on or from any airport within the State of Oklahoma for an accumulation of thirty (30) days shall be presumed to be operating with the intent to remain in Oklahoma, and therefore are subject to Oklahoma registration laws.

(b) **When registration is due.** The certified application is to be filed with the Oklahoma Tax Commission within twenty (20) days of purchase if purchased within the state or within twenty (20) days of entry into the state for other aircraft.

(c) **Information required.** The application must contain the following information:

(1) A description of each aircraft to be registered, including the name of the manufacturer, aircraft registration number, type and gross weight.

(2) Name and address of the owner of the aircraft and county where the aircraft is based, i.e., location and/or address on the Federal Aviation Administration Certificate of Registration for the aircraft.

(d) **Oklahoma certificate of registration; display; inspection.** Upon receipt of the application and the fee due the Business Tax Services Division of the Oklahoma Tax Commission will issue the registrant a certificate of registration to be displayed on the aircraft in a conspicuous location and is subject to inspection by agents of the Commission.

[Source: Amended at 21 Ok Reg 1123, eff 5-13-04; Amended at 38 Ok Reg 1514, eff 9-1-21]

710:15-3-11. Waiver of penalty imposed against original applicants

Owners of aircraft who have purchased an aircraft for the first time may request a waiver of penalty assessed for failure to timely register the aircraft. The Oklahoma Tax Commission may waive the penalty incurred for untimely registration of an aircraft upon a showing by the applicant that:

(1) The applicant has made application for registration and paid the registration fee within twenty (20) days of the mailing of notice of nonregistration described in Section 710:15-3-40. If the due date is a Saturday, Sunday or a holiday recognized by the executive department of this state, then the due date shall be the next official working day for the Oklahoma Tax Commission following. Any payment or remittance mailed and postmarked by the United States Postal Service on or prior to the due date shall be considered timely; and

(2) The owner-applicant has established that he has not previously owned an aircraft registered with the State of Oklahoma. [See: 3 O.S. §251]

PART 5. RENEWAL AND TRANSFER

710:15-3-20. Renewal and transfer of aircraft registration

(a) **Duty to renew registration annually.** All aircraft operating within the State of Oklahoma are required to purchase registration certificates annually from the Oklahoma Tax Commission.

(b) **Mailing of renewal notice.** Application forms will be mailed to the last reported address of each owner of an aircraft previously registered with the Commission, on or before December 1.

(c) **Penalties for non-renewal; late renewal.** Registration certificates must be purchased from the Oklahoma Tax Commission during or prior to January of each year. Penalty for non-purchase shall be twenty cents (.20¢) per day through the last day of February. On March 1st, a penalty equal to the registration fee shall be assessed.

(d) **Transfer of registration.** Registration of aircraft may be transferred upon application to the Oklahoma Tax Commission and payment of a Ten Dollar (\$10.00) fee. [See: 3 O.S. § 255]

[Source: Amended at 21 Ok Reg 1123, eff 5-13-04]

PART 7. EXEMPTIONS

710:15-3-30. Dealers and manufacturers exemption

Aircraft manufacturers and aircraft dealers are exempt from Oklahoma Aircraft Registration requirements, provided they have obtained an exemption license or dealer license from the Commission. The fee for the exemption license for manufacturers or for dealers is \$250.00.

(1) **Manufacturers.** Aircraft manufactured within the state (under an FAA approved type certificate) which are owned and in the physical possession of the manufacturer are exempt.

(2) **Dealers.** Exemption from aircraft registration requirements for aircraft dealers is strictly limited to aircraft held for sale or resale. These aircraft are considered the dealers' stock or inventory and lose the exemption status if operated or used for purposes other than demonstration or testing. Aircraft registered to persons licensed by the State as dealers, but operated for personal or business use (other than demonstration or testing flights) must be registered under the Oklahoma Aircraft Registration laws and are subject to the levy of aircraft excise tax.

(3) **Dealer reports.** Each aircraft dealer must keep a record of the purchases and sales of each aircraft. The records must show the name and address of the seller or buyer, as the case might be, and contain a description of the aircraft. Dealers must submit the dealer report described above to the Oklahoma Tax Commission, on or before the 20th day of the month following the particular purchase or sale. [See: 3 O.S. §254; 68 O.S. § 6003]

[Source: Amended at 18 Ok Reg 2805, eff 6-25-01; Amended at 36 Ok Reg 102, eff 8-11-19]

710:15-3-31. Other exemptions

The following aircraft are exempt from Oklahoma Aircraft Registration requirements:

(1) Aircraft owned by charitable organizations and used solely for the furtherance of charitable purposes;

(2) Aircraft belonging to nonresidents of this state and registered in another state;

- (3) Aircraft of the federal government, any agency thereof, any territory or possession thereof, any state government or agency or political subdivision thereof, any aircraft of the Civil Air Patrol used solely in transaction of official business by a unit of the Civil Air Patrol;
- (4) Aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft; and
- (5) Aircraft not currently licensed or not holding a current airworthiness certificate by the Federal Aviation Administration. [See: 3 O.S. §253]

PART 9. ENFORCEMENT

710:15-3-40. Enforcement of registration due on aircraft operating within the State of Oklahoma

(a) **Notice.** The Oklahoma Tax Commission shall obtain Federal Aviation Administration data indicating each aircraft operating in the State of Oklahoma. After determination that an aircraft is not registered with the Oklahoma Tax Commission, the Aircraft Section shall send the FAA registered owner a notice of registration due and statutory penalties applicable.

(b) **Lien.** If the owner fails to register the airplane within thirty (30) days from the date of notice, the Oklahoma Tax Commission shall file evidence of its lien as provided for by Oklahoma Law, as well as with the Federal Aviation Administration. [See: 68 O.S. §234; 3 O.S. §257]

SUBCHAPTER 5. AIRCRAFT EXCISE [RESERVED]

CHAPTER 20. ALCOHOL AND MIXED BEVERAGES

[**Authority:** 37A O.S., §§ 5-101, 5-103, 5-107, 5-108 through 5-113, 5-118, 5-121, 5-122, 5-125, 5-126, 5-132.1, and 5-135; 68 O.S., § 203]

[**Source:** Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:20-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to alcohol and mixed beverages.

710:20-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" and **"Tax Commission"** mean the Oklahoma Tax Commission.

"Distributor" means and includes a manufacturer, distiller, winemaker, rectifier, bottler, importer, broker and nonresident seller of distilled spirits, cordials, specialties and all other alcoholic beverages who makes sales of such alcoholic beverages in this State or who causes such products to be shipped into this State F.O.B. manufacturer's warehouse or point from which such license holder will make shipment, whether or not such sales are consummated within or without this

State.

"Licensed distributor" and **"Licensed wholesaler"** mean any distributor or wholesaler who holds a valid license issued by the Alcoholic Beverage Laws Enforcement (ABLE) Commission and a valid permit issued by the Oklahoma Tax Commission.

"Month" means calendar month, the period from the first day of the month to the last day, according to the established order of the division of time into years, months, weeks and days commonly recognized in the United States.

"Person" means and includes any individual, person, partnership, firm, association, corporation or other legal entity.

"Storage of alcoholic beverages in transit" means alcoholic beverages caused to be shipped into this state and stored in an alcoholic beverage warehouse, licensed and bonded by the Alcoholic Beverage Laws Enforcement (ABLE) Commission, as alcoholic beverages in transit.

"Tax remitter" means the licensed wholesaler or any other person required to collect, report and remit the tax levied on alcoholic beverages.

"Taxpayer" means the licensed wholesaler, retail dealer, retail dealer/manufacturer, or any other person liable to pay the excise tax levied on alcoholic beverages or the mixed beverage gross receipts tax levied on sale of alcoholic beverages by the individual drink. [See: 37A O.S. §§ 1-103, 5-101 and 5-105]

[Source: Amended at 10 Ok Reg 3831, eff 7-12-93; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 35 Ok Reg 2044, eff 10-1-18; Amended at 36 Ok Reg 1203, eff 8-11-19]

710:20-1-3. Purchase requirements for mixed beverage permit holders

(a) No mixed beverage or beer and wine licensee shall purchase or receive any alcoholic beverage other than from:

(1) A person holding a wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act; or,

(2) A licensed Oklahoma winemaker, if the licensee's premises are also a restaurant. In this instance, the licensee may purchase wine produced at Oklahoma wineries directly from the winemaker. [See:37A O.S. § 2-138]

(b) No mixed beverage, beer and wine, caterer, public event, or special event licensee, nor any officer, agent, or employee of such licensee, may possess or allow on the licensed premises, any container of any alcoholic beverage which is not listed on an invoice from the wholesaler or from a licensed Oklahoma winemaker from whom the alcoholic beverage was purchased. [See:37A O.S. § 5-137]

[Source: Added at 19 Ok Reg 1507, eff 5-25-02; Amended at 25 Ok Reg 2033, eff 7-1-08; Amended at 32 Ok Reg 1342, eff 8-27-15; Amended at 35 Ok Reg 2044, eff 10-1-18]

SUBCHAPTER 2. LOW-POINT BEER [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

710:20-2-1. Purpose [REVOKED]

[Source: Added at 10 Ok Reg 3831, eff 7-12-93; Amended at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-2. Definitions [REVOKED]

[Source: Reserved at 10 Ok Reg 3831, eff 7-12-93; Added at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-3. Procedures for payment of excise tax levied on low-point beer [REVOKED]

[Source: Added at 10 Ok Reg 3831, eff 7-12-93; Amended at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-4. Payment of taxes; persons liable [REVOKED]

[Source: Added at 10 Ok Reg 3831, eff 7-12-93; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 21 Ok Reg 1125, eff 5-13-04; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-5. Reporting requirements [REVOKED]

[Source: Added at 15 Ok Reg 2800, eff 6-25-98; Amended at 29 Ok Reg 519, eff 5-11-12; Amended at 30 Ok Reg 1471, eff 7-1-13; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-6. Annual state permits and license taxes [REVOKED]

[Source: Added at 15 Ok Reg 2800, eff 6-25-98; Amended at 17 Ok Reg 2664, eff 6-25-00; Amended at 21 Ok Reg 1125, eff 5-13-04; Amended at 22 Ok Reg 1526, eff 6-11-05; Amended at 29 Ok Reg 519, eff 5-11-12; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-7. Repackaging generally prohibited; exceptions [REVOKED]

[Source: Reserved at 15 Ok Reg 2800, eff 6-25-98; Added at 18 Ok Reg 2808, eff 6-25-01; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-8. Penalties for operation without a permit [REVOKED]

[Source: Added at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-9. Administrative fines [REVOKED]

[Source: Reserved at 15 Ok Reg 2800, eff 6-25-98; Added at 18 Ok Reg 2808, eff 6-25-01; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-10. Bonds [REVOKED]

[Source: Added at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-11. Records of licensees [REVOKED]

[Source: Added at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-12. Withdrawal of stale stock of low-point beer from retailer's inventory [REVOKED]

[Source: Reserved at 15 Ok Reg 2800, eff 6-25-98; Added at 18 Ok Reg 2808, eff 6-25-01; Amended at 19 Ok Reg 1507, eff 5-25-02; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-13. Refusal to issue or revocation of license [REVOKED]

[Source: Added at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-14. Payments by electronic funds transfer [REVOKED]

[Source: Reserved at 15 Ok Reg 2800, eff 6-25-98; Added at 18 Ok Reg 2808, eff 6-25-01; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-15. Invoices [REVOKED]

[Source: Added at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-16. [RESERVED]

[Source: Reserved at 21 Ok Reg 1125, eff 5-13-04]

710:20-2-17. [RESERVED]

[Source: Reserved at 21 Ok Reg 1125, eff 5-13-04]

710:20-2-18. [RESERVED]

[Source: Reserved at 21 Ok Reg 1125, eff 5-13-04]

710:20-2-19. [RESERVED]

[Source: Reserved at 21 Ok Reg 1125, eff 5-13-04]

710:20-2-20. Keg identification seal requirements and recordkeeping for licensed retailers [REVOKED]

[Source: Added at 21 Ok Reg 1125, eff 5-13-04; Amended at 25 Ok Reg 2033, eff 7-1-08; Amended at 26 Ok Reg 2327, eff 6-25-09; Revoked at 35 Ok Reg 2044, eff 10-1-18]

PART 3. LOW-POINT BEER DISTRIBUTION [REVOKED]

710:20-2-50. Purpose [REVOKED]

[Source: Added at 11 Ok Reg 4681, eff 8-15-94 (emergency); Added at 12 Ok Reg 2617, eff 6-26-95; Amended at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-51. Definitions [REVOKED]

[Source: Added at 11 Ok Reg 4681, eff 8-15-94 (emergency); Added at 12 Ok Reg 2617, eff 6-26-95; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 19 Ok Reg 1507, eff 5-25-02; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-52. Procedures for filing agreements [REVOKED]

[Source: Added at 11 Ok Reg 4681, eff 8-15-94 (emergency); Added at 12 Ok Reg 2617, eff 6-26-95; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 25 Ok Reg 2033, eff 7-1-08; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-53. Registration of designated brands [REVOKED]

[Source: Added at 11 Ok Reg 4681, eff 8-15-94 (emergency); Added at 12 Ok Reg 2617, eff 6-26-95; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 25 Ok Reg 2033, eff 7-1-08; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-54. Transport vehicles and transportation [REVOKED]

[Source: Added at 11 Ok Reg 4681, eff 8-15-94 (emergency); Added at 12 Ok Reg 2617, eff 6-26-95; Amended at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-55. Delivery outside sales territory [REVOKED]

[Source: Added at 11 Ok Reg 4681, eff 8-15-94 (emergency); Added at 12 Ok Reg 2617, eff 6-26-95; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 25 Ok Reg 2033, eff 7-1-08; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-56. Termination of agreement [REVOKED]

[Source: Added at 11 Ok Reg 4681, eff 8-15-94 (emergency); Added at 12 Ok Reg 2617, eff 6-26-95; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 25 Ok Reg 2033, eff 7-1-08; Revoked at 35 Ok Reg 2044, eff 10-1-18]

710:20-2-57. [RESERVED]

[Source: Revoked at 12 Ok Reg 2617, eff 6-26-95]

710:20-2-58. [RESERVED]

[Source: Reserved at 12 Ok Reg 2617, eff 6-26-95]

710:20-2-59. [RESERVED]

[Source: Reserved at 12 Ok Reg 2617, eff 6-26-95]

710:20-2-60. Administrative hearings [REVOKED]

[Source: Added at 11 Ok Reg 4681, eff 8-15-94 (emergency); Added at 12 Ok Reg 2617, eff 6-26-95; Amended at 15 Ok Reg 2800, eff 6-25-98; Revoked at 35 Ok Reg 2044, eff 10-1-18]

SUBCHAPTER 3. ALCOHOLIC BEVERAGES

710:20-3-1. Procedures for payment of excise tax levied on alcoholic beverages

Pursuant to the authority and power granted the Oklahoma Tax Commission the excise tax levied upon the sale, distribution, use or possession in this State of alcoholic beverages shall be paid through monthly tax reporting procedures as established by Rules of this Commission, and shall be implemented and administered in accordance with the Rules of this Commission establishing procedures for payment of the excise tax by a monthly reporting system. [See:37A O.S. § 5-101]

[Source: Amended at 19 Ok Reg 1507, eff 5-25-02; Amended at 35 Ok Reg 2044, eff 10-1-18]

710:20-3-2. Payment or remittance of the excise tax on alcoholic beverages

(a) **Liability of wholesaler.** The excise tax levied upon the sale, distribution, use or possession of alcoholic beverages in this State shall be paid on a monthly basis by the licensed wholesaler first possessing, selling, using, distributing, or in any manner dealing with alcoholic beverages in this State.

(b) **Liability for tax on stored beverages.** Any licensed distributor who causes any alcoholic beverages to be shipped into this State and stored as alcoholic beverages in transit shall be liable for any tax assessed pursuant to audit of any storage facility wherein all such stored merchandise is not accounted for in the total of the shipments to licensed wholesalers in this State and the shipments out of this State.

(c) **Liability of nonresident seller, first seller, importer.** Any holder of a nonresident seller or manufacturer license in possession of any alcoholic beverages shipped or delivered into this State shall be liable for the excise tax levied upon the sale, distribution, use, or possession of alcoholic beverages, in accordance with *OAC* 710:20-3-3 and 710:20-3-4.

[Source: Amended at 20 Ok Reg 2586, eff 7-11-03; Amended at 35 Ok Reg 2044, eff 10-1-18; Amended at 36 Ok Reg 1203, eff 8-11-19]

710:20-3-3. Monthly tax reports required

(a) **General requirements.** Every licensed distributor and wholesaler and every bonded warehouseman who is licensed by the Oklahoma Alcoholic Beverage Laws Enforcement (ABLE) Commission to ship or cause to be shipped into this state or to sell, distribute, use, possess or in any manner deal with alcoholic beverages in this state, shall report monthly to the Oklahoma Tax Commission, all sales,

distributions, receipts and shipments of all such alcoholic beverages in this state during the preceding month. All required reports must be filed electronically in the format prescribed by the Oklahoma Tax Commission. Each such monthly report shall include the minimum information required by the Oklahoma Alcoholic Beverage Control Act and any additional information and attachments that may be required by the prescribed tax report form.

(b) **Incomplete or insufficient reports.** Any monthly alcoholic beverage tax report form that does not include all information requested on the prescribed form or that is not duly executed and verified shall not constitute the mandatory report.

(c) **Failure to file.** In the event a complete monthly report is not filed on or before the due dates in accordance with 710:20-3-4, of the Oklahoma Tax Commission rules, the report shall be delinquent. [See: 37A O.S. §§ 5-101 et seq.]

[Source: Amended at 20 Ok Reg 2586, eff 7-11-03; Amended at 29 Ok Reg 519, eff 5-11-12; Amended at 35 Ok Reg 2044, eff 10-1-18; Amended at 38 Ok Reg 1515, eff 9-1-21]

710:20-3-4. Due dates for timely filing of monthly tax reports and payment of alcoholic beverage excise tax

(a) **Date due.** On or before the twentieth (20th) day of the calendar month immediately following the calendar month in which the alcoholic beverages subject to tax were sold, distributed, used, possessed or in any manner dealt with in this State, the monthly alcoholic beverage tax report and payment or remittance of the tax due shall be submitted to the Oklahoma Tax Commission.

(b) **Date due not a working day.** If the due date is a Saturday, Sunday, holiday recognized by the executive department of this State, or a date when the Federal Reserve Banks are closed then the due date shall be the next official working day for the Oklahoma Tax Commission immediately following such Saturday, Sunday, holiday or Federal Reserve Bank closure date.

(c) **Date mailed given effect.** Any report or payment mailed and postmarked by the United States Postal Service on or prior to said due date shall be considered to have been filed or paid on the due date.

(d) **Delinquency.** All such excise tax or monthly reports due and not paid or submitted to the Commission on or before such due date shall be delinquent.

[Source: Amended at 30 Ok Reg 1471, eff 7-1-13; Amended at 35 Ok Reg 2044, eff 10-1-18]

710:20-3-5. Interest on delinquent tax

If any amount of the excise tax levied on alcoholic beverages is not paid or remitted before the tax becomes delinquent, as set out in 710:20-3-4, interest, at the rate of one and one-fourth percent (1 1/4%) per month until payment or remittance, shall be calculated and collected as part of the delinquent tax. [See: 68 O.S. § 217]

[Source: Amended at 36 Ok Reg 1203, eff 8-11-19]

710:20-3-6. Penalty on delinquent tax

If any amount of the excise tax levied on alcoholic beverages is not paid or remitted within thirty (30) calendar days after the same became delinquent, as set out in 710:20-3-4, a penalty, at the rate of ten percent (10%) of the total amount of such delinquent excise tax, shall be calculated and collected as part of the delinquent tax. [See: 68 O.S. § 217]

[Source: Amended at 36 Ok Reg 1203, eff 8-11-19]

710:20-3-7. Issuance of distributor or wholesaler permit

The Business Tax Services Division of the Oklahoma Tax Commission is authorized to issue nontransferable permits, upon the permit form or forms approved by the Commission, to distributors and wholesalers who are licensed by the Oklahoma Alcohol Beverage Laws Enforcement (ABLE) Commission to ship or cause to be shipped into this state or to sell, distribute, use or possess alcoholic beverages in the State of Oklahoma, upon receipt of the following:

- (1) Completed, executed and verified permit application form to the Business Tax Services Division from the applicant;
- (2) Completed and executed Alcoholic Beverage Tax Bond from the applicant in an amount approved by the Commission. [See: 37A O.S. § 5-112]

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 35 Ok Reg 2044, eff 10-1-18; Amended at 38 Ok Reg 1515, eff 9-1-21]

710:20-3-8. Cancellation of permits

All alcoholic beverage distributor and wholesaler permits issued shall be subject to cancellation by the Oklahoma Tax Commission after a hearing.

- (1) The permit holder shall be served notice of the date, time and place of the hearing, so that (s)he may appear and show cause why the permit should not be cancelled. Notice shall be in writing and mailed return receipt requested mail, at least ten (10) days prior to said hearing. Mailing this notice to the address last used by the permit holder for reporting purposes will satisfy notice and service requirements.
- (2) If a holder of a permit becomes delinquent for a period of three (3) months or more in reporting or in paying any alcoholic beverage tax, any duly authorized agent of the Oklahoma Tax Commission may remove the permit from the premises of the tax reporter, taxpayer or tax remitter, without prior notice or hearing.
- (3) Upon subsequent application, any permit cancelled or removed from the premises of the holder may be renewed, at the discretion of the Commission, by filing the required reports, paying the delinquent tax, or otherwise removing the cause of the cancellation.

710:20-3-9. Procedures for payment of identification stamp fees [REVOKED]

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Revoked at 19 Ok Reg 1507, eff 5-25-02]

710:20-3-10. Manner for affixing identification stamps upon containers of alcoholic beverages and cases of beer [REVOKED]

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Revoked at 19 Ok Reg 1507, eff 5-25-02]

SUBCHAPTER 5. MIXED BEVERAGES

710:20-5-1. Procedures for payment of gross receipts tax on mixed beverage, caterer, hotel beverage, beer and wine, mixed beverage/caterer combination, public event, and special event license holders; definitions

(a) **General provisions.** Pursuant to the authority and power granted to the Oklahoma Tax Commission, the excise tax imposed upon the total gross receipts of a holder of a mixed beverage, caterer, hotel beverage, beer and wine, mixed beverage/caterer combination, public event, or special event license issued by the ABLE Commission, shall be paid through monthly tax reporting procedures as

established by rules of this Commission, and shall be implemented, administered and enforced in accordance with said rules. [See:37A O.S. §5-105]

(b) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) *"Alcoholic beverage" means alcohol, spirits, beer, and wine, as those terms are defined in Section 1-103 of Title 37A of the Oklahoma Statutes and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings.*

(2) *"Mixed beverages" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, public event, charitable event or special event license. [See:37A O.S. § 1-103(34)]*

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 19 Ok Reg 1507, eff 5-25-02; Amended at 20 Ok Reg 2586, eff 7-11-03; Amended at 32 Ok Reg 1342, eff 8-27-15; Amended at 35 Ok Reg 2044, eff 10-1-18]

710:20-5-2. Designation of agent of the Oklahoma Tax Commission

The Director of the Business Tax Services Division is hereby designated as the agent, servant and employee of the Oklahoma Tax Commission for the following purposes:

- (1) Issuance of mixed beverage tax permits;
- (2) Cancellation of mixed beverage tax permits upon delinquency in reporting or paying the gross receipts tax or sales tax;
- (3) Temporary suspension of mixed beverage tax permits upon revocation or suspension of the mixed beverage, caterer, hotel beverage, public event, or special events licenses issued by the ABLE Commission;
- (4) Establishing amounts of required bonds; and,
- (5) Seizure of containers or cases of alcoholic beverages declared to be contraband.

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 32 Ok Reg 1342, eff 8-27-15; Amended at 34 Ok Reg 2058, eff 9-11-17; Amended at 38 Ok Reg 1515, eff 9-1-21]

710:20-5-3. Monthly tax reports for gross receipts tax

(a) **General requirements.** Every mixed beverage tax permit holder or any person transacting business subject to the gross receipts tax upon the sale, preparation or service of mixed beverages, shall report monthly, for each place or location of business, to the Oklahoma Tax Commission, all gross receipts for the month for the sale, preparation or service of mixed beverages and for the privilege of admission to the place or location of business, which entitle a person to complimentary or discounted mixed beverages, on verified tax report forms as prescribed by the Oklahoma Tax Commission. Each such monthly report shall include the minimum information required by 37A O.S. § 5-135 and any additional information and attachments as may be required by the prescribed tax report form.

(b) **Incomplete or insufficient reports.** Any monthly gross receipts tax report that does not include all information requested on the prescribed form or that is not executed and verified shall not constitute the mandatory report.

(c) **Failure to file.** In the event a complete monthly report is not filed on or before the due dates in accordance with 710:20-5-6, the report shall be delinquent.

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 35 Ok Reg 2044, eff 10-1-18]

710:20-5-4. Calculation of gross receipts tax for mixed beverage transactions

(a) **Advertised price; admission charge.** The advertised price of a mixed beverage may be the sum of the total retail sale price and the gross receipts tax levied thereon. Admission charges to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages are subject to the gross receipts tax.

(b) **Records.** Mixed beverage permittees shall maintain records of the total retail prices of all drinks and the gross receipts tax shall be calculated on the individual total retail price of each drink and may be added thereto to form the advertised price.

(c) **Calculation of tax.**

(1) A mixed beverage tax permit holder shall report the following:

- (A) The total amount received for mixed beverages sold, prepared or served at the total retail price;
- (B) The total retail value, computed at the total retail price, of all mixed beverages sold, prepared or served either upon a discounted or complimentary basis;
- (C) The total amount received for ice or nonalcoholic beverages sold, prepared, or served for the purpose of being mixed with alcoholic beverages and consumed on the premises where the sale, preparation, or service of mixed beverages occurs; and
- (D) The total gross amount received as admission charges which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages.

(2) The sum of the four amounts in (1) of this subsection, multiplied by the 13.5% tax rate, shall constitute the amount of the gross receipts tax.

(d) **Example.** Assuming the total retail sales price for a mixed drink is \$3.00, each drink sold, and each drink served as a "complimentary drink" incurs a Forty-one Cent gross receipts tax. Sales tax shall be calculated on the total retail price of \$3.00. [See:37A O.S. § 5-105]

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 19 Ok Reg 1507, eff 5-25-02; Amended at 25 Ok Reg 2033, eff 7-1-08; Amended at 31 Ok Reg 2425, eff 9-12-14; Amended at 35 Ok Reg 2044, eff 10-1-18]

710:20-5-5. Liability of mixed beverage tax permit holder for gross receipts tax upon admission charges

(a) On and after June 29, 1987, the Gross Receipts Tax shall apply to any charges for admission to a Mixed Beverage establishment which entitle a person to complimentary or discounted Mixed Beverages. Such admission charges shall be subject to the Gross Receipts Tax whether:

- (1) Expressly stated or advertised by the Mixed Beverage Permit holder that such charges are an entitlement to complimentary or discounted drinks;
- (2) Lower prices than can reasonably be expected without an admission charge are established for a limited or indefinite period, and the permit holder is enabled to maintain lower prices due to an admission charge;
- (3) A permit holder maintains that lower prices, made possible by an admission charge, are actually normal prices;
- (4) An admission charge enables the permit holder to set lower prices at any date before or after the admission charge was established; or
- (5) A permit holder represents that an admission charge is for some other purpose than to offset mixed beverage prices if the admission charge in fact

enables him to maintain lower prices or allow complimentary drinks to the individual paying such admission charge or to

(6) It shall be deemed by the Tax Commission that for the purposes of this rule that a gross profit ratio of less than 350% (3 1/2 times cost) shall be considered a lower price than can reasonably be expected without an admission charge. Exceptions to this requirement are "Specials" which are reduced in price for a minimum of seven calendar days as provided for by statute.

(b) Admission charges which are responsible for complimentary and discounted mixed beverages, as well as some other purpose not commonly considered incidental to the operation of a Mixed Beverage establishment, shall be subject to the Gross Receipts Tax upon that portion covering mixed beverages.

(c) Admission charges to fund-raising events conducted by organizations exempt from federal income tax pursuant to 26 U.S.C. §501(c)(3) which are responsible for complimentary or discounted mixed beverages as well as food, donation, or entertainment, shall be subject to the Gross Receipts Tax only upon that portion attributable to mixed beverages.

(1) If the amount charged for mixed beverage is not itemized to the consumer, it shall be assumed that the amount received by the organization for mixed beverages is Three Hundred Fifty percent 350% (or 3½ times) the wholesale price of the mixed beverages dispensed at the event, as evidenced by the wholesaler's invoices.

(2) If the amount charged for mixed beverages is itemized to the consumer on the ticket, order form, or other information provided the consumer, Gross Receipts Tax is due upon the stated amount charged the consumers for mixed beverages.

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 19 Ok Reg 1507, eff 5-25-02]

710:20-5-6. Due dates for timely filing of monthly tax reports and paying gross receipts tax

(a) **Date due.** On or before the twentieth (20) day of the calendar month immediately following the calendar month in which the mixed beverages were sold, prepared or served, the monthly gross receipts tax report and payment of the tax due shall be submitted to the Oklahoma Tax Commission.

(b) **Date due not a working day.** If the due date is a Saturday, Sunday, a holiday recognized by the executive department of this State, or a date when the Federal Reserve Banks are closed then the due date shall be the next official working day for the Oklahoma Tax Commission immediately following the Saturday, Sunday, holiday or Federal Reserve bank closure date.

(c) **Date mailed given effect.** Any report or payment mailed and postmarked by the United States Postal Service on or prior to the due date shall be considered to have been filed or paid on the due date.

(d) **Delinquency.** All such gross receipts tax or monthly reports due and not paid or submitted to the Commission on or before the due date shall be delinquent.

[See:37A O.S. § 5-135]

[Source: Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 23 Ok Reg 2813, eff 6-25-06; Amended at 29 Ok Reg 519, eff 5-11-12; Amended at 35 Ok Reg 2044, eff 10-1-18]

710:20-5-7. Records requirements

(a) **Required records.** Every mixed beverage tax permit holder shall keep and maintain, for a period of at least three (3) years, records and information on all

alcoholic beverages purchased or received, and sold or otherwise disposed of, as follows:

- (1) copies of all invoices of purchases or receipts of alcoholic beverages;
- (2) all cash register records and receipts;
- (3) copies of all lists of prices charged for the sale, preparation or service of alcoholic beverages by brand name or category or type of mixed alcoholic beverage;
- (4) dates of changes, either increase or decrease, in any price for any sale, preparation or service of any mixed beverage;
- (5) dates of additions and deletions of items from the price list of mixed beverages; and
- (6) records of daily admissions and admission charges. [See:37A O.S. §§ 5-105 and 5-120; 710:20-5-5]

(b) Complimentary or discounted sales. The records shall distinctly identify any complimentary or discounted sale, preparation or service of mixed beverages separate and apart from sales of mixed beverages at the normal, listed price, as well as any other sales, such as food items. [See:37A O.S. §§ 5-120 and 5-126]

(c) Records required for complimentary or discounted sales. Because the gross receipts tax is to be calculated upon the retail value of mixed beverages sold at total retail value, or total retail value of complimentary or discounted drinks, and charges for admission to the establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages, daily sales and admission records are required. [See: 37A O.S. § 5-105]

(d) Records required from wholesalers. The licensed wholesaler shall keep and maintain, for a period of at least three (3) years, copies of all invoices, manifests, bills of lading or similar types of documents as records and information on all alcoholic beverages imported, purchased, received, manufactured, produced, sold, delivered or otherwise transferred to a mixed beverage tax permit holder. Each licensed wholesaler shall be required to maintain the records required by 37A O.S. § 5-105, segregated by license number. [See: 37A O.S. § 5-126]

(e) Failure to keep required records; hearing to suspend/revoke license; penalties. Failure to keep and maintain the records described in this Section shall make the mixed beverage permit holder subject to a hearing before the Commission to show cause why his permit should not be suspended or revoked and why he should not be required to pay over to the State the one percent (1%) of the tax previously retained as remuneration for establishing and maintaining the records required by this Section for the period for which no records were kept. Upon each finding that a mixed beverage permit holder has failed to comply with the recordkeeping requirements of this Section, the Tax Commission may revoke or suspend the permit and require the repayment of the taxes previously retained for keeping and maintaining records for the period during which no records were found to have been kept. A mixed beverage tax permit shall be renewed upon finding that the permit holder is in compliance with the recordkeeping requirements of this Section. [See:37A O.S. § 5-107 and 5-136]

[Source: Amended at 10 Ok Reg 3831, eff 7-12-93; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 35 Ok Reg 2044, eff 10-1-18]

710:20-5-8. Liability and audit of mixed beverage tax permit holder for gross receipts tax upon sale, preparation or service of all alcoholic beverages purchased or received

(a) **Liability in general.** Every mixed beverage tax permit holder or any other person transacting business subject to the gross receipts tax shall be liable for the tax upon the gross receipts from such beverages (on the basis of the number of drinks available for sale, preparation, or service from the total alcoholic beverages received). Each permit holder or other person shall be liable for the gross receipts tax upon any and all disposition by his agents or employees or any other persons on the premises of the mixed beverage tax permit holders or other person, except upon seizure or other disposition of the alcoholic beverage by employees of the ABLE Commission, Tax Commission, or other law enforcement agencies in the execution of their official duties. [See:37A O.S. § 5-105]

(b) **Audit procedures.**

(1) Upon audit of the books and records of a mixed beverage establishment for gross receipts tax, it shall be assumed that spirits have been dispensed at the average rate of one and one-half fluid ounce, except for drinks with recipes calling for more than one type of spirit or for double portions of spirits, or upon reasonable evidence of a different rate of use.

(2) Wines will be presumed to have been dispensed at the average rate of six ounces (6 oz.) per serving. The Tax Commission may use an average rate greater or less than those set out in this Rule upon reasonable evidence of a different rate of use.

(3) An audit may be conducted to determine if the correct amount of tax payable has been collected. The taxpayer will be deemed in compliance if the audit reveals that the amount of tax collected is:

(A) For spirits, within Eighty-four percent to One Hundred Sixteen percent (84-116%) of the amount of tax payable.

(B) For wine, within Ninety percent to One Hundred Ten percent (90-110%) of the amount of tax payable.

(C) For beer sold at draft and not in original packages, within Eighty-six percent to One Hundred Fourteen percent (86-114%) of the amount of tax payable.

(D) For beer in original packages, within Ninety-five percent to One Hundred Five percent (95-105%) of the amount of tax payable.

[See:37A O.S. § 5-135]

(4) In addition, a deduction may be allowed from the gross receipts tax liability determined by an audit or other investigation of the books and records of a mixed beverage tax permit holder, for alcoholic beverages that are:

(A) consumed in food as verified by the audit;

(B) destroyed due to breakage for which the permit holder has retained the container; or that portion thereof that has the unbroken seal; or for partial bottles destroyed by breakage for which the permit holder has completed a breakage affidavit listing the date of the occurrence, the brand and type of liquor, the size bottle, the approximate amount left in the bottle by 1/10ths, and the cause of the breakage. The affidavit shall be signed by the permit holder and two witnesses;

(C) stolen or destroyed by a disaster such as a fire or flood, provided that reasonable evidence is provided to support a claim. Reasonable evidence might include a copy of a police or sheriff's crime report; or an insurance claim detailing the inventory destroyed by brand, size, and type of liquor;

(D) not consumed, and exist or existed, at the close of a taxable period in question, provided that the amount and nature of the unconsumed inventory has been verified by agents of the Tax Commission, ABLE Commission, or verified by invoice to a mixed beverage permittee or wholesaler approved to purchase the inventory by the ABLE Commission. Partially filled bottles which are not included in a transferred inventory should be verified by a Tax Commission or ABLE Commission agent or agents.

(5) If an establishment was selling alcoholic beverages prior to the starting date of the audit period being used by the Commission in its audit, the establishment shall be required to furnish the Commission with a beginning inventory of all liquor, wine, and beer on hand if an ending inventory is offered for audit purposes. When the permittee is unable or unwilling to furnish such an inventory, then no beginning or ending inventories shall be considered for the audit period used and the audit will be conducted solely on the taxpayer's purchases made during the audit period.

[Source: Amended at 10 Ok Reg 3831, eff 7-12-93; Amended at 15 Ok Reg 2800, eff 6-25-98; Amended at 19 Ok Reg 1507, eff 5-25-02; Amended at 34 Ok Reg 2058, eff 9-11-17; Amended at 35 Ok Reg 2044, eff 10-1-18]

710:20-5-9. Commission may require security from vendor

(a) **General provisions.** To assure payment of any mixed beverage tax due, the Commission shall require that sufficient security be deposited with the Commission. Security may be in the form of:

- (1) A corporate surety bond, furnished by a surety licensed to do business in Oklahoma;
- (2) A certificate of deposit issued by a bank or financial institution, issued to the "taxpayer **OR** the Oklahoma Tax Commission";
- (3) Cash; or,
- (4) Any other form agreed upon by the Commission and person liable for remitting the tax.

(b) **Amount of required bond.** The amount of the bond shall not be less than an amount equal to the average estimated quarterly gross receipts tax liability and not greater than an amount equal to three times the average estimated quarterly gross receipts tax liability.

(c) **Minimum bond.** The minimum bond required for a new permit holder shall not be less than One Thousand Five Hundred Dollars (\$1,500.00).

(d) **Forfeiture or cancellation of bond** The forfeiture or cancellation of such bond or security shall result in the automatic revocation of the mixed beverage tax permit issued pursuant to provisions of the Oklahoma Alcoholic Beverage Control Act.

[Source: Added at 20 Ok Reg 2586, eff 7-11-03]

CHAPTER 22. BOATS AND MOTORS

[Authority: 63 O.S., §§ 4004, 4030(F), 4102(A), 4204(B), and 4209.2; 68 O.S., § 203]

[Source: Codified 6-12-92]

SUBCHAPTER 1. GENERAL PROVISIONS

710:22-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250. 1 et

seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to the Oklahoma Vessel and Motor Registration Act.

[Source: Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicated otherwise:

"Commission" means Oklahoma Tax commission.

"DPS" means Department of Public Safety.

"HIN" means hull identification number.

"MLA" means Motor Vehicle License Agent.

[Source: Reserved at 9 Ok Reg 2149, eff 6-12-92; Added at 10 Ok Reg 3835, eff 7-12-93]

710:22-1-3. Registration generally required

(a) **General application.** With the exception of subsections (b) and (c) of this section, boats used for transportation on the waters of this State and motors in excess of 10 horsepower are required to be annually registered in the State of Oklahoma.

(b) **Exclusions.** Certain craft as outlined below are not subject to the registration requirements for boats set forth in (a) of this Section:

(1) Light narrow vessels with both ends typically tapered to a sharp point which are propelled solely by its occupants using a single-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, thole pins, crutches or similar arrangements.

(2) Paddleboats less than eight (8) feet in length designed to be propelled solely by human power through a belt, chain or gears.

(3) Seaplanes on the water.

(c) **Exemptions.** The following boats and/or motors are specifically exempted from the registration requirements of the Oklahoma Vessel and Motor Registration Act.

(1) Boats or motors owned by the United States, a state other than the State of Oklahoma, any agency thereof, or any subdivision of the state unless the boat is used for recreational or rental purposes on Oklahoma waters.

(2) Boats or motors owned by visiting nonresidents which are currently registered in another state and remain in Oklahoma sixty calendar days or less.

(3) Boats or motors from a country other than the United States which remains in Oklahoma sixty calendar days or less.

(4) Boats used exclusively and solely as lifeboats.

(5) Boats used exclusively and solely for racing purposes.

(6) Boats that constitute commercial floatation devices when issued a license by the Grand River Dam Authority pursuant to the provision of the Scenic Rivers Act.

(7) Canoes, kayaks or paddleboats as defined in 63 O.S. Section 4002, provided such vessels are powered only by human power.

(d) Any vessel exempt from the title and registration provisions shall be titled and registered for the purposes of proof of ownership or vessel identification, upon request of the owner. All title and registration fees shall be paid by the owner of the vessel.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 30 Ok Reg 1472, eff 7-1-13; Amended at 37 Ok Reg 2226, eff 9-11-20]

710:22-1-4. Registration year

The boating registration year is July 1 through June 30.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-1-5. Registration may be prorated; proration periods

Original registrations are issued according to date of purchase on new equipment and date of entry for equipment entering the State.

- (1) July 1, through September 30 - Full year Registration
- (2) October 1, through December 30 - 3/4 year Registration
- (3) January 1, through March 31 - 1/2 year Registration
- (4) April 1, through June 30 - 1/4 year Registration

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-1-6. Registration and title

(a) Each boat and outboard motor will be issued a certificate of title and a registration form.

(b) A boat owner must carry the current boat and outboard motor (if applicable) registration in the boat when in operation.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-7. Fee for certificate of title

The charge for each boat or outboard motor certificate of title is established by statute. [63 O.S. § 4014]. The applicant will receive a certificate of title and a separate registration. The title will be generated and mailed from a central location established by the Oklahoma Tax Commission.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-8. Display of permanent number and registration decal

Unless otherwise provided by statute, every vessel on the waters of this state is to display the permanent number and annual registration decal as assigned by the Oklahoma Tax Commission. The permanent number and registration decal are to be displayed as follows:

- (1) The permanent number must be painted, applied as a decal, or otherwise affixed to both sides of the bow as high above the water line as possible.
- (2) The permanent number must read from left to right on both sides of the bow.
- (3) The permanent number must be in at least three (3) inch high block letters.
- (4) The permanent number must be maintained in legible condition.
- (5) The color of the permanent number must be in contrast to its background.
- (6) Within the permanent number, letters are to be separated from numbers by either a space or a hyphen.
- (7) No other numbers, other than the annual registration decal, may be displayed on either side of the bow.
- (8) The current annual registration decals are to be affixed on both sides of the bow, behind (towards the stern) and in line with the permanent number.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-9. Assignment of new boat or motor to be notarized

Assignments on the new boat and motor titles must be signed before a notary public.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-1-10. Title transfers; time limitation

The new owner of a new or used boat or outboard motor shall transfer title into his or her name within thirty (30) days of purchase, or otherwise acquiring ownership. Failure to do so within that time period will result in the assessment of delinquent excise tax and registration penalties, as provided by statute.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-11. Annual renewal of registration [REVOKED]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Revoked at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-12. Vessels registered with U.S. Coast Guard

All documented vessels (registered with the U.S. Coast Guard) must be registered, but not titled. They must display a current boat sticker on the vessel. The current registration must be carried in the vessel when in operation.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-1-13. John boats

John Boats (narrow, flat bottomed and square ended propelled by a pole, paddle or motor less than 10 H.P.) are required to be titled and registered. Excise tax is assessed in the normal manner.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 18 Ok Reg 1327, eff 5-11-01]

710:22-1-14. Fees and penalties

For boats and motors not registered for two (2) or more years, the registration fees and penalties shall be due only for the current year and one (1) previous year.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-1-15. Military personnel

U.S. Armed Forces service members or their spouses who are residents of Oklahoma, or stationed in Oklahoma, are eligible for an Armed Forces boat or outboard motor registration rate, as set forth by statute. A properly completed U.S. Armed Forces Affidavit (OTC Form 779) is required.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 11 Ok Reg 3487, eff 6-26-94; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended at 34 Ok Reg 2059, eff 9-11-17]

710:22-1-16. Rental fleets of houseboats

Companies that own rental fleets of twenty (20) or more houseboats are entitled to a special registration rate as set forth in the Oklahoma Statutes.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 18 Ok Reg 1327, eff 5-11-01]

710:22-1-17. State-owned boats or motors

Boats or outboard motors owned by the State of Oklahoma or its agencies, shall be registered for a fee prescribed by statute except for boats or outboard motors owned by the Oklahoma Department of Public Safety which shall be registered at no charge.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended at 23 Ok Reg 2814, eff 6-25-06]

710:22-1-18. Boy Scouts, Girl Scouts, and Campfire Girls [REVOKED]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Revoked at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-19. Out-of-state and foreign registered boats and motors [REVOKED]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Revoked at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-20. Theft of boat or outboard motor; defective boat or outboard motor

If a new boat or outboard motor is stolen within ninety (90) days from date of purchase or found defective within six (6) months from date of purchase, excise tax and registration fee credit in the amounts paid on the stolen or defective boat or outboard motor, excluding any delinquent penalties paid, shall be applied to the excise tax and registration fee due on a new replacement boat or outboard motor. To verify the theft, a copy of the police report of the theft shall be surrendered. To verify the defect, correspondence from the manufacturer acknowledging the defect will be required.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-21. Liens

(a) Liens on boats and outboard motors are perfected and released under the same general guidelines and utilizing the same lien entry forms as utilized for filing and releasing liens on motor vehicles. Fees are set forth by statute.

(b) A lien entry form on an out-of-state vessel or outboard motor being registered for the first time in Oklahoma must be prepared and the lien filed if the out-of-state document contains the name of a secured party on its face, or the applicant acknowledges the presence of an active lien. Should documentation be presented which will result in the Oklahoma title being placed on document hold, the applicant is to be asked whether an active lien exists on the boat or outboard motor. If so, the applicant shall also complete an affidavit for out-of-state lien verification.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 10 Ok Reg 3835, eff 7-12-93; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended at 24 Ok Reg 2353, eff 6-25-07]

710:22-1-22. Commercial canoes

Commercial canoes registered through the Grand River Dam Authority must be titled only, but need not be registered at a motor license agency.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 37 Ok Reg 2226, eff 9-11-20]

710:22-1-23. Amphibious vehicles

Amphibious vehicles are vehicles designed, manufactured and capable of operating on the roadways and waterways of this state. Such vehicles are to be issued two (2) certificates of title, both vehicle and vessel, and are to be concurrently registered as both vehicle and vessel. Only vehicle excise tax levied pursuant to Section 2103 of Title 68 is to be assessed. Both titles are to be assigned and provided to any subsequent owner.

[Source: Added at 33 Ok Reg 1064, eff 8-25-16]

SUBCHAPTER 3. DEALERS

710:22-3-1. Boats or motors in dealer's possession; demonstration permits; contest participation

When registration expires on a used boat or motor with Oklahoma title while in a dealers possession, the boat and motor dealer does not have to renew the registration. The dealer affixes a demonstration permit to the boat or motor when they are used for demonstrating or any other normal business of the dealer. Vessels or motors used for contest participation purposes shall not be subject to the statutory restrictions for demonstration permits issued to licensed dealers.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 22 Ok Reg 1528, eff 6-11-05]

710:22-3-2. Boat or motor purchased with out-of-state title

When a boat and motor dealer purchases a boat or motor with an out of state title, the dealer must apply for an Oklahoma title. Registration of such boat or motor is not required, but use of a demonstration permit may be needed.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-3-3. Tax stamp required upon sale of boat or motor

When a boat and motor dealer sells a new boat or motor the dealer must attach a tax stamp upon the application for certificate of title (OTC Form BM26). For a used boat and motor the stamp will be attached to the reassignment portion of the title. The tax stamp is issued by the county treasurer of the county in which the dealer's primary place of business is located. The tax stamp is in lieu of the dealer's Ad Valorem tax on the inventory of new and used boats and motors.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 18 Ok Reg 1327, eff 5-11-01]

710:22-3-4. Tax stamp required upon assignment to another dealer

The tax stamp is also required upon any dealer to dealer assignment.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

SUBCHAPTER 5. PROCEDURES FOR REGISTRATION

710:22-5-1. General provisions [AMMENDED AND RENUMBERED TO 710:22-7-4]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended and renumbered to 710:22-7-4 at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-2. New boats and/or motors bought in Oklahoma or out-of-state [AMMENDED AND RENUMBERED TO 710:22-7-5]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 17 Ok Reg 2159, eff 6-11-00; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended and renumbered to 710:22-7-5 at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-3. Used boats and/or motors bought in Oklahoma [AMMENDED AND RENUMBERED TO 710:22-7-6]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 17 Ok Reg 2159, eff 6-11-00; Amended and renumbered to 710:22-7-6 at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-4. Used boats and/or motors bought out-of-state [AMMENDED AND RENUMBERED TO 710:22-7-7]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 17 Ok Reg 2159, eff 6-11-00; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended and renumbered to 710:22-7-7 at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-5. Boats and/or motors brought in from out-of-state [AMMENDED AND RENUMBERED TO 710:22-7-8]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended and renumbered to 710:22-7-8 at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-6. Homemade boats and boats or motors without HIN or serial numbers [AMMENDED AND RENUMBERED TO 710:22-7-10]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 10 Ok Reg 3835, eff 7-12-93; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended and renumbered to 710:22-7-10 at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-7. Renewal of registration [REVOKED]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Revoked at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-8. Registration fees

- (a) Boat and outboard motor registration fees are based on the number of years registered and the factory delivered price (not selling price). A selling Oklahoma dealer is to list the manufacturer's original retail factory delivered price of the boat or outboard motor on the application documentation.
- (b) A boat or outboard motor registrant has the option at the time of registration of selecting either a one (1) or three (3) year registration period.
- (c) In the event a boat or outboard motor has not been registered for several years, only the current registration year and one back registration year, plus applicable delinquent registration penalties, are to be collected.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 22 Ok Reg 1528, eff 6-11-05; Amended at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-9. Registration decals

- (a) Upon payment of the registration fee, the applicable registration decal will be issued to each boat and outboard motor registered.

(b) Antique boats may display the registration decal on the left portion of the windshield. In the absence of a windshield, the registration decal may be attached to the certificate of registration, such registration shall be available for inspection when the boat is operated on public waters.

(c) For the purposes of subsection (b), "**antique boat**" is defined as a boat that:

- (1) Is used primarily for recreational purposes; and
- (2) Was manufactured before 1968.

(d) An Affidavit for Replacement License Plate/Decal/Annual Boat/Outboard Motor Decal (OTC Form 797-D) is used to apply for a boat or outboard motor registration decal that has been lost, stolen, or mutilated.

[Source: Added at 17 Ok Reg 2159, eff 6-11-00; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 22 Ok Reg 1528, eff 6-11-05; Amended at 24 Ok Reg 2353, eff 6-25-07]

710:22-5-10. Tribal vessel registration information integration

(a) **Information integration process.** Federally recognized Indian tribes registering vessels in this state may provide specific ownership and registration information to the Oklahoma Tax Commission, under parameters established by the Commission. Upon receipt of such properly configured tribal vessel information, the Commission will incorporate it into the general vessel registration database.

(b) **Registration numbers provided to tribe.** To facilitate the reporting of tribal vessel information to the Commission, the Commission shall provide to the tribe a series of vessel registration numbers, to be distributed by the tribe to its vessel registrants. The vessel registration numbers will be assigned to the tribe following receipt by the Commission of the tribe's written request to participate in the vessel registration information reporting program.

(c) **Information required from tribe.** The extent of ownership and registration information provided for each vessel is to be in accordance with regulatory requirements of the United States Coast Guard and is to include:

- (1) Name and complete address of vessel owner;
- (2) Hull Identification Number (HIN) of vessel;
- (3) Vessel Registration Number assigned to the vessel by the tribe;
- (4) Year, make and model of vessel;
- (5) Horsepower of motor, when applicable (i.e. inboard or inboard/outboard);
- (6) Length of vessel, expressed in feet and inches;
- (7) Use, type, hull material, propulsion type and fuel type, provided pursuant to accepted United States Coast Guard terminology and utilizing the Oklahoma Tax Commission's corresponding number coding system;
- (8) Registration expiration, expressed as mmccyy (example: June 2009 = 062009);
- (9) Date of tribal transaction corresponding to the information provided;
- and
- (10) Tribal name.

(d) **Information format.** The required vessel information is to be provided to the Commission by the tribe in an electronic format outlined by the Commission. The electronic format requirements shall be made available by the Commission in printed form and provided to any requestor. In general, and subject to modification as system processes change, the vessel information is to be configured as follows:

- (1) File Transfer Protocol (FTP) transmission format; and
- (2) Flat file; text format; fixed block records.

(e) **Information reporting schedule.** Within ninety (90) days of being provided vessel registration numbers by the Commission, the tribe will provide to the Commission an electronic copy of the tribe's complete current vessel registration file. Thereafter, updates to the file are to be provided to the Commission by the tribe at least every thirty (30) days. At the option of the tribe, the file updates may contain either the entire vessel file, intended to completely replace all earlier information submitted by the tribe, or contain only vessel records that have been changed/updated since submission of the previous file.

(f) **Records correction.** It shall be the responsibility of the tribe to immediately provide to the Commission corrections to any inaccurate vessel information previously submitted to the Commission.

(g) **File records retention.** The Commission will retain individual tribal vessel registration information in the database until the registration for any vessel reflects a delinquent expiration of at least six (6) months.

(h) **Failure to properly report.** It shall be the responsibility of the tribe to report vessel information under the conditions outlined above. Should a tribe fail to comply with the information reporting guidelines outlined above, the Commission may, at its discretion, delete the tribe's vessel information from the Commission computer file and/or deny requests of the tribe for additional vessel registration numbers.

[Source: Added at 26 Ok Reg 267, eff 11-12-08 (emergency); Added at 26 Ok Reg 2328, eff 6-25-09]

710:22-5-11. Registration renewal notification

(a) **Notification options.** Boat and outboard motor registrants may choose from the following three (3) registration expiration notification methods.

(1) **Mail notification.** Registrants may choose to receive mailed renewal notices, for an additional fee set by statute, by advising the registering tag agency of their choice and paying the applicable fee. If renewing by mail, the registrant may indicate their choice on the renewal form and remit the applicable fee. Armed Forces personnel eligible for the reduced military registration fee set forth in 63 OS § 4021 may continue to receive mailed boat/motor renewal notices at no charge. If the mail notification fee is not remitted by the registrant, no notice will be mailed. Failure to receive the mailed notification shall not relieve the taxpayer from their responsibility to timely renew their registration(s).

(2) **Email notification.** Registrants may choose to receive an email renewal notification, at no charge, by either signing up for email notification via the Commission's online renewal website; or by advising the registering tag agency of their choice and providing to the agent an email address to which the notification is to be sent; or by indicating the email option and providing an email address to which the notification is to be sent on the mail-in renewal registration notice. Email notification will supersede any other type of registration expiration notification. Failure to receive the email notification shall not preclude the taxpayer from their responsibility to timely renew their registration(s).

(3) **No notification.** Registrants may choose to receive no notification by advising the registering tag agency of their choice, or by indicating their choice on the mail-in registration renewal notice.

(b) **Motor license agent responsibility.** It shall be the duty of motor license agents to advise all in-person registrants of their renewal notification options and process the chosen options per Commission guidelines. When the taxpayer chooses the

email reminder notification option, the agent shall obtain the taxpayer's email address to which the notification is to be sent and enter that email address to the Commission's registration system in the manner prescribed by the Commission.

[Source: Added at 28 Ok Reg 933, eff 6-1-11; Added at 29 Ok Reg 522, eff 5-11-12; Amended at 33 Ok Reg 1064, eff 8-25-16]

SUBCHAPTER 7. TITLES

710:22-7-1. Application for transfers [AMMENDED AND RENUMBERED TO 710:22-7-11]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 10 Ok Reg 3835, eff 7-12-93; Amended at 17 Ok Reg 2159, eff 6-11-00; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended and renumbered to 710:22-7-11 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-2. Application for duplicate title [AMMENDED AND RENUMBERED TO 710:22-7-12]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 10 Ok Reg 3835, eff 7-12-93; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended and renumbered to 710:22-7-12 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-3. Repossessions [AMMENDED AND RENUMBERED TO 710:22-7-13]

[Source: Added at 17 Ok Reg 2159, eff 6-11-00; Amended and renumbered to 710:22-7-13 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-4. General provisions

OAC 710:22-7-5 through 710:22-7-10 describe the documentation required to apply for an original Oklahoma title to a boat or outboard motor. Upon review and approval of the titling documentation, the motor license agent is to assign the applicable registration number and record on the application form.

[Source: Amended and renumbered from 710:22-5-1 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-5. New boats or outboard motors purchased in Oklahoma or out-of-state

The following documentation is required to issue an original Oklahoma title to a new boat and/or outboard motor bought in Oklahoma or out-of-state:

- (1) Notarized Manufacturers Statement of Origin. Should no model year be reflected on the Manufacturers Statement of Origin, the year of manufacture, or equivalent date, if termed otherwise, reflected on that Statement will be utilized as the model year in the Oklahoma title record files. An exception to this guideline may be considered upon receipt and review of a letter from the manufacturer, not the dealership, identifying the vessel or outboard motor by serial number and clarifying its model year.
- (2) Completed Application for Certificate of Title for a Boat or Outboard Motor (OTC Form BM-26), with a tax stamp attached if purchased new in Oklahoma. Boats and outboard motors require separate application forms.
- (3) Verification of hull identification or serial number of the vessel/motor (OTC Form BM-10).

[Source: Amended and renumbered from 710:22-5-2 at 24 Ok Reg 2353, eff 6-25-07; Amended at 25 Ok Reg 2035, eff 7-1-08]

710:22-7-6. Used (previously unregistered) boats or outboard motors purchased in Oklahoma

A boat or outboard motor used only on private waters is exempt from titling and registration. The following documentation is required when application is made for an original Oklahoma title to such a boat and/or outboard motor:

- (1) Completed Application for Certificate of Title for a Boat or Outboard Motor (OTC Form BM-26).
- (2) Notarized statement from owner (previous owner if ownership change), stating the boat/ outboard motor was previously operated only on private waters.
- (3) Verification of hull identification or serial number of the vessel/motor (OTC Form BM-10).

[Source: Amended and renumbered from 710:22-5-3 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-7. Used boats and/or outboard motors entering from another titling and/or registering state

The following documentation is required to issue an original Oklahoma title to a used boat and/or outboard motor entering from another titling and/or registering state:

- (1) If same owner: The out-of-state title or, if registration-only state, the out-of-state registration.
- (2) If new owner: The assigned out-of-state title, or, if registration-only state, the out-of-state registration and a notarized bill of sale from the registered owner, identifying the boat/ outboard motor by hull identification/serial number.
- (3) Completed Application for Certificate of Title for a Boat or Outboard Motor (OTC Form BM-26).
- (4) Verification of hull identification or serial number of the vessel/motor (OTC Form BM-10).

[Source: Amended and renumbered from 710:22-5-4 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-8. Used outboard motors entering from a non-titling and non-registering state

(a) The following documentation is required to issue an original Oklahoma title to a used outboard motor entering from a state that does not title or register outboard motors:

- (1) If new owner: A notarized bill of sale identifying the outboard motor by serial number.
- (2) Completed Application for Certificate of Title for a Boat or Outboard Motor (OTC Form BM-26).

(b) Upon receipt of the above, the motor license agent shall contact the Oklahoma Tax Commission Motor Vehicle Division for review and title issuance approval.

[Source: Amended and renumbered from 710:22-5-5 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-9. Ownership Affidavit

The Affidavit of Boat/Outboard Motor Ownership (Form 753-BM) may be utilized in applying for an Oklahoma title to a boat or outboard motor when the boat/outboard motor has been previously registered in a titling and/or registering state (including Oklahoma) and the applicant has an ownership assignment

document (i.e., bill of sale) identifying the boat/outboard motor by hull identification number (HIN)/serial number, but is unable to contact seller for proper and complete documentation.

(1) Applicant is to submit a completed Vehicle Information Request(OTC Form 769), including a notation of the last state in which the boat/outboard motor was registered, and the applicable fee to a motor license agent or the Motor Vehicle Division.

(2) The motor license agent and the Motor Vehicle Division will conduct a records search. If contradictory ownership information is discovered in Oklahoma or another state, the Ownership Affidavit application will be rejected and returned to the taxpayer with a notation of the source state of the contradictory ownership information. If no contradictory ownership record is found, title issuance may be approved.

[Source: Added at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-10. Homemade boats and boats or outboard motors without hull identification or serial numbers

(a) Only the Oklahoma Department of Public Safety is authorized to assign and affix Oklahoma assigned hull identification numbers (HIN) to boats and serial numbers to outboard motors.

(b) To obtain an assigned HIN or serial number, the owner must submit the items set out in (1) and (2) of this subsection to the Motor Vehicle Division of the Tax Commission:

(1) Proof of ownership, evidenced by:

(A) A notarized bill of sale;

(B) An assigned certificate of title;

(C) An out-of-state registration; or

(D) In the case of a homemade boat, a statement listing the cost of materials purchased for use in construction of the boat, and an estimate of labor costs.

(2) A completed Application for Certificate of Title for a Boat or Outboard Motor (OTC Form BM-26).

(c) Upon review and approval of the documents submitted, the Motor Vehicle Division will complete OTC Form 717, which must be provided to the Department of Public Safety (DPS) by the applicant, in order to have the boat inspected.

(d) The DPS officer will perform an inspection and, if approved, will assign and affix an OKZ number to the boat or an OKM number to the outboard motor.

(e) The DPS officer will complete DPS Form TRW 112496REV2, giving the original and a copy to the applicant.

(f) The applicant must then submit all documents, from both the Motor Vehicle Division of the Tax Commission and from DPS, to a motor license agent or to the Tax Commission for issuance of a title and registration.

(g) A copy of DPS Form TRW 112496REV2 and a copy of the Oklahoma Registration must be carried with the boat and/or outboard motor when in operation on the water.

[Source: Amended and renumbered from 710:22-5-6 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-11. Application for transfers of title

(a) **Documents required.** The following documentation is required to transfer ownership of a boat or outboard motor currently titled in Oklahoma:

(1) An assigned and notarized Oklahoma certificate of title, and

(2) Verification of hull identification or serial number of the vessel/motor (OTC Form BM-10) if the Oklahoma title does not have the verification on the back.

(b) **Current registration required to transfer.** Current registration is required before a transfer of ownership may be completed.

(c) **Assigned title lost.** If the assigned title is lost, application for a transfer title may be made by completing an Application for Transfer When Assigned Title Is Lost (OTC Form 777). The applicant is to complete the form, reflecting the same information as shown on the reverse side of the lost assigned title. The completed form must be accompanied by proof of ownership, such as a notarized Bill of Sale, Sales Contract and lien filing, or cancelled check to the former owner, showing the HIN or serial number of the boat or outboard motor.

(d) **Deceased owner.** When the record owner is deceased, the documentary guidelines applicable to vehicles, as outlined under *OAC 710:60-5-77*, are to be applied.

[Source: Amended and renumbered from 710:22-7-1 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-12. Application for replacement title

(a) **Procedure for obtaining a replacement certificate of title.** An Application for Replacement Certificate of Title for Vehicle/Boat/Motor (OTC Form 701-7) is to be used when a boat or outboard motor owner has lost the certificate of title. Only the record owner may make such application. The applicant shall produce proper identification at the time of application.

(b) **Changes in replacement certificate of title limited to address correction.** No information, other than the address, may be changed when issuing a replacement title.

(c) **Current registration required.** Registration must be current in Oklahoma before a replacement title may be issued. A replacement title may be issued without current Oklahoma registration to a former resident who has relocated to another state and the title is mailed to the out-of-state address.

[Source: Amended and renumbered from 710:22-7-2 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-13. Repossessions

Each vessel or outboard motor repossessed by a mortgagee is assessed a standard repossession fee in addition to the title processing fee. This repossession fee is in lieu of all applicable vessel or outboard motor excise taxes and registration fees. Upon payment of the repossession fee and title processing fee, a repossession title will be issued and any non-current registration will be brought current for no additional fee. The repossession registration will reflect an expiration corresponding with the current vessel/outboard motor registration year period.

[Source: Amended and renumbered from 710:22-7-3 at 24 Ok Reg 2353, eff 6-25-07]

710:22-7-14. Abandoned vessels or outboard motors

When a boat or outboard motor is found abandoned with no known owner, the finder may apply for ownership by submitting a statement of facts to the Oklahoma Tax Commission, detailing where, when and under what circumstances the boat or outboard motor was found abandoned. The Commission will forward the appropriate information to the Oklahoma Department of Public Safety and request their inspection of the boat or outboard motor. Upon completion of the inspection and issuance of a DPS letter of clearance, the Commission will issue

titling instructions to the applicant.

[Source: Added at 26 Ok Reg 2328, eff 6-25-09]

SUBCHAPTER 9. EXCISE TAX

710:22-9-1. General provisions

(a) **Date due; penalty.** Excise tax, as levied by Section 4103 of Title 63, is due at the time of transfer of legal ownership or possession of a boat or an outboard motor and must be paid within thirty (30) days of such date. After the thirtieth (30th) day, a penalty is to be collected in addition to the tax due. A daily penalty will accrue until the tax is paid. However, the penalty is not to exceed the amount of the tax due.

(b) **Determination of taxable value.** The taxable value, for excise tax purposes, of a new boat or outboard motor is the manufacturer's original retail delivered price of the boat or outboard motor. The taxable value for used boats or outboard motors is depreciated, based on the age of the boat or outboard motor, as provided by statute.

(c) **Rate on sale of new boat or outboard motor by dealer.** A new boat or outboard motor sold for the first time will always be assessed the first year rate, regardless of the model year. If resold during the same year, the second year rate is assessed.

(d) **Rates generally; determination of model year.** In all other cases, the excise tax rate is based on the model year and the year in which the title is assigned. In determining the number of years, include the model year, year of assignment, and each year in between.

(e) **Exemptions.** Certain transactions and transfers of title, as enumerated in Section 4106 of Title 63, are exempt from the assessment of excise tax.

(f) **Exceptions.** Amphibious vehicles, concurrently titled as both vehicle and vessel, are to be assessed only vehicle excise tax levied pursuant to Section 2103 of Title 68.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 18 Ok Reg 1327, eff 5-11-01; Amended at 24 Ok Reg 2353, eff 6-25-07; Amended at 33 Ok Reg 1064, eff 8-25-16]

SUBCHAPTER 11. PENALTIES

710:22-11-1. Penalty on original registration

New boats and/or motors must be registered within thirty (30) days from the date of assignment on the MSO or Bill of Sale. If not, a Twenty-five Dollar (\$25.00) penalty is due; provided, in no event shall the penalty exceed the fee.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-11-2. Penalty on renewal registration

Boat and motor registrations expire June 30 of each year. The month of July is a grace period. On August 1, the penalty of Twenty-five Cents (\$.25) per day begins for a period of three (3) months, (August, September and October). On November 1, a Twenty-five Dollar (\$25.00) penalty is due. However, the penalty on a renewal will never be more than the regular renewal fee.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

710:22-11-3. Penalty on excise

This tax is due within thirty (30) days from the date of assignment on the MSO or Certificate of Title. If not, a penalty of Twenty-five Cents (\$.25) per day will be collected in addition to the tax due, but cannot exceed the original amount due.

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92]

SUBCHAPTER 13. AFFIDAVITS AND FORMS [REVOKED]

710:22-13-1. Frequently used forms and procedures generally [REVOKED]

[Source: Added at 8 Ok Reg 3301, eff 7-8-91 (emergency); Added at 9 Ok Reg 2149, eff 6-12-92; Amended at 10 Ok Reg 3835, eff 7-12-93; Amended at 18 Ok Reg 1327, eff 5-11-01; Revoked at 24 Ok Reg 2353, eff 6-25-07]

CHAPTER 23. CHARITY GAMES TAX

[Authority: 3A O.S., § 422, and 68 O.S., § 203]

[Source: Codified 6-26-94]

710:23-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of the levies enacted by the Oklahoma Legislature with respect to the Oklahoma Charity Games Act.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

710:23-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"ABLE" means the Alcoholic Beverage Laws Enforcement Commission.

"Act" means the Oklahoma Charity Games Act, 3A O.S. § 401 et seq.

"Commission" means the Oklahoma Tax Commission.

"Conforming bingo faces" means bingo faces with the word "Oklahoma" and outline of the state of Oklahoma printed thereon.

"Defaulting organization" means any licensed entity that has failed to pay to the distributor the tax required by the Act.

"Dual license holder" means any entity licensed as both a distributor and manufacturer under the Act.

"Exempt entity" or **"exempt organization"** means an organization specifically designated as exempt by the terms of Section 405 of the Oklahoma Charity Games Act, 3A O.S. § 401, et seq.

"Licensed distributor" means a distributor of charity game equipment as defined under the Act, licensed by the Oklahoma ABLE Commission.

"Licensed manufacturer" means a manufacturer of charity game equipment as defined under the Act, licensed by the Oklahoma ABLE Commission.

"Veterans' organization" means an organization whose members consist primarily of past or present members of the United States armed forces, where the organization is *exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq.* [See: 3A O.S. § 421(D)]

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 16 Ok Reg 2643, eff 6-25-99; Amended at 22 Ok Reg 1529, eff 6-11-05; Amended at 33 Ok Reg 1065, eff 8-25-16]

710:23-1-3. Manufacturer records and reporting

(a) **Records.** The licensed manufacturer shall maintain copies of sales invoices to licensed distributors in Oklahoma for a minimum of three (3) years. Invoices must include:

- (1) Name of manufacturer;
- (2) "ABLE" License number of manufacturer;
- (3) Name of distributor sold to;
- (4) "ABLE" License number of distributor;
- (5) Invoice number;
- (6) Full description of charity game equipment shipped. The invoice for shipments of bingo faces with the word "Oklahoma" and outline of the state of Oklahoma printed thereon, ("conforming bingo faces") must be designated in such a manner so the Tax Commission can identify the number of conforming bingo faces included in the invoice;
- (7) Serial number of equipment. Invoices for bingo sets must contain the serial number of the top sheet; and
- (8) Date equipment shipped.

(b) **Quarterly reporting.** Each licensed manufacturer shall submit to the Tax Commission on or before the last day of the month following the end of each calendar year quarter, a report and supporting data as set out in this subsection:

- (1) Total amount of charity game equipment sold in Oklahoma;
- (2) Total number and the serial and series numbers of bingo faces, U-Pik-Em bingo sets, and breakopen ticket deals. The number of conforming bingo faces must be separately reported from bingo faces not imprinted with the word Oklahoma and outline of the state of Oklahoma;
- (3) Copies of each invoice for charity game equipment, bingo faces (both conforming and nonconforming), U-Pik-Em game sets and breakopen ticket games sold in this state; and
- (4) Copies of all invoices and work orders for conversion by jobbers, (i.e., the printing of the outline of the state of Oklahoma onto nonconforming paper) and for the printing of U-Pik-Em game sets.

(c) **Magnetic or electronic reporting.** The quarterly report and supporting data may, if desired, be submitted via magnetic media (tape or diskette) or electronic data transfer via modem, directly to the Commission. Reports submitted via the magnetic media or electronic data shall conform to the Magnetic Media Guide prepared by the Oklahoma Tax Commission.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 14 Ok Reg 2693, eff 6-26-97; Amended at 16 Ok Reg 2643, eff 6-25-99; Amended at 17 Ok Reg 2666, eff 6-25-00]

710:23-1-4. Distributor operations and reporting

(a) **Sales of conforming bingo faces.** A licensed distributor must sell bingo faces, imprinted with the word "Oklahoma" and outline of the state of Oklahoma ("conforming bingo faces"), to licensed organizations, exempt organizations, and exempt entities. Except for sales to veterans' organizations, group homes for mentally disabled individuals, and charitable healthcare organizations, all sales of conforming bingo faces are subject to tax. Conforming bingo faces may not be sold

to federally recognized Indian tribes or nations.

(b) Records and reports required. The following items apply to records and reports of distributors:

- (1) A distributor who sells, leases, or otherwise provides charity game equipment must record the transaction on a sales invoice.
- (2) A sales invoice must be on a form approved by the Tax Commission and must contain the following information:
 - (A) The "ABLE" license number of the distributor;
 - (B) The name of the licensed organization, entity, or licensed distributor;
 - (C) The complete business name and address of the organization, entity, or licensed distributor;
 - (D) The "ABLE" license or "ABLE" exemption permit number of the organization, entity, or licensed distributor;
 - (E) The invoice number;
 - (F) The date the equipment was shipped;
 - (G) A full description of each item of equipment sold;
 - (H) The serial numbers of the bingo sets, U-Pik-Em game sets, breakopen ticket games, and selection equipment. The invoice for bingo faces must designate whether the bingo faces are conforming bingo faces;
 - (I) The identity of the manufacturer from which the distributor purchased the equipment;
 - (J) The date of the sale of the charity game equipment;
 - (K) The name of the person who ordered the charity game equipment;
 - (L) Whether the sale was an exempt sale made to a veterans' organization;
 - (M) Whether the sale was an exempt sale made to a group home for mentally disabled individuals.
 - (N) Whether the sale was an exempt sale made to a charitable healthcare organization.

(c) Monthly reporting. Each distributor shall submit monthly to the Tax Commission:

- (1) **Purchase invoices.** Copies of all purchase invoices from the licensed manufacturer, licensed distributor, or printer (jobber), stating the amount and price of each item obtained and in the case of invoices for bingo faces, whether they are conforming or nonconforming;
- (2) **Sales invoices.** Copies of all sales invoices submitted for payment to purchasers of charity game equipment, bingo faces (conforming and nonconforming), U-Pik-Em game sets, and breakopen ticket games, regardless of whether the sale was to a licensed organization, exempt organization or entity, or person or entity excluded from the Act;
- (3) **Printing invoices.** Copies of all invoices and work orders for conversion by jobbers, (i.e., the printing of the outline of the state of Oklahoma onto nonconforming paper) and for the printing of U-Pik-Em game sets. The invoice and work order must include the name of the printer, the number of bingo faces, and the series and serial numbers of the bingo faces. If the bingo faces printed are in sets, only the serial number of the top sheet must be included.
- (4) **Reconciliation of inventory of charity game equipment.**

(A) The perpetual reconciliation of inventory is reported on the monthly reporting form, Schedule A, pertaining to bingo faces, and shall be detailed as to the number of conforming, nonconforming, and U-Pik-Em bingo games purchased from licensed manufacturers, licensed distributors, and printers (jobbers). It must reflect the total number of faces and U-Pik-Em games purchased and sold by the distributor.

(B) The breakopen ticket game reconciliation is reported on Schedule B on the monthly reporting form and must reflect the retail sales value of the breakopen ticket games purchased and sold by the distributor.

(C) Distributors who are also licensed as manufacturers must include in the reconciliation, the number of U-Pik-Em bingo game sets printed or purchased and transferred by the manufacturer and the number of U-Pik-Em bingo game sets printed by a jobber for the distributor.

(5) **Physical inventory required.** All licensed distributors shall be required to file a physical inventory of all paper (designated conforming and nonconforming), U-Pik-Ems, Tabs, and Equipment, the month following the ending month of the distributor's fiscal year. Such inventory shall include the number of conforming faces, nonconforming faces, and U-Pik-Ems, and for Tabs and Equipment, the total number of deals and items, as well as the total retail value.

(6) **Remittance of tax.** Remittance of tax is due on charity game equipment sold, rented or leased the previous month, less any discount lawfully retained. With the exception of conforming bingo faces sold to veterans' organizations and group homes for mentally disabled individuals, all conforming bingo faces sold or otherwise transferred during the previous month are subject to tax. Adjustments may be made upon proper showing, as a result of destruction or breakage. [See: 710:23-1-6]

(7) **Remuneration.** A distributor who timely reports and remits monthly may retain the discount provided in the Act. If the tax becomes delinquent, the discount is forfeited by the distributor.

(8) **Interest and penalty.** Interest and penalty as provided in 68 O.S. §217 shall apply to all liability not paid at the time required by the Act.

(d) **Quarterly reporting.** Each distributor, on the last day of the month following the end of the quarter, shall submit a report and supporting data to the Tax Commission containing the name, address, and license or exemption number, if any, of each purchaser of charity game equipment.

(e) **Magnetic or electronic reporting.** The quarterly report may, if desired, be submitted via magnetic media (tape or diskette) or by modem, directly to the Commission. Reports submitted via the magnetic media or electronic data shall conform to the Magnetic Media Guide prepared by the Oklahoma Tax Commission.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 14 Ok Reg 2693, eff 6-26-97; Amended at 17 Ok Reg 2666, eff 6-25-00; Amended at 22 Ok Reg 1529, eff 6-11-05; Amended at 25 Ok Reg 2036, eff 7-1-08; Amended at 33 Ok Reg 1065, eff 8-25-16]

710:23-1-5. Rentals and leases of charity game equipment

(a) **Application of the tax; persons liable for collection and remittance.** The tax imposed by the Act shall apply to the gross rental or lease payment on charity game equipment and must be collected by the licensed distributor and remitted to the Tax

Commission for each period the lease or rental payment is received.

(b) Leases including charity gaming equipment and items not subject to the Act. If the lease includes both charity game equipment and other items, such as tables, chairs, premises, etc., the lease amount for the charity game equipment must be separately stated and the charity game tax collected and remitted thereon. Leases of tangible personal property other than charity game equipment are subject to Sales Tax.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

710:23-1-6. Credit allowed distributor

(a) Prior authorization required for credit for damaged or returned items.

Credit for damaged bingo faces, U-Pik-Em bingo game sets, breakopen game tickets and charity game equipment may not be taken by the distributor on the face of the Charity Gaming Tax Report until a valid credit authorization has been received from the Tax Commission. [See:710:23-1-15] The burden of establishing the right to, and the validity of a credit or refund is on the distributor.

(b) Credit for damaged, miscut, unusable items. Credit may be allowed against subsequent charity game tax liability of the distributor for bingo faces, U-Pik-Em bingo game sets, breakopen game tickets and charitable game equipment determined upon review by the Tax Commission to be:

- (1) Misprinted.
- (2) Miscut.
- (3) Damaged by a disaster such as flood or fire.
- (4) Otherwise unplayable or unusable.

(c) Credit for undamaged, returned items. Credit may also be authorized for returns of saleable, complete sets, but only after the Commission has verified that the items have been returned to inventory and the tax has been credited or refunded to the entity returning the equipment.

(d) Required information. Credit/refund requests based upon (b) or (c) of this Section must be documented with the following information (if applicable):

- (1) A written detailed explanation of why the credit/refund is due, including the "ABLE" license or exemption number and a description of the damaged items for which credit/refund is claimed.
- (2) Copy of Tax Commission authorization for destruction of damaged items.
- (3) Copies of Charity Gaming Tax Reports on which the tax was originally reported.
- (4) Copies of cancelled check used to remit the tax paid.
- (5) Copies of the original purchase invoices for the items.
- (6) Copies of the original invoices on which the tax was originally charged.
- (7) Copies of the credit invoices or checks showing the price paid for and the tax collected on damaged bingo faces, U-Pik-Em bingo game sets, breakopen game tickets or charity game tickets has been refunded to the organization or entity.

(e) Credit for uncollectible taxes. Credit for taxes uncollectible from a defaulting organization may be claimed and must be shown on Schedule C of the Charity Games Report. A credit may also be claimed for taxes paid by the distributor pursuant to this Subsection when a check tendered by a defaulting organization in payment of charity games taxes has been returned unpaid. However, the burden of establishing the right to any credit, and the validity of each claim, is on the distributor. Once the right to a credit is established, a letter authorizing the credit to

be taken on the face of the tax report will be issued. Upon receipt of the letter, the distributor may deduct the amount authorized from the tax shown on the face of the report.

(f) **Required information.** Credit is limited to amounts supported by adequate documentation which are being or will be charged off the distributor's accounting records and all amounts claimed must be adjusted to reflect any remuneration taken on reports filed previously. A claim for credit based upon uncollectible taxes due and unpaid by a defaulting organization must be documented with the following information, if applicable:

- (1) A detailed, written explanation of why the credit is due.
- (2) "ABLE" license number of the defaulting organization;
- (3) Name, address, and business name of the defaulting organization;
- (4) The amount of tax liability unpaid, along with the type of charity games tax to be credited;
- (5) Copy of the original invoice; and
- (6) Copy of the returned check or checks.

(g) **Limitations.** A credit authorization allowed pursuant to this Section will be issued only to the entity who remitted and reported the tax to the Commission. Subsequent recoveries of Charity Games Tax amounts previously claimed as "uncollectible", on which a credit has been taken, or for which a refund has been issued, are to be reported to the Tax Commission in the month of recovery.

(h) **Procedure for applying credits.** A copy of the credit authorization letter must be attached to the monthly report on which the credit is taken or the distributor will not be allowed to deduct the amount claimed. Distributors must apply for the credit authorization letter by the date the second report is due, following the date of the original sale.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 16 Ok Reg 2643, eff 6-25-99]

710:23-1-7. Organization records and reporting; payment of tax to distributor

(a) **Due date.** Charity games taxes levied by 3A O.S. §421 must be paid by the organization to the distributor no later than the fifteenth (15th) day of the calendar month following the month in which the items of charity game equipment were sold to the organization.

(b) **Timely payment to distributor.** If an organization does not make timely payment to the distributor, the distributor may require payment of the tax at the time of any subsequent purchase of charity game equipment by the organization.

[See: 3A O.S. § 422]

(c) **Recordkeeping requirements.** Copies of distributor's invoices or invoices from other sources for bingo faces, U-Pik-Em bingo sets, and breakopen ticket games must be maintained by the organization for a period of three years and shall be made available for inspection by the Tax Commission. Invoices for games in play and inventory must be maintained on the premises where the charity games are conducted.

(d) **Reports filed with United States Treasury.** Each licensed organization that files with the United States Department of the Treasury any reports that are required for organizations exempt from the payment of income tax shall retain a copy of those reports and make them available to the Tax Commission upon request.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98]

710:23-1-8. Limited exemptions

(a) **Use of conforming bingo faces required.** If an exempt entity or exempt organization chooses to use disposable paper bingo faces in conducting charity games, only bingo faces with the word "Oklahoma" and outline of the state of Oklahoma printed thereon ("conforming bingo faces") purchased from a licensed distributor may be used and the tax levied by the Act must be paid.

(b) **Charity game equipment purchased from licensed distributors.** An exempt entity or exempt organization purchasing charity game equipment from a licensed distributor or licensed organization shall pay the tax levied by the Act in the same manner as prescribed for licensed organizations.

(c) **Exemption if tax levied by the Act is paid.** An exempt entity or exempt organization shall be exempt from sales and use tax on any item of charity game equipment purchased by the exempt entity or organization on which tax levied by the Act has been paid.

(d) **Sales of charity game equipment to certain organizations.** The sale of charity game equipment to organizations outlined in (1), (2) and (3) of this subsection is exempt from sales tax and charity games taxes levied pursuant to Section 421 of Title 3A.

(1) Veterans' organizations exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq.,

(2) Group homes for mentally disabled individuals exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and

(3) Charitable healthcare organizations exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 22 Ok Reg 1529, eff 6-11-05; Amended at 25 Ok Reg 2036, eff 7-1-08; Amended at 33 Ok Reg 1065, eff 8-25-16]

710:23-1-9. Recordkeeping and reporting of dual license holders (DLH)

(a) **Proper invoicing procedure.** All purchases of charity game equipment by a dual license holder (DLH) from a licensed manufacturer or a licensed distributor must be invoiced to the dual license holder's distributor's license number. Any purchases of charity game equipment by a dual license holder, made from an unlicensed manufacturer or distributor must be invoiced to the DLH's manufacturer license, and then subsequently invoiced from the DLH's manufacturer license to the DLH's distributor license, and reported as a sale on the DLH's manufacturer quarterly report.

(b) **Maintenance of records required.** A record of the form and serial number of all items incorporated into a finished product must be maintained.

(c) **Duty of license holders to keep adequate records and to report variances.** Dual license holders will be subject to the record keeping and reporting requirements applicable to both manufacturers and distributors set out in this Chapter and the Act. Dual license holders must also keep records and report any items of charity game equipment, the components of which were not previously

invoiced to the licensee pursuant to (a) of this Section, which are sold to another licensed distributor in this state.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 14 Ok Reg 2693, eff 6-26-97; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 16 Ok Reg 2643, eff 6-25-99]

710:23-1-10. Organizations with employees required to withhold, report and remit Oklahoma income taxes

(a) **Compensation made to a person to conduct a charity game.** Compensation for the conduct of a charity game are wages subject to withholding for Oklahoma Income Tax purposes.

(b) **Registration as employer.** Any organization not previously registered with the Tax Commission as an employer which will pay a person or persons to conduct charity games, shall, at the time the organization is issued a license to conduct charity games, register as an employer with the Tax Commission pursuant to the provisions of Chapter 90 of this Title.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

710:23-1-11. Withholding from winnings

Winnings from bingo games, U-Pik-Em games, and breakopen ticket games which are subject to withholding under the Internal Revenue Code are subject to withholding for Oklahoma state tax purposes. Currently, under federal law, winnings from bingo games are not subject to withholding. Winnings from all other types of charity games are subject to withholding if the amount won exceeds three hundred (300) times the amount paid to play.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

710:23-1-12. Admissions, concessions and other property subject to sales tax

(a) **Admission charges.** The gross receipts received from the sale of admission tickets or fees for admission to a charity game location are subject to sales tax. If admission tickets are sold or fees charged, the value of all free or complimentary admissions provided by an organization is also subject to sales tax and must be reported on the organization's monthly sales tax report.

(b) **Concessions.** Sales of food or drink at a charity game are subject to sales tax. The person making such sales must comply with the Sales Tax Code and Rules of the Tax Commission promulgated thereto.

(c) **Other property.** Sales of tangible personal property other than items on which charity game tax is levied are subject to sales tax. The person making such sales must comply with the Sales Tax Code and Rules of the Tax Commission promulgated thereto. [See: Chapter 65 of this Title.]

(d) **Failure to collect, report and remit sales tax.** Failure to collect, report and timely remit sales tax on items subject thereto shall be reported to the Alcoholic Beverage Laws Enforcement Commission, pursuant to 3A O.S. §407.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 33 Ok Reg 1065, eff 8-25-16]

710:23-1-13. Returns by organization

Organizations required to file an annual return stating items of gross income, including gross receipts from bingo games, must file an annual return with the Oklahoma Tax Commission. Sales of breakopen tickets which subject an organization to federal income tax, likewise subject the organization to state

income tax.

[Source: Added at 11 Ok Reg 4685, eff 8-15-94 (emergency); Added at 12 Ok Reg 2621, eff 6-26-95]

710:23-1-14. Printers

Printers who imprint the outline of the state of Oklahoma onto bingo paper or print U-Pik-Em bingo sets are "manufacturers" pursuant to Sections 402(18) and 426(D) of Title 3A of the Oklahoma Statutes and must comply with all applicable licensing and reporting requirements. In particular, printers must report to the Oklahoma Tax Commission the number of bingo faces or U-Pik-Em bingo sets printed, the series and serial numbers of the bingo faces, and the name, address, and ABLE license number of the licensed distributor for whom the bingo faces were imprinted. In the case of dual license holders, the printer shall invoice and report sales as provided by 710:23-1-9.

[Source: Added at 11 Ok Reg 4685, eff 8-15-94 (emergency); Added at 12 Ok Reg 2621, eff 6-26-95; Amended at 16 Ok Reg 2643, eff 6-25-99]

710:23-1-15. Authorization to destroy charity game equipment

- (a) Each licensed distributor must have available for inspection at its business location, the items for which authorization for destruction is being requested.
- (b) The items must be accompanied by a written inventory detailing the type and quantity of each item. Copies of the original purchase invoice(s) from licensed manufacturers, licensed distributors, or printers must be attached.
- (c) Authorization may be requested at any time. However, the Oklahoma Tax Commission must be notified when the number of bingo faces, U-Pik-Em bingo game sets, or breakopen game tickets, or any combination thereof, equals or exceeds one million (1,000,000).
- (d) Credit is for damaged items and will be authorized only after the licensed distributor has physically destroyed the items. Destruction must be witnessed by an agent of the Oklahoma Tax Commission, who will then issue a credit authorization letter. [See: 710:23-1-6]

[Source: Added at 11 Ok Reg 4685, eff 8-15-94 (emergency); Added at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 16 Ok Reg 2643, eff 6-25-99]

CHAPTER 25. COIN OPERATED VENDING DEVICES

[Authority: 68 O.S., §§ 203, 1504, and 1509.1]

[Source: Codified 12-30-91]

710:25-1-1. Purpose and definitions

(a) The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to coin operated vending devices.

(b)

"Firmly affixed" means, for purposes of this Chapter, permanently attached, directly to the device, using the adhesive provided on the decal, and does **not** include placing the decal on the device using any other object, surface, or separate adhesive strip or apparatus.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

710:25-1-2. Annual vending device fee in lieu of sales tax; exclusions

(a) **General provisions.** The annual fee paid for vending, music, amusement, and bulk-vending devices shall be in lieu of sales tax. An annual decal is required, depending on the type of device.

(b) **Exclusions.** Machines not used for the purpose of vending tangible personal property or for playing music or for amusement are not subject to the levy and need not bear a decal.

(c) **Examples of devices excluded.** Examples of devices to which the levy does not apply are:

- (1) Pay telephones;
- (2) Newspaper vending machines;
- (3) Parking meters;
- (4) Gas and electric meters; and
- (5) Devices which vend only postage stamps.

(d) **Scope of listed exclusions.** The list of examples set out in (c) of this Section is intended to be illustrative only and not all-inclusive.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

710:25-1-3. Device requiring decal

For purposes of administration of the Coin-operated Music and Amusement Devices Code, a decal will be required for each machine, regardless of the number of coin slots, if the machine can, upon insertion of a coin, token or similar object, provide music, amusement or entertainment or dispense product(s) separate and apart from any other provider of music, amusement or entertainment or dispenser of product(s). The test to determine whether the machine can operate separate and apart from any other is whether the provider or dispenser can still function if separated from the others to which it is attached. When multiple machines are placed on a single stand, each machine requires a decal.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

710:25-1-4. Who must purchase decals

For purposes of this Chapter, "**person**" means any individual, partnership, limited liability company, association or corporation. Every person who owns and has available to the public for operation or who permits to be operated in his place of business a coin-operated device shall purchase a decal for each device and shall at the same time pay the Commission the associated annual fee. The Commission may refuse to issue a decal to any person delinquent in payment of decal fees; provided, that notice of its intent to refuse the issuance of the decal as required in 710:25-1-10 was furnished. [See: 68 O.S. §§1501, 1503]

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98; Amended at 34 Ok Reg 2060, eff 9-11-17]

710:25-1-5. Decals for general use

A music/amusement device requires a Seventy-five Dollar (\$75.00) annual decal. Coin-operated vending devices which require a coin or thing of value of Twenty-five Cents (25¢) or more must display a Seventy-five Dollar (\$75.00) annual decal. If the device requires a coin or thing of value less than Twenty-five Cents (25¢), then an annual decal of Ten Dollars (\$10.00) will be required. [See: 68 O.S. §1503(A)(1)-(3)]

[Source: Amended at 28 Ok Reg 934, eff 6-1-11; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 35 Ok Reg 2056, eff 9-14-18]

710:25-1-6. Decals for bulk vending devices

For purposes of this Chapter, "**bulk-vending**" is defined as a device which dispenses to the purchaser ballpoint pens, combs, cigarette lighters, prophylactics, filled capsules, peanuts, gum balls, mints, perfume or novelties. All bulk vending devices shall display a decal. The annual fee for a bulk vending device decal is dependent upon the number of distribution mechanisms and the value of the coin required to activate the device. [See: 68 O.S. §§1501(6), 1503(A)(4)]

[Source: Amended at 9 Ok Reg 3017, eff 7-13-92; Amended at 35 Ok Reg 2056, eff 9-14-18]

710:25-1-7. Special decals for limited use

In those instances where a coin-operated device will be available for use by the public for a limited period of time less than one (1) year, such as in connection with fairs, carnivals and places of amusements that operate only during certain seasons of the year, the Commission will issue a special decal for one or more calendar months. The fee for each calendar month will be computed on the basis of one-tenth (1/10th) of the annual rate for the type of device operated. Each special decal must be firmly affixed, as defined by 710:25-1-1(b), to the device for which it is purchased, in the same manner as other decals, and may not be transferred to any other machine.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98; Amended at 23 Ok Reg 2814, eff 6-25-06]

710:25-1-8. Effective dates and renewal periods for decals

Coin operated vending device decals are issued for a one (1) year period which begins the first day of July and ends the last day of June. A provision is made that decals may be purchased in two (2) halves. The Commission shall issue decals for the remainder of the fee year upon payment of the fee on the basis of the current and remaining half of such fee year. [See: 68 O.S. 1505]

710:25-1-9. Application for decals; affixing decals; refunds

(a) **Application.** The application for a coin operated vending device decal is to be filed with the Commission on forms prescribed by the Commission and shall include owner's name, sales tax permit number, number and location of devices and payment of fees.

(b) **Affixing Decal.** When a coin-operated device is placed into operation, a decal shall be firmly affixed to the device and plainly visible and readable by the public. [See: 68 O.S. § 1504 and 710:25-1-1(b)]

(c) **Refunds.** Unused decals may be returned to the Commission for a refund within 30 calendar days if, at the time of purchase, the applicant provided to the Commission a list of all devices owned by applicant and their location. This is not intended to apply to or preclude a refund for decal purchases in error for the wrong device, for devices where a decal is not required or an overpayment of the fee.

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98; Amended at 24 Ok Reg 1691, eff 6-11-07; Amended at 28 Ok Reg 1839, eff 6-25-11]

710:25-1-10. Penalties for operations without decal; forfeiture

(a) Any owner who places a coin-operated vending device in operation and any person who permits a device to be located in his place of business without a decal

affixed shall be liable for the fee on the device at the full annual rate and shall be liable for a penalty dependent upon the type of device as follows:

- (1) For any coin-operated music device, coin-operated amusement device, or coin-operated vending device requiring a coin or thing of value of twenty-five cents (\$0.25) or more, a One Hundred Dollar (\$100.00) penalty.
- (2) For any other coin-operated device, a Ten Dollar (\$10.00) penalty.

(b) The Tax Commission shall notify any owner or person of the assessment of penalty and provide the owner or person thirty (30) days to remit the penalty. The Commission shall not refuse to issue a decal under 710:25-1-4 until after the expiration of the thirty (30) days provided in this subsection.

(c) A device left without the decal affixed, including all cash in the receptacle, may be sealed until released by the Commission or seized by an authorized agent of the Commission, or any sheriff, constable or other peace officer of the State and upon seizure, the machine, together with the cash, if any contained in the receptacle of such device, will be delivered to the Commission. No device shall be seized less than fifteen (15) days after the sealing of the device and notice being placed on the device informing the owner that the device is subject to seizure if the applicable fees are not paid and decal affixed. [See: 68 O.S. §§1506, 1507]

[Source: Amended at 34 Ok Reg 2060, eff 9-11-17]

710:25-1-11. Hearing on forfeiture; sale upon forfeiture

(a) **Hearing; order.** The Commission will conduct a hearing and determine the matter of whether or not a seized coin operated vending device and cash should be forfeited to the State. The owner of the device will be given at least ten (10) days' notice of the date of the hearing. If the Commission finds that the device and cash contents should be forfeited to the State, an order forfeiting the device and cash contents and directing the sale of the device will be issued.

(b) **Sale.** The sale may occur in the county where the device was seized or in Oklahoma County, at the discretion of the Commission. The sale will occur after ten (10) days' notice of the sale. Notices of the sale will be posted in five (5) conspicuous places in the county of the sale. One (1) notice must be posted on the bulletin board at the county courthouse of said county. The sale shall be for cash and proceeds shall be applied as follows:

- (1) To the payment of the costs incident to the seizure and sale;
- (2) To the payment of any other taxes, including penalties, that may accrue against the device; and
- (3) The balance, if any, shall be remitted to the owner.

(c) **Forfeiture of contents.** The cash contained in any device and forfeited shall be an additional tax penalty and shall be in addition to all other penalties. [See: 68 O.S. §1507]

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

710:25-1-12. Appeal from forfeiture order

An order of the Commission, declaring a forfeiture of a coin operated vending device including the cash contents, and directing the sale of such device shall be a final order, from which an appeal may be brought, as provided for in the Uniform Tax Procedure Act. [See: 68 O.S. §1507; 68 O.S. §§201 et seq.]

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

710:25-1-13. Criminal penalties for operation without decal [REVOKED]

[Source: Revoked at 35 Ok Reg 2056, eff 9-14-18]

710:25-1-14. Permits for sale or distribution of coin-operated devices

The Commission will issue permits for the sale or distribution of one or more coin-operated devices. The cost of this permit is Two Hundred Dollars (\$200.00) a year. The applicant shall comply with the following requirements:

- (1) Be a resident of this State for two (2) years preceding the date of the application.
- (2) Not be a convicted felon.
- (3) Have an Oklahoma Sales Tax Permit to be used exclusively to report the sale of coin-operated devices.
- (4) Be either an owner or partner of a business selling or distributing coin-operated devices. [See: 68 O.S. §§1509.1-1509.3]

[Source: Amended at 14 Ok Reg 3762, eff 7-18-97 (emergency); Amended at 15 Ok Reg 2413, eff 6-11-98]

710:25-1-15. Cities may levy license or tax in addition to decals [REVOKED]

[Source: Revoked at 38 Ok Reg 1516, eff 9-1-21]

710:25-1-16. Exemption for devices installed on federal military bases

No annual fee or decal will be required for coin-operated devices installed on federal military bases. For purposes of this exemption "**installed**" means set up for use or service. [See: 68 O.S. §§1501 et seq.]

CHAPTER 30. DOCUMENTARY STAMPS

[Authority: 68 O.S., §§ 203 and 3205]

[Source: Codified 12-30-91]

710:30-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250. 1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to documentary stamps.

710:30-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administrator" means the Director of the Business Tax Services Division of the Oklahoma Tax Commission. It is the intent of this Chapter that as Division Director, the actions and activities of the administrator shall be in compliance with directives established by the Commissioners of the Oklahoma Tax Commission.

"Attorney General" means the chief legal officer of the State of Oklahoma.

"Commission" means the Oklahoma Tax Commission.

"Consideration" means the actual pecuniary value exchanged or paid or to be exchanged or paid in the future, whether in money or otherwise, for the transfer or conveyance of an interest of realty, or minerals, including any assumed indebtedness. At the time of recording the instrument of transfer or conveyance, the

consideration shall be stated, upon forms prescribed by the Oklahoma Tax Commission, and signed by the grantee, in accordance with the procedures prescribed by the Oklahoma Tax Commission.

"Deed" means any instrument or writing whereby realty or minerals are assigned, transferred, or otherwise conveyed to or vested in, the purchaser or, at his direction, any other person.

"Grantee" means the person receiving property.

"Grantor" means the person selling, giving or conveying the property.

"Mineral Deed" means the instrument which conveys a mineral interest in land.

"Mineral Interest" means the property interest created in oil or gas or other minerals by a mineral deed.

"Realty" includes those interests in real property, which endure for a period of time, the termination of which is not fixed or ascertained by a specific number of years; and, those interests enduring for a fixed period of years but which, either by reason of the length of the term or grant of a right to extend the term of renewal, consists of rights closely approximating interests in real property which endure for a period of time the termination of which is not fixed or ascertained by a specific number of years.

"Sold" means a transfer of interest for a valuable consideration, which may involve money or any other item of value.

[Source: Amended at 38 Ok Reg 1517, eff 9-1-21]

710:30-1-3. Purchase and affixing of documentary stamps

(a) Only documentary stamps shall be used in payment of the tax imposed by Oklahoma Statutes. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. If there is insufficient space on the face of the deed, instrument, or other writing to affix the required documentary stamps, such stamps shall be affixed to a second or subsequent page of the document, or in the absence of a second or subsequent page, the stamps shall be affixed to the back of the deed, instrument, or other writing by which the realty is conveyed. It shall be the responsibility of the County Clerk to ensure that the page on which the stamps are affixed is recorded as part of the deed, instrument, or other writing conveying the realty. [See: 68 O.S.1991, §3203(B)]

(b) Documentary stamps may be purchased, and requisite forms for the purchase of such stamps may be obtained, from the sources and in the manner provided for by statute. [See: 68 O.S.1991, §3204]

(c) If a taxpayer claims exemption from the payment of the documentary stamp tax, and there is no notation on the face of the deed indicating the reason for claiming the exemption, the county clerk shall make a brief notation on the face of the deed indicating the reason for claiming the exemption.

(d) If a single deed conveys property located in more than one county, the stamps will be purchased from, and the deed filed in, the county having the largest portion of the property. Certified copies of the deed showing the stamps affixed will then be filed in the affected counties.

[Source: Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94; Amended at 11 Ok Reg 4689, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2625, eff 6-26-95]

710:30-1-4. Documentary stamp tax based on consideration; interest; property

For purposes of computing the amount received in a transaction subject to the documentary stamp tax imposed by statute no distinction is to be made between

cash or security received by the seller.

- (1) **Measurement.** The tax shall be measured by:
 - (A) The consideration;
 - (B) The value of the interest conveyed; or
 - (C) The value of the property conveyed.
- (2) **Basis.** In each instance the basis for computing the tax shall be:
 - (A) The down payment; plus
 - (B) The amount of new and assumed mortgages; plus
 - (C) Any other valuable benefits received by the seller.
- (3) **Personal property.** Any personal property transferred shall have its value deducted from the gross value transferred prior to computing the tax.

710:30-1-5. Use of documentary stamps on conveyances by defaulting mortgagee; exemptions

(a) Unless otherwise exempt, a conveyance by a defaulting mortgagee in consideration of the cancellation of the mortgage debt is subject to the documentary stamp tax based on the remaining balance plus accrued interest.

(b) Effective with deeds filed July 1, 1988 or subsequent, 68 O.S.Supp.1988, Section 5102(13), now codified at 68 O.S.1991, §3202(13), was amended to exempt three categories of conveyances:

- (1) **Deeds in foreclosure actions.** Deeds executed in a foreclosure action in which the grantee of the new deed was the mortgage holder of the property being foreclosed, and the property was deeded to the mortgagee for no additional consideration.
- (2) **Deeds executed pursuant to a power of sale.** Deeds executed pursuant to a Power of Sale in which the grantee of the new deed was the mortgage holder of the property being sold and no additional consideration is exchanged.
- (3) **Deeds in lieu of foreclosure.** Deeds accepted In Lieu of Foreclosure in which the grantee of the new deed was the mortgage holder of the property being conveyed to the mortgage holder for no consideration other than the cancellation of the debt and no additional consideration is exchanged. [See: 68 O.S.1991, §3202(13)]

[Source: Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94]

710:30-1-6. Examination of county records

Tax Commission auditors will periodically review deeds filed with each county clerk. The examinations shall consist of:

- (1) Extracting information concerning the amount of Documentary Stamp Tax paid;
- (2) Verifying the proper affixing of the Documentary Stamp;
- (3) Verifying the payment of the Documentary Stamp Tax;
- (4) Extracting information concerning nonpayment of the Documentary Stamp Tax;
- (5) Examination of the records of the county clerk concerning the administration of the Documentary Stamp Tax Act.

710:30-1-7. Assessment for nonpayment or insufficient payment; payment; protest

(a) **Assessment.** Any taxpayer filing a deed for record with a county clerk is responsible for either paying the required amount of documentary stamp tax or

indicating in writing on the deed the authority for nonpayment. If after a review of the records, it appears that the taxpayer has failed to pay the tax, or has paid an insufficient amount of tax, or has failed to indicate the reason for nonpayment of the tax, the Commission shall:

- (1) Send a proposed assessment letter to the last known address of the taxpayer. The assessment letter shall contain the amount of delinquent tax, the penalty assessed, and a computation of the interest due.
- (2) If there is no response within thirty (30) days of the mailing of the proposed assessment, the assessment will become absolute and final and a Tax Warrant will be issued by the Commission.

(b) Response to assessment. In response to the assessment letter, the taxpayer may:

- (1) Submit a copy of the deed which shows that the proper amount of tax has previously been paid; or
- (2) Proceed to the county clerk's office and pay the tax. If this is done, it is the taxpayer's responsibility to submit a copy of the deed with the properly affixed stamps. In addition, the taxpayer shall remit payment to the Commission for the amount of penalty and interest that has been assessed; or
- (3) Submit proof of exemption from payment of the tax; or
- (4) Protest the assessment. If a protest is presented to the Commission it will be forwarded to the General Counsel's office of the Oklahoma Tax Commission for disposition.

(c) Payments. Two payments must be made for all delinquent documentary stamp taxes. The first in the amount of the tax will be made to the county clerk's office. The second, for penalty and interest will be made to the Oklahoma Tax Commission.

[Source: Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94]

710:30-1-8. Property subject to the documentary stamp tax

(a) All property transferred by deed that is not specifically exempted by statute is subject to the documentary stamp tax, and shall be paid by either the grantee or the grantor. Some examples of property which are subject to the tax are:

- (1) Mineral deeds;
- (2) Sheriff's deeds. The tax is based on the amount bid for the property plus any other costs incurred by the purchaser. (See 710:30-1-5(b) for exception);
- (3) A conveyance of realty in consideration of life maintenance. The tax will be based on the net value of the realty conveyed;
- (4) Assumed and/or wraparound mortgages. The tax will be based on the balance of the mortgage plus any other valuable consideration exchanged;
- (5) Realty traded. Documentary stamps will be required on both deeds if the deeds conveyed property. The tax will be based on the market value of the property conveyed; and
- (6) Conveyance of property in forming a new corporation in exchange for stock of that corporation. The tax will be based on the original purchase price of the realty conveyed plus any improvements placed thereon since the original purchase. If the original purchase price can not be determined the tax will be based on the fair market value of the property conveyed.

(b) The properties listed in (a) of this Section are examples only and are not intended to be all-inclusive.

[Source: Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94]

710:30-1-9. Conveyances not subject to the documentary stamp tax

In addition to the exemptions allowed under 68 O.S.1991, §3202, the following nonexclusive list constitutes further examples of conveyances not subject to the documentary stamp tax:

- (1) Conveyances of realty without consideration, including a deed conveying property as a bona fide gift;
- (2) A conveyance given by an executor or executrix in accordance with the terms of a will;
- (3) A conveyance from an agent to his principal conveying realty purchased for and with funds of the principal;
- (4) True deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests. In such a case, the tax will attach to the deed conveying such excess share and will be based upon the consideration for the excess;
- (5) Ordinary leases of real property;
- (6) A conveyance to a receiver of realty included in the receivership assets, and reconveyance of such realty upon termination of the receivership; and
- (7) Transfer of realty in a statutory merger or consolidation from a constituent corporation to the new or continuing corporation.

[Source: Amended at 10 Ok Reg 4677, eff 9-1-93 (emergency); Amended at 11 Ok Reg 3493, eff 6-26-94]

710:30-1-10. Duties and responsibilities of the county clerk

County clerks are responsible for selling Documentary Stamps to the taxpayers and have the duty of accounting for the stamps to the Oklahoma Tax Commission. For the purpose of collecting the stamp tax, the county clerks act as agents of the Oklahoma Tax Commission.

- (1) Documentary stamps are to be purchased only from the county clerk of the county in which the realty conveyed is located. If the property being conveyed by the deed is located in more than one county, the stamps will be purchased from the county in which the original deed is filed. Certified copies of such deed, showing stamps affixed, can then be filed with the other county or counties where the property is located.
- (2) In order to make a correct determination of tax due, the county clerks have the duty to request taxpayers to produce satisfactory documentation which correctly discloses the value of the property. The total value of the consideration paid can be determined from a real estate purchase contract, closing statement, bill of sale, or any other documentation showing the total price of the property sold.
- (3) County clerks shall make sure that the Documentary Stamps are not sold over the counter. The stamps can only be sold when the tax is paid and the stamps affixed to the deed. Stamps are to be sold only when the deed is offered for recording.
- (4) County clerks shall make sure that the proper amount of stamps are affixed. Metering machines may not be used to collect an odd tax amount or, in other words, to collect an amount of tax that is not a multiple of .75 cents. Stamps worth .75 cents must be affixed for each \$500.00 (or any fractional part thereof) of the consideration. When a metering machine is used, a single stamp can be printed for the total tax amount rather than attaching multiple stamps. However, whether a metering machine is used or

not does not change the tax amount. Thus .75 cents is still required for each \$500.00 of consideration or fractional part thereof. This can be illustrated by the following example: The selling price of Blackacre is \$30,250.00. Based on this consideration paid, the deed will require 61 documentary stamps at 75 cents each, which computes to a tax amount of \$45.75. It is improper to use a metering machine to calculate the tax on 60.5 documentary stamps, or \$45.38.

(5) If the taxpayer claims exemption from the payment of the documentary stamp tax, and there is no notation on the deed indicating the reason for the claiming of the exemption, the county clerk shall make a brief notation on the face of the deed indicating the reason for claiming the exemption.

[Source: Amended at 11 Ok Reg 3493, eff 6-26-94; Amended at 11 Ok Reg 3943, eff 7-11-94]

CHAPTER 35. ESTATES [REVOKED]

[Authority: 68 O.S., §§ 116 and 203]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

710:35-1-1. Purpose [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-1-2. Definitions [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-1-3. Annual report available to public [REVOKED]

[Source: Amended at 28 Ok Reg 934, eff 6-1-11; Revoked at 38 Ok Reg 1517, eff 9-1-21]

SUBCHAPTER 3. RETURNS; REMITTANCE; RELEASES [REVOKED]

PART 1. FILING AND PAYMENT [REVOKED]

710:35-3-1. Duty to file estate tax return [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-2. Time for filing relating to weekends and holidays [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-3. Extension to file estate tax return [REVOKED]

[Source: Amended at 14 Ok Reg 2695, eff 6-26-97; Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-4. Liability for payment of estate tax [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-5. Payment plans [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-6. Computation and due date of interest [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-7. Application for reduction of interest [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-8. Taxes paid under protest [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-9. Estate tax lien [REVOKED]

[Source: Added at 25 Ok Reg 2037, eff 7-1-08; Revoked at 38 Ok Reg 1517, eff 9-1-21]

PART 3. RELEASES [REVOKED]

710:35-3-20. Estate tax releases [REVOKED]

[Source: Amended at 25 Ok Reg 2037, eff 7-1-08; Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-21. Release upon full payment; order releasing taxable estates [REVOKED]

[Source: Amended at 28 Ok Reg 934, eff 6-1-11; Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-22. Order exempting non-taxable estates [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-23. Order releasing property subject to Oklahoma Estate Tax liability and lien; partial release of specific property subject to the determination of tax [REVOKED]

[Source: Amended at 28 Ok Reg 934, eff 6-1-11; Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-3-24. Estate passing to a surviving spouse [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

SUBCHAPTER 5. DETERMINATION OF OKLAHOMA TAXABLE ESTATE [REVOKED]

PART 1. PROPERTY TO BE DISCLOSED ON RETURN [REVOKED]

710:35-5-1. Identification fully of all property [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-2. Transfers in contemplation of death [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-3. Joint interests [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-4. Cash surrender value of life insurance [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-5. Unreported assets discovered [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

PART 3. VALUATION [REVOKED]

710:35-5-20. Valuation of all properties [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-21. Mineral values [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-22. Valuation of stocks and bonds [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-23. Valuation of household goods and other tangible personal property [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-24. Valuation of partnership or proprietorship [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

PART 5. ALTERNATE VALUATION [REVOKED]

710:35-5-30. Alternate valuation election; properties includable in the estate; explanation of "lapse of time" [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-31. Minerals - alternate valuation [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-32. Debts and expenses - alternate valuation [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

PART 7. DEBTS AND EXPENSES [REVOKED]

710:35-5-40. Verification of debts and expenses [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-41. Selling expenses [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-42. Interest expense [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-43. Claims based on contracts [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-44. Federal gift taxes [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-45. Losses from casualties and theft [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-46. Income taxes [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-47. Property taxes [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-48. Unpaid mortgages [REVOKED]

[Source: Amended at 18 Ok Reg 2809, eff 6-25-01; Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-49. Attorney fees [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-50. Executor's fees [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-51. Interest on federal estate tax not deductible [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-52. Miscellaneous and administration expenses [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

PART 9. DEDUCTIONS; EXCLUSIONS; EXEMPTIONS [REVOKED]

710:35-5-60. Public, charitable and religious deductions [REVOKED]

[Source: Amended at 9 Ok Reg 3019, eff 7-13-92; Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-61. Qualified terminal interest property; life estates [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-62. Wrongful death claim [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-63. Not lineal exemptions [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-64. Lineal heir exemption for assets of qualifying family farm or business [REVOKED]

[Source: Added at 14 Ok Reg 2695, eff 6-26-97; Revoked at 23 Ok Reg 2815, eff 6-25-06]

PART 11. FEDERAL ESTATE TAX CREDIT AND ADDITIONAL ASSESSMENT OF OKLAHOMA ESTATE TAX [REVOKED]

710:35-5-70. Separate credit provision [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-71. Federal credit for state death taxes [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-72. Interest on federal credit [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

710:35-5-73. Adjustments affecting federal credit [REVOKED]

[Source: Revoked at 38 Ok Reg 1517, eff 9-1-21]

CHAPTER 40. FRANCHISE TAX

[Authority: 68 O.S., §§ 203, 283, 1207, and 1213]

[Source: Codified 12-30-91]

710:40-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of the Oklahoma Franchise Tax.

710:40-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Affiliated corporations" means those entities authorized or required to file a consolidated Federal Income Tax Return by the applicable provisions of the Internal Revenue Code, as amended, and regulations promulgated pursuant to such code.

"Business situs" means the location at which a reporting entity exercises control over an intangible asset. For purposes of this Chapter, a branch location shall not be considered to be the business situs for an intangible asset unless the asset is managed, directed and controlled from that location.

"Current liability" means any bond, note, debenture, or other evidences of indebtedness, or any portion thereof, payable within three (3) years or less after issuance. Current liability shall not include that portion of a debt which matures more than three (3) years after issuance.

[Source: Amended at 20 Ok Reg 2158, eff 6-26-03]

710:40-1-2.1. Examples of current liabilities for franchise tax purposes

Examples of amounts which may be treated as current liabilities in the case of a non-renewable, ten-year note, payable in annual installments, are as follows:

- (1) In the year of issuance, an amount equal to the sum of three years of payments from the date of issuance may be considered a current liability.
- (2) In the second year after issuance, the sum of two years of payments from the date of issuance may be considered a current liability.

(3) In the third year after issuance, one year's payment may be considered a current liability.

(4) In the fourth year and thereafter, no amount of the obligation is considered to be a current liability for franchise tax purposes.

[Source: Added at 20 Ok Reg 2158, eff 6-26-03; Amended at 35 Ok Reg 2057, eff 9-14-18]

710:40-1-3. Scope of rules

The provisions of this Chapter shall be applicable to the computation of Franchise Tax, reports and returns for purposes of computing Franchise Tax, the suspension and reinstatement of corporations and such other matters as may be specifically provided by the provisions of the Commission governing Franchise Tax.

710:40-1-4. Appreciation of assets

The book value of an asset shall include appreciation as reflected in the financial records of the reporting entity.

710:40-1-5. Balance sheet

The information contained on the balance sheet of the Franchise Tax Return shall be taken from the federal or Oklahoma Income Tax Return for the income tax year of the reporting entity immediately preceding the taxable year for which the Franchise Tax Report is being filed. If the reporting entity has not had an Oklahoma income tax year close prior to the July 1 date then the reporting entity shall indicate at the top of the balance sheet "NO INCOME TAX YEAR END" and the reporting entity shall pay the minimum tax required by the Oklahoma Franchise Tax Code.

[See: 68 O.S. §1205]

710:40-1-6. Accounting and reporting; suspension and reinstatement

(a) **Filing.** On or before July 1, 2014, each corporation, regardless of its prior filing status, must file either a franchise tax return or an election to use the corporation's income tax return due date as the due date for payment and filing of the corporation's franchise tax return.

(b) **Franchise tax returns due July 1, 2014.** A corporation filing its franchise tax return on July 1, 2014 shall use the corporation's 2013 income tax year balance sheet in preparing the return, regardless of whether the corporation is a calendar year filer or has an income tax year end other than December 31.

(c) **Franchise tax returns due on income tax year end.** A corporation who elects on July 1, 2014 to use its income tax return due date for payment and filing of the corporation's franchise tax return shall use the corporation's 2013 income tax year balance sheet in preparing the return. The franchise tax return is due the fifteenth (15th) day of the third month following the close of the corporation's 2013 tax year; however, if the due date for the filing of the corporation's 2013 income tax return is prior to July 1, 2014, the due date for the filing of its franchise tax return shall be July 1, 2014.

(d) **Franchise tax returns due in subsequent years.** Franchise tax returns due July 1, 2015 or, pursuant to an election to use the corporation's income tax year end in 2015 shall use the corporation's 2014 income tax year balance sheet in preparing the corporation's franchise tax return.

(e) **Good standing certificates.** A corporation shall be issued a good standing certificate (required for filings with the Secretary of State) during the period following the date on which the corporation's franchise tax return is due until the

date the corporation's franchise tax return is delinquent.

(f) **Delinquency date.** The date on which the annual franchise tax return and payment is considered to be delinquent is:

(1) For franchise tax returns due July 1, the return is delinquent if not filed and paid on or before the next September 15.

(2) Except as provided in (c) of this Section, corporations who have elected to file franchise tax returns and pay franchise tax on their corporate income tax due date, the return is delinquent if not filed and paid no later than thirty (30) days after the due date established under the Internal Revenue Code. However, if the corporate income tax return due date has been extended, the franchise tax due date shall also be extended. This extension of the due date for filing the return will not serve to extend the date on which the payment of the tax is due.

(3) For those taxpayers that remitted the maximum amount of tax pursuant to Section 1205 for the preceding tax year, the tax levied by 68 O.S. Section 1201 et seq. shall become due and payable on May 1 of each year, and the return is delinquent if not filed and paid on or before the ensuing June 1.

(g) **Suspension and reinstatement.** [See: 68 O.S. § 1212] The Order issued by the Tax Commission reinstating or reviving the charter or other instrument of organization of a previously suspended organization shall state the effective date of the reinstatement or revival. The effective date shall be the date on or by which, as determined by the Commission, the corporation, association, or organization met all requirements for reinstatement, including:

(1) Payment of tax;

(2) Filing of returns;

(3) Filing of officer lists, and

(4) Meeting other requirements as determined by the Commission under applicable law.

(h) **Parent-subsidiary corporate relationships.** In the case of parent-subsidiary corporate relationships, both the parent corporation and any subsidiary corporations shall use the same accounting method as was employed for the last Oklahoma income tax return.

(i) **Consolidated Oklahoma income tax returns.** When a consolidated Oklahoma income tax return has been filed for the parent/subsidiary corporate group, all subsidiary corporations shall file Oklahoma franchise tax returns based upon the method of accounting used by each subsidiary, provided that any undistributed income which is reported on the subsidiary corporation's Oklahoma franchise tax return may be eliminated from the computation on the parent's Oklahoma franchise tax returns.

[Source: Amended at 9 Ok Reg 3021, eff 7-13-92; Amended at 15 Ok Reg 2415, eff 6-11-98; Amended at 19 Ok Reg 2431, eff 6-27-02; Amended at 20 Ok Reg 2158, eff 6-26-03; Amended at 31 Ok Reg 2425, eff 9-12-14; Amended at 32 Ok Reg 1343, eff 8-27-15; Amended at 35 Ok Reg 2057, eff 9-14-18]

710:40-1-7. Bank holding company

A bank holding company may exclude from the computation of capital employed the capital employed of a bank held by such holding company to the extent of the holding company's ownership percentage in the held bank. If a bank holding company owns less than one hundred percent (100%) of the stock of the held bank, then the bank holding company shall multiply its percentage of stock ownership in the held bank by the amount of capital employed of such held bank as reflected on the held bank's Franchise Tax Return. The resulting amount shall be

excluded from the computation of capital employed of the bank holding company.

710:40-1-8. Business done

In order to compute the amount of business done for Franchise Tax purposes, a reporting entity shall use the figure reported as either gross receipts or sales as reported on the most recent Oklahoma Income Tax Return.

710:40-1-9. Intangible drilling costs and intangible development costs

Intangible drilling costs and intangible development costs shall be allocated to the location of the mineral property for which such costs were expended. Intangible drilling costs and intangible development costs shall be reported on the Oklahoma Franchise Tax Return as a tangible capital asset.

710:40-1-10. Inter-company balances

Inter-company balances shall be eliminated from the computation of capital employed on the Franchise Tax Return. A reporting entity with an inter-company receivable account or note shall eliminate such amount from the value of its assets. A reporting entity with an inter-company payable account or note shall eliminate such amount from its current liabilities. The requirements of this Section shall apply solely to inter-company eliminations between a parent and its subsidiary corporation. [See: 68 O.S. §1209(b)]

[Source: Amended at 20 Ok Reg 2158, eff 6-26-03]

710:40-1-11. Investment in partnerships, limited partnerships and joint ventures

Investment in partnerships, limited partnerships and joint ventures shall be included in the value of intangible assets on the Franchise Tax Return. For purposes of 710:40-1-2, the business situs for assets as described in this Section shall be the location at which control of the asset is exercised.

710:40-1-12. Investment in subsidiary

Investment in a subsidiary shall be reported as an intangible asset on the Franchise Tax Return. An investment in a subsidiary within the meaning of this Section shall not be treated as an inter-company advance and shall not be eliminated from the calculation of capital employed.

710:40-1-13. Licenses

If a reporting entity files a "no tax" report, it shall not be necessary for such entity to be issued a "no tax" license in any documentary form. For purposes of the Oklahoma Franchise Tax Code, any reference to a "license" shall refer only to the right or privilege to engage in business and it shall not be necessary for the Commission to issue any document evidencing such right or privilege. For purposes of any provision of the Oklahoma Franchise Tax Code relating to penalties for exercising or attempting to exercise powers without a license to do so, the term "license" shall refer to the right of the corporation or other organization to do business and shall not be construed to mean any document issued by the Oklahoma Tax Commission.

710:40-1-14. Royalty income

Royalty income shall be allocated on the Franchise Tax Return according to the situs of the property which produces the income.

710:40-1-15. Subchapter S Corporations

Subchapter S Corporations, as defined in the Internal Revenue Code of 1986, as amended, shall file an Oklahoma Franchise Tax Return in the same manner and according to the same requirements for all other reporting entities.

710:40-1-16. Working interest

A working interest for purposes of this Section shall be reported as a tangible asset on the Oklahoma Franchise Tax Return. A working interest shall be allocated according to the situs of the mineral property.

710:40-1-17. Reporting form to be used by taxpayers exempt from the tax as a result of a tax of \$250.00 or less being due

For all franchise tax returns due on or after January 1, 2008, if a taxpayer computes the franchise tax due and determines that it amounts to \$250.00 or less, the taxpayer is exempt from the tax and a "no tax due" report as prescribed by the Tax Commission is required to be filed. A schedule of corporate officers must still be filed and, for foreign corporations, the \$100.00 registered agents fee is still due. [See: 68 O.S. § 1205]

[Source: Added at 23 Ok Reg 2816, eff 6-25-06; Amended at 25 Ok Reg 2038, eff 7-1-08]

CHAPTER 45. GROSS PRODUCTION

[Authority: 52 O.S., § 288.5D; 68 O.S., §§ 203, 1001.1, 1001.3a(G), 1001.4, and 1013]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:45-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250. 1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to Gross Production, Petroleum Excise, and Conservation Excise Taxes.

710:45-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"First purchaser" means any person who purchases or is entitled to purchase any product subject to the Oklahoma Gross Production Tax from the producer or operator of a lease located in this state.

"Gross value of the production" means the gross proceeds realized from the first sale of such production, including the actual cash value and all premiums otherwise given to or reserved for the producer and all interest owners of such production, without any deduction for costs whatsoever.

"Month" means calendar month, the period from the first day of the month to the last day, according to the established order of the division of time into years, months, weeks and days commonly recognized in the United States.

"Person" means any person, firm, association, corporation or other legal entity. [See: 68 O.S. §1001.2]

[Source: Amended at 36 Ok Reg 1204, eff 8-11-19]

710:45-1-3. Security required

(a) **Bond required generally.** As a condition for assignment of a gross production tax purchaser reporting number and/or as a condition for approval to remit gross production taxes, a tax remitter must post a bond in an amount equal to an estimated three months' tax liability.

(b) **Adjustment of bond in applicable cases.** At the end of one year, the tax remitter may reduce its bond to an amount equal to one month's tax liability, based upon a monthly average of the prior year's tax liability, provided that a reduction in the bond amount will be permitted only if the tax remitter has had no tax deficiencies or delinquencies in the prior year. The bond amount may be adjusted annually thereafter, depending upon fluctuations in the yearly tax liability of the tax remitter.

(c) **Adjustment of bond for estimated payment.** A tax remitter who has paid the one-time estimated gross production tax payment required by 68 O.S. § 1010a, will be permitted, upon request, to reduce the amount of surety bond required by the amount of the estimated payment.

(d) **When bond is not required.** Taxpayers who have an estimated liability of One Thousand Dollars (\$1,000.00) or less per year are not required to post a bond.

(e) **Applicability.** This Section does not apply to bond requirements for reclaimers and transporters which are governed by separate rules in this Chapter.

[Source: Added at 12 Ok Reg 2995, eff 6-12-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 22 Ok Reg 1531, eff 6-11-05]

SUBCHAPTER 3. PAYMENT; REMITTANCE; REFUNDS

710:45-3-1. Due dates for timely payment or remittance of taxes

(a) The Gross Production Tax is due on the first day of each calendar month, and, if the tax is not paid on or before the twenty-fifth (25th) day of the second month following production, the tax becomes delinquent.

(b) Any payment or remittance of Gross Production Tax mailed and postmarked by the United States Postal Service on or prior to the twenty-fifth (25th) day of the second month following production shall be considered "paid or remitted" only if also received by the Commission on or prior to that date. [See: 68 O.S. §1009]

(c) If the twenty-fifth (25th) day of the second month following production is a Saturday, Sunday or a holiday recognized by the Executive Department of this State, then the payment shall be considered timely if received the next official working day for the Oklahoma Tax Commission following the Saturday, Sunday or holiday.

[Source: Amended at 22 Ok Reg 1531, eff 6-11-05]

710:45-3-2. Allocated percentages [REVOKED]

[Source: Revoked at 20 Ok Reg 2160, eff 6-26-03]

710:45-3-3. Interest on delinquent gross production tax

If any amount of the Gross Production Tax is not paid or remitted before the same becomes delinquent, as set out in 710:45-3-1, interest, at the rate of one

and one-fourth percent (1¼ %) per month until payment or remittance, shall be calculated and collected as part of the delinquent tax. [See: 68 O.S. §217]

[Source: Amended at 36 Ok Reg 1204, eff 8-11-19]

710:45-3-4. Penalty on delinquent gross production tax

If any amount of the Gross Production Tax is not paid or remitted within thirty (30) calendar days after the tax becomes delinquent, as set out in 710:45-3-1, a penalty, at the rate of ten percent (10%) of the total amount of the delinquent Gross Production Tax, shall be calculated and collected as part of the delinquent tax. [See: 68 O.S. §217]

[Source: Amended at 36 Ok Reg 1204, eff 8-11-19]

710:45-3-5. Issuance and release of order to stop payment

(a) The Director of the Audit Services Division of the Oklahoma Tax Commission, or a designee, is delegated the duty and authority to issue orders to withhold payment for production and orders releasing payment for production to purchasers of oil and gas produced in Oklahoma.

(b) Orders to withhold payment for production shall be issued if and when the required reports and/or forms have not been filed or when the gross production tax, penalty and interest on any production are unreported, unpaid or delinquent. Orders releasing payment for production shall be issued if and when all required reports have been filed and all tax, penalty and interest accrued have been paid.

(c) Orders to withhold payment for production and orders to release payment for production shall be upon forms approved by the Commission and shall be issued under facsimile signatures of the Commissioners, attested with the official seal of the Oklahoma Tax Commission affixed thereto. [See: 68 O.S. §1007]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 38 Ok Reg 1525, eff 9-1-21]

710:45-3-6. [RESERVED]

710:45-3-7. [RESERVED]

710:45-3-8. [RESERVED]

710:45-3-9. [RESERVED]

710:45-3-10. [RESERVED]

710:45-3-11. Minimum requirements for making claims for rebates, refunds, or credits

(a) **General provisions.** Adjustments to Gross Production Taxes previously paid may be made by filing a claim for refund or by claiming credit on a subsequent return. In either case, the claim must include the information and conform to the procedures described in this Section. All claims for refund or credits taken remain subject to audit.

(b)

Frac oil exclusion. Procedures to be followed in computing, documenting, and claiming the exclusion for frac oil used in qualified well completions may be found in Part 3 of Subchapter 9 of this Chapter.

(c) **Claims for refund.** Claims for refunds of Gross Production Tax must include the information and conform to the procedures described in this subsection.

(1) **Claims filed within twelve months of production.** Claims for refund of gross production tax which are filed within the twelve-month period immediately following the month of production to which the claim pertains, must include:

(A) A letter stating the reason for the request, amount requested, by Gross Production Tax and Petroleum Excise Tax, the period of time covered, and the Oklahoma Tax Commission's assigned production unit numbers; and,

(B) Amended reports (Type 3) for each month, county, and product code. The amended report must note the "**As Paid**" volumes, values, and taxes; followed by entries reflecting "**Should Have Paid**" volumes, values, and taxes; and page totals must accurately support the amount of the refund request.

(2) **Claims not filed within twelve months of production.** Claims for refund of gross production tax **not** postmarked within the twelve-month period immediately following the month of production to which the claim pertains, must include:

(A) A letter stating the reason for the request, amount requested, by Gross Production Tax and Petroleum Excise Tax, the period of time covered, and the Oklahoma Tax Commission's assigned production unit numbers;

(B) Original source documents, provided to the operator, which may include, but not be limited to: run, settlement, purchase, sales, or metered volume statements, frac affidavits, frac invoices, check stubs, worksheets, pricing bulletins, and any information necessary to verify an exemption, such as BLM lease numbers. Original and all correcting statements pursuant to the claim for refund must be submitted;

(C) Amended reports (Type 3) for each month, county, and product code, reversing the "**As Paid**" volumes, values, and taxes, then entering the "**Should Have Paid**" volumes, values, and taxes. Page totals must reflect the amount of the refund request; and,

(D) All supporting documentation required by statute or Commission rules.

(d) **Claims for credit.** For claims pertaining to production months July 2002 and later, credits may be applied to the current month's tax liability, provided that:

(1) Amended reports (Type 3) for each month, county and product code are filed. The amended reports must note the "**As Paid**" volumes, values, and taxes; followed by entries reflecting "**Should Have Paid**" volumes, values and taxes; and page totals must accurately support the amount of the credit requested. The amended reports must be submitted along with the current production month's Gross Production Tax Report.

(2) The prior month's adjustments do not exceed the current production month's liability;

(3) Magnetic media submissions conform to established magnetic media guidelines; and,

(4) Supporting documents are retained and available for submission upon request of the Oklahoma Tax Commission.

(e) **Exceptions and limitations.** Neither the refund procedures described in (c) of this Section, nor the expedited filing procedures for claiming a credit described in (d) of this Section may be used for claiming an abatement or frac oil exclusion, nor for any claims for refund submitted by a non-remitting party.

[Source: Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 17 Ok Reg 2668, eff 6-25-00; Amended at 19 Ok Reg 2838, eff 7-1-02 (emergency); Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 34 Ok Reg 2060, eff 9-11-17; Amended at 36 Ok Reg 1204, eff 8-11-19]

SUBCHAPTER 5. REQUIRED RETURNS AND REPORTS

710:45-5-1. Monthly production reports

(a) **Minimum requirements of monthly production report.** All producers or purchasers of asphalt or ores bearing lead, zinc, jack, or copper or petroleum oil, mineral oil, other crude oil, condensate, reclaimed oil, gas, natural gas, casinghead gas, or liquid hydrocarbons from oil or gas produced in this state shall report volume and value of such production monthly on OTC Form 300 or any other form as may be prescribed and required by the Oklahoma Tax Commission. Each monthly report shall include the following information:

- (1) Commission assigned purchaser reporting number;
- (2) Commission assigned producer reporting number;
- (3) Commission assigned production unit number, subnumber, and merge number for each lease from which production is reported;
- (4) Assigned product code number for the product reported;
- (5) Gross amount of the product reported from each lease from which production is reported;
- (6) Total value of the product reported from each lease from which production is reported; and, the gross production tax and the petroleum excise tax for said lease;
- (7) Taxpayer identification number or, if applicable, the federal employer identification number (FEI).

(b) **Reports must be filed electronically.** OTC Forms 300 and 300C must be filed electronically in the format prescribed by the Oklahoma Tax Commission.

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 14 Ok Reg 2696, eff 6-26-97; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 38 Ok Reg 1525, eff 9-1-21]

710:45-5-2. Incomplete monthly production report forms filed shall constitute no report

(a) Any monthly production report form filed with the Oklahoma Tax Commission shall include the minimum information specified in 68 O.S. §1010 and in 710:45-5-1. Any such required monthly report form that does not include these minimum requirements shall not constitute the mandatory report required by statute.

(b) Any gross production or petroleum excise taxes remitted with an incomplete report form shall be accepted as payment of taxes due, and upon receipt of a proper report, the tax payment shall be apportioned.

(c) Upon receipt of a Tax Commission-approved monthly production report form from a person required to report monthly, which does not include the required information, the Director of the Audit Services Division of the Oklahoma Tax Commission, or a designee, shall notify the reporting taxpayer that:

- (1) The monthly report form filed with the Commission does not contain the minimum information required by 68 O.S. §1010 and 710:45-5-1 and such form does not constitute a valid monthly production report;

- (2) Pursuant to this Section, the person has failed to file a monthly production report;
- (3) The amount of penalties accrued; and,
- (4) Any remittance or payment made therewith has been accepted and will be apportioned by the Commission in accordance with the applicable statute. [See: 68 O.S. §1010]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 38 Ok Reg 1525, eff 9-1-21]

710:45-5-3. Timely filing monthly production reports

- (a) The Monthly Production Reports required by law shall become delinquent if not submitted to the Oklahoma Tax Commission on or before the twenty-fifth (25th) day of the second month immediately following the month in which the product, subject to Gross Production Tax, was produced.
- (b) If the due date is a Saturday, Sunday or a holiday recognized by the Executive Department of this State, then the date shall be the next official working day for the Oklahoma Tax Commission following the Saturday, Sunday or holiday.
- (c) Any report mailed in and postmarked by the United States Postal Service on or prior to the delinquency date shall be considered timely submitted. [See: 68 O.S. §1010; OAC 710:45-5-1]

[Source: Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 22 Ok Reg 1531, eff 6-11-05]

710:45-5-4. Penalty for delinquent reports

If any monthly production report is not submitted to the Oklahoma Tax Commission in accordance with Section 710:45-5-3; or if any amended report or answer to written demand for information is not timely submitted to the Commission, penalties may be calculated, declared and collected.

[Source: Amended at 32 Ok Reg 1344, eff 8-27-15]

710:45-5-5. Waiver of penalty

- (a) The Oklahoma Tax Commission, or a designee, may waive penalties assessed by statute for failure to timely file certain required reports, or respond to demands for information. The penalties are assessed at the rate of Five Dollars (\$5.00) per day but may be waived by the Commission if the following criteria are met:
 - (1) All taxes due on products subject to the Gross Production Tax were timely paid, if the penalty is being waived for failure to file Monthly Production Reports or amended reports; and,
 - (2) The delinquent filing of the Monthly Production Reports or amended reports did not prevent timely apportionment of the tax revenues paid or remitted without such report; and,
 - (3) The tax reporter made written request for waiver of the penalty; and,
 - (4) The tax reporter showed good cause for the delinquent filing of the report, amended report, or answer to written demand for information.
- (b) Waiver of the penalties in (a) of this Section shall be in writing and shall include a statement of the reasons therefor. [See: 68 O.S. §1010]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98]

SUBCHAPTER 7. SPECIAL REPORTING REQUIREMENTS

**710:45-7-1. Reporting requirements of nonoperating interest owners
[REVOKED]**

[Source: Revoked at 32 Ok Reg 1344, eff 8-27-15]

710:45-7-2. Retroactive crude oil price increase adjustments; timely filing and payment

(a) Amended Monthly Production Reports and additional taxes due thereon for any retroactive increase adjustments in the posted price of crude oil shall be due and must be filed and paid or remitted to the Commission within forty (40) days from the actual date the total price of crude oil, including any retroactive increase adjustments in the posted field price, is established. Any such amended report submitted to the Commission must be accompanied with proof of the date such price was established.

(b) Amended Monthly Production Reports and additional tax due thereon for any retroactive increase adjustments in the posted price of crude oil, which are not filed within forty (40) days from the actual date the total price of such crude oil, including the retroactive increase adjustment in the posted field price, is established, shall be delinquent.

(c) Any interest or penalties ordinarily accruing on delinquent reports or payment or remittance of tax under this Section shall not be waived. [See: 68 O.S. §§217,1010]

710:45-7-3. Retroactive gas price increase adjustments; timely filing and payment

(a) Amended monthly purchaser's reports and additional taxes due thereon for any retroactive increase adjustments in the price of natural or casinghead gas pursuant to an order issued by the Federal Energy Regulatory Commission, its predecessor or successor, in accordance with the Natural Gas Policy Act, 15 U.S.C.A. 3301, shall be due and must be filed and paid or remitted to the Commission within forty (40) days from the actual date the total price of the gas, including any such retroactive increase adjustments, is established. Any such amended report submitted to the Commission must be accompanied with proof of the date such price was established.

(b) Amended Monthly Production Reports and additional taxes due thereon for any retroactive increase adjustments in the price of natural gas or casinghead gas pursuant to a court order, out-of-court settlement agreement, or contract buy-out agreement shall be due and must be filed and paid to the Commission within forty (40) days from the date of the court order or settlement agreement. Such amended reports must be accompanied with proof of the date the price was established.

(c) Amended Monthly Purchaser's Reports and additional tax due thereon for any retroactive increase adjustments in the price of gas which are not filed within forty (40) days from the actual date the total price of such gas, including the retroactive increase adjustment, is established shall be delinquent. [See: 68 O.S. §§217,1010]

SUBCHAPTER 9. EXEMPTIONS AND EXCLUSIONS

PART 1. GENERAL PROVISIONS

710:45-9-1. Exemptions; decimal equivalent

The Commission will verify decimal equivalents of exempt interests with the appropriate agency. The decimal equivalent supplied by the agency will generally stand as the correct deduction for tax purposes. However, inflation of the decimal equivalent may be allowed for purposes of accurately computing the allowable exemption for Gross Production Tax purposes. The producer or take-in-kind owner shall provide a written explanation to the Tax Commission supporting the necessity for making the adjustment. [See: 68 O.S. § 1008]

[Source: Amended at 20 Ok Reg 2160, eff 6-26-03]

710:45-9-2. Election of exemptions [REVOKED]

[Source: Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 34 Ok Reg 2060, eff 9-11-17; Revoked at 36 Ok Reg 1204, eff 8-11-19]

PART 3. FRAC OIL

710:45-9-10. Frac oil exclusion

When load or frac oil is used in well completions (not produced from same lease) by injection into a formation for fracturing purposes, and the Gross Production and Petroleum Excise Taxes have been paid on the injected load or frac oil, each barrel so injected is not considered oil produced from wells where recovered and an exclusion from Gross Production Tax may be claimed for oil so used, as follows:

- (1) The load or frac exclusion for each lease may only be recovered within one year of the date of injection into the same lease.
- (2) Monthly lease load or frac oil exclusions shall not exceed monthly total lease production.
- (3) Load or frac oil exclusion value, for exclusion purposes, is the lesser of the price paid for the load or frac oil or the posted field gravity price of the oil produced on the lease where recovered.
- (4) Recovery of the load or frac oil exclusion must begin with the first production after injection. For any load or frac oil purchased, after date of injection and prior to receipt of affidavit, OTC Form 317, the taxpayer must file an amended report and request a credit memo or tax refund. After receipt of affidavit, OTC Form 317, taxpayer may show load or frac oil exclusion on his monthly tax report.
- (5) The producer must complete the operator's portion of the affidavit and supply the purchaser with the affidavit, OTC Form 317, and supporting invoices.
- (6) The purchaser shall complete his portion of the affidavit, OTC Form 317.
- (7) A notarized legible copy of the affidavit, OTC Form 317, must accompany each report for refund or credit memo and each monthly report that reflects a claim for load or frac oil exclusion.
- (8) All load or frac oil exclusions claimed on future reports which do not comply with the provisions of this Section will be disallowed.
- (9) "**Lease**", as used in this Section, means the Oklahoma Tax Commission Production Unit Number assigned to the particular unit.

PART 5. HORIZONTALLY DRILLED PRODUCTION WELLS [REVOKED]

710:45-9-20. Scope of Part 5 [REVOKED]

[Source: Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-21. Definitions [REVOKED]

[Source: Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-22. Qualification procedures [REVOKED]

[Source: Revoked at 13 Ok Reg 3095, eff 7-11-96]

710:45-9-23. Costs allowed in computing horizontally drilled well payout [REVOKED]

[Source: Amended at 29 Ok Reg 523, eff 5-11-12; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-24. Time periods for exemption from gross production tax levied on horizontally drilled producing wells [REVOKED]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 34 Ok Reg 2060, eff 9-11-17; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-25. Reporting requirements [REVOKED]

[Source: Revoked at 13 Ok Reg 3095, eff 7-11-96]

710:45-9-26. Audit requirements [REVOKED]

[Source: Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-27. Qualification procedure [REVOKED]

[Source: Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 29 Ok Reg 523, eff 5-11-12; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-28. Rebates - Refund procedure [REVOKED]

[Source: Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 29 Ok Reg 523, eff 5-11-12; Revoked at 32 Ok Reg 1344, eff 8-27-15]

PART 7. INCREMENTAL PRODUCTION FROM ENHANCED RECOVERY PROJECTS OR PROPERTIES [REVOKED]

710:45-9-30. Scope of Part 7 [REVOKED]

[Source: Amended at 11 Ok Reg 3495, eff 6-26-94; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-31. Definitions [REVOKED]

[Source: Amended at 11 Ok Reg 3495, eff 6-26-94; Amended at 12 Ok Reg 2627, eff 6-26-95; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-32. Qualification procedures [REVOKED]

[Source: Amended at 11 Ok Reg 3495, eff 6-26-94; Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-32.1. Recovery of costs allowed as payback factors [REVOKED]

[Source: Added at 11 Ok Reg 3495, eff 6-26-94; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-33. Responsibility for filing and payment of taxes [REVOKED]

[Source: Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-34. Summary reports; due dates; final project report [REVOKED]

[Source: Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-35. Expiration of exemption for incremental production [REVOKED]

[Source: Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-36. Limitation of exemption [REVOKED]

[Source: Revoked at 13 Ok Reg 3095, eff 7-11-96]

PART 9. PRODUCTION ENHANCEMENT PROJECTS [REVOKED]

710:45-9-40. Scope of Part 9 [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-41. Definitions [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 14 Ok Reg 2696, eff 6-26-97; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-42. Qualification procedure [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 23 Ok Reg 2816, eff 6-25-06; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-43. Rebates - Refund procedure [REVOKED]

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

PART 11. REESTABLISHMENT OF PRODUCTION FROM AN INACTIVE WELL [REVOKED]

710:45-9-50. Scope of Part 11 [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-51. Definitions [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-52. Qualification procedure [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 23 Ok Reg 2816, eff 6-25-06; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-53. Rebates - Refund procedure [REVOKED]

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

PART 13. DEEP WELLS [REVOKED]

710:45-9-60. Scope of Part 13 [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 24 Ok Reg 2668, eff 7-12-07; Added at 26 Ok Reg 267, eff 11-12-08 (emergency); Amended at 26 Ok Reg 2329, eff 6-25-09; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-61. Definitions [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Revoked at 15 Ok Reg 1145, eff 1-5-98]

(emergency); Revoked at 15 Ok Reg 2416, eff 6-11-98]

710:45-9-62. Qualification procedure [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-62.1. Rebates - Refund procedure [REVOKED]

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-63. Audit requirements [REVOKED]

[Source: Added at 12 Ok Reg 593, eff 12-12-94 (emergency); Added at 12 Ok Reg 2629, eff 6-26-95; Revoked at 18 Ok Reg 869, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1330, eff 5-11-01]

710:45-9-64. Limitation on total amount of refunds paid by the Tax Commission [REVOKED]

[Source: Added at 23 Ok Reg 2816, eff 6-25-06; Amended at 29 Ok Reg 523, eff 5-11-12; Revoked at 36 Ok Reg 1204, eff 8-11-19]

PART 15. NEW DISCOVERY WELLS [REVOKED]

710:45-9-70. Scope of Part 15 [REVOKED]

[Source: Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-71. Definitions [REVOKED]

[Source: Amended at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-72. Qualification procedure [REVOKED]

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 23 Ok Reg 2816, eff 6-25-06; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-73. Rebates - Refund procedure [REVOKED]

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-74. Audit requirements [REVOKED]

[Source: Added at 13 Ok Reg 771, eff 8-16-95 (emergency); Added at 13 Ok Reg 3095, eff 7-11-96; Revoked at 18 Ok Reg 869, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1330, eff 5-11-01]

PART 17. ECONOMICALLY AT-RISK LEASES

710:45-9-80. Scope of Part 17

Exemption from the levy of Gross Production Tax on economically at risk leases set out in 68 O.S. Section 1001.3a shall be determined according to the provisions of this Part. [See: 68 O.S. Section 1001.3a]

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 34 Ok Reg 2060, eff 9-11-17]

710:45-9-81. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Economically at risk oil or gas lease" means prior to calendar year 2015, any lease operated at a net loss or a net profit which is less than the total gross production tax remitted for such lease during the previous tax reporting year. Beginning with calendar year 2015, and each year thereafter, economically at-risk lease means any oil or gas lease with one or more producing wells with an average production volume per well of ten (10) barrels of oil or sixty (60) MCF of natural gas per day or less. The "average production volume" shall be determined based upon the Oklahoma Corporation Commission well classification, wherein only the primary product shall be used to determine the "average production volume." For example, only production from wells classified as oil wells shall be considered to determine average daily production of oil and no production of natural gas from these oil wells shall be used to determine if the lease meets the definition. The lease in its entirety must be operated at a net loss or at a net profit which is less than the total gross production tax remitted for all products for such lease during the qualifying calendar year.

"Lease" means a spaced unit, a separately metered formation within the spaced unit, or each tract within a Corporation Commission approved unitization, or a lease which, for tax reporting purposes, has been assigned a production unit number. A lease may contain one or more wells which have identical interest and payout.

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 15 Ok Reg 2156, eff 4-22-98 through 7-14-98 (emergency)¹; Amended at 17 Ok Reg 2668, eff 6-25-00; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 34 Ok Reg 79, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2060, eff 9-11-17]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), the text of 710:45-9-81 reverted back to the permanent text that became effective 6-26-97, as was last published in the 1997 OAC Supplement and republished in the 1998 and 1999 OAC Supplements, and remained as such until amended again by permanent action on 6-25-00.

710:45-9-82. Exemption period

The exemption for economically at risk oil and gas leases is limited to calendar years 2005 through 2016, with each year being claimed separately. No claims for rebates regarding the economically at risk leases shall be permitted after December 31, 2015 for production periods occurring between calendar years 2005 through 2013. No claims for rebates regarding the economically at risk leases for production periods occurring between calendar years 2014 through 2015 shall be claimed or paid more than eighteen (18) months after the date that the refund is first available. Claims for rebates regarding economically at risk leases for production periods ending on or before December 31, 2015 shall not be claimed until after July 1 of the year following the year of production. Claims for rebates regarding

economically at risk leases for production occurring in calendar year 2016 shall be claimed prior to July 1, 2017. Any claims for refunds received on or after July 1, 2017 will not be accepted by the Tax Commission.

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 15 Ok Reg 2416, eff 6-11-98; Amended at 17 Ok Reg 2668, eff 6-25-00; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 34 Ok Reg 79, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2060, eff 9-11-17; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18]

710:45-9-83. Certification

(a) **General provisions.** This Section establishes criteria for determining whether an operator of an economically at risk oil lease has met the required conditions to apply for an exemption from gross production tax levied on such and establishes a procedure for the issuance of the refund.

(b) **Application to Oklahoma Tax Commission; determination; approval.** Any operator who desires to make application to have a lease certified as being economically at risk shall complete the appropriate OTC Form in its entirety and file it with the Commission. The application must be properly signed by the operator.

(c) **Formula used to determine if lease is economically at risk.** The application sets out the formula used to determine if a lease is economically at risk. This entails subtracting from the gross revenue from each lease for the previous calendar year, any severance taxes, royalty payments, and lease operating expenses, including expendable workover and recompletion costs for the previous calendar year, and overhead costs up to the maximum overhead percentage allowed by the Council of Petroleum Accountants Societies (COPAS). For purposes of this calculation, depreciation, depletion, and intangible drilling costs shall **not** be included in lease operating expenses.

(d) **Commission may require additional information.** For audit purposes, the Commission may require additional information, such as copies of the operator's Federal Income Tax Return, joint interest billings, or other documentation regarding lease production or expenses.

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 34 Ok Reg 79, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2060, eff 9-11-17]

710:45-9-84. Refund procedure

(a) **Issuance of refund.** Upon certification by the Commission, a refund of the gross production taxes paid in the previous calendar year for the lease shall be issued after July 1 of the subsequent year, to the well operator or a designee.

(b) **Limitation of refund.** For oil and natural gas produced from qualifying economically at risk leases in calendar years 2015 through 2016, the total amount of refunds to be paid, as provided for in 68 O.S. § 1001.3a, shall not exceed Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) for all products combined. If the amount of claims exceeds Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00), the Tax Commission shall determine the percentage of the refund which establishes the proportionate share of the refund that may be claimed by any taxpayer of a qualifying lease, so that the maximum amount authorized is not exceeded.

(c) **Assignment of a designee.** If the refund is to be issued to a party other than the recognized operator, a notarized affidavit, signed by the operator must be submitted to the Commission authorizing the designee to receive the refund.

[Source: Added at 14 Ok Reg 2696, eff 6-26-97; Amended at 18 Ok Reg 869, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1330, eff 5-11-01; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 34 Ok Reg 79, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2060, eff 9-11-17; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18]

PART 19. PRODUCTION USING THREE DIMENSIONAL SEISMIC SHOOTS [REVOKED]

710:45-9-90. Scope of Part 19 [REVOKED]

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-91. Definitions [REVOKED]

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-92. Qualification procedure [REVOKED]

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 23 Ok Reg 2816, eff 6-25-06; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-93. Rebates - Refund procedure [REVOKED]

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Amended at 21 Ok Reg 1128, eff 5-13-04; Amended at 24 Ok Reg 2668, eff 7-12-07; Amended at 25 Ok Reg 2039, eff 7-1-08; Amended at 27 Ok Reg 2275, eff 7-11-10; Amended at 29 Ok Reg 523, eff 5-11-12; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

710:45-9-94. Applicable time periods [REVOKED]

[Source: Added at 18 Ok Reg 869, eff 2-23-01 (emergency); Added at 18 Ok Reg 1330, eff 5-11-01; Amended at 20 Ok Reg 2160, eff 6-26-03; Amended at 35 Ok Reg 55, eff 9-14-17 (emergency); Amended at 35 Ok Reg 2058, eff 9-14-18; Revoked at 36 Ok Reg 1204, eff 8-11-19]

PART 21. MARKETING COSTS DEDUCTION

710:45-9-100. Scope of Part 21

Producers of natural gas and casinghead gas who incur certain marketing costs of the gas produced may deduct such costs from the gross value when computing the gross value subject to gross production tax.

[Source: Added at 25 Ok Reg 2039, eff 7-1-08]

710:45-9-101. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Overhead costs" mean the actual direct labor incurred on the exempt facility compared to the total direct labor incurred by the producer as a whole. Allowable overhead costs shall not exceed ten percent (10%) of the total direct marketing costs and depreciation associated with the marketing equipment.

"Marketing costs" are non-production related costs incurred by the producer to enable the transport of gas from the well to the market, including costs

for compressing, dehydrating and sweetening the gas sold; and delivering the gas to the purchaser. Appendix A of this Chapter provides a list of costs by category, identifying which costs are allowable as marketing costs. Whether the cost is deductible or not will often depend upon exactly how the item is used. If the cost is deductible, it must then be determined whether the item should be expensed or depreciated.

"Marketing facilities" include but are not limited to flow lines or gathering systems from the separator to the purchaser's transmission line, compressor stations, dehydration units, line heaters (after the separator) and sweetening facilities.

[Source: Added at 25 Ok Reg 2039, eff 7-1-08]

710:45-9-102. Qualifying criteria

Qualified deductions of marketing costs shall comply with the provisions of (1) through (4) of this Subsection. The marketing cost deduction may be disallowed by the Tax Commission for failure to submit sufficient documentation to support the deduction.

(1) Marketing costs shall not include any costs incurred in the production of gas, oil or condensate or in the separation therefrom of any product subject to gross production tax.

(2) Taxes shall be computed on gross proceeds, including tax reimbursement, less the cost of gathering, compressing and treating the gas sold.

(3) Invoices for all costs claimed shall be made available upon request and must clearly indicate the facility incurring the cost and include a detailed description of the cost. If the invoice does not specify the cost was incurred on allowable marketing equipment, a job/work ticket must accompany the invoice describing the work that was done.

(4) Any claimed depreciable equipment must be supported by documentation showing the original depreciable value. If the depreciable equipment was purchased, the original invoice is required. If the depreciable equipment was obtained through an acquisition of wells, documents from the acquisition indicating how the value of the depreciable equipment was determined must be provided.

[Source: Added at 25 Ok Reg 2039, eff 7-1-08; Amended at 38 Ok Reg 1525, eff 9-1-21]

710:45-9-103. Calculation of marketing costs

Marketing costs are determined by adding:

(1) Charges for depreciation of the marketing facility being used, provided that, if the facility is rented, the actual rental fee is added;

(2) A return on the producer-owned investment equal to six percent (6%) per year on the average depreciable balance;

(3) Costs of direct or allocated labor associated with the marketing facility;

(4) Costs of materials, supplies, maintenance, repairs, and fuel associated with the marketing facility; and

(5) Ad valorem taxes paid on the marketing facility.

[Source: Added at 25 Ok Reg 2039, eff 7-1-08]

710:45-9-104. Depreciation and return on investment

(a) Depreciation shall be determined by subtracting the salvage value from the purchase price and multiplying the difference by the number of years of useful life. Example of calculation:

- (1) Purchase price \$100,000
- (2) Minus salvage value \$10,000
- (3) Equals \$90,000
- (4) Divided by useful life $\div 10$
- (5) Equals depreciation per year \$9,000

(b) Return on investment shall be determined by adding the undepreciated balance at the beginning of the year with the undepreciated balance at the end of the year, dividing the sum by 2, subtracting the salvage value from the quotient, multiplying the difference by 6% to get the return on investment per year. Example of return on investment calculation:

- (1) Undepreciated balance at beginning of year \$100,000
- (2) Add undepreciated balance at year end \$91,000
- (3) \$191,000
- (4) Divide by 2 $\div 2$
- (5) \$95,500
- (6) Less salvage value \$10,000
- (7) \$85,500
- (8) Multiply by 6% rate \$.06
- (9) Return on investment per year \$5,130

(c) Ten years useful life and a depreciation rate of 10% per year are normally used. However, a different term can be used if the situation calls for it, based upon documentation in the taxpayer's records. Useful life must be the lesser of the expected life of the equipment, or the life of the field. Straight line depreciation is the preferred and recommended depreciation method. If another method is used, the taxpayer should be ready to support why that particular method is appropriate for the situation. If fully depreciated equipment continues in use by the taxpayer, they can continue to deduct the return on investment amount on the salvage value.

[Source: Added at 25 Ok Reg 2039, eff 7-1-08]

710:45-9-105. Reporting requirements

(a) The remitter of gross production tax shall enter the cost deduction taken for each lease, each month, as a code 9 exemption on the monthly gross production tax report. The deduction must be computed on the basis of the cost per MCF of handling the gas sold. The total amount of annual depreciation, ad valorem taxes and other allowed costs for the year divided by the number of MCF handled through the system during that year equals the cost allowed per MCF sold.

(b) Inasmuch as cost deductions are to be reported on a monthly basis during the year the costs are being incurred, estimates of costs should be made as accurately as possible. If the costs reported are within 25% of the actual costs incurred, the amounts reported for the succeeding year may be adjusted upward or downward to compensate for the error. Should the error be more than 25%, amended reports must be made and accompanied by either payment of additional tax, penalty and interest or a claim for refund. Cost deductions and adjustments reported shall never be allowed to result in a minus taxable value nor in a taxable value greater than the gross proceeds. Records of all expenditures must be maintained for examination by the Tax Commission.

[Source: Added at 25 Ok Reg 2039, eff 7-1-08]

SUBCHAPTER 11. TRANSPORTERS

710:45-11-1. Definitions

In addition to terms defined in 710:45-1-2, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Load Ticket" means a document or bill of lading describing the source, contents and destination of any load of petroleum tank bottoms, BS&W or other liquid hydrocarbon, salt water or any combination of these products. A valid load ticket must contain the following information:

- (A) the name and address of the company owning or leasing the transporting vehicle,
- (B) the Gross Production Vehicle Permit number of the vehicle,
- (C) the date of transport,
- (D) the name of the company or person owning the lease or storage facility from which the product is being removed, or if different, the name of the company or person owning the product before its removal,
- (E) the OTC assigned production unit number of the lease or a precise description of the location of non-lease storage from which the product is removed,
- (F) a description of the product being transported,
- (G) the approximate number of barrels being transported,
- (H) the name and address of the person or firm who will receive or store the load, and
- (I) the driver's signature.

"Petroleum transporter" means any person or firm owning, leasing or otherwise controlling any vehicle or conveyance, other than railroad tank cars or pipelines, used in the transportation of measurable amounts of any product subject to Gross Production Tax. One percent (1%) or more by volume shall be a measurable amount.

"Tank bottoms" means the mixture of oil and BS&W (basic sediment and water) that collects or settles in the bottom portion of lease or other oil storage tanks. Tank bottoms may be called BS&W. Salt water from salt water storage tanks shall not be shown on load tickets as tank bottoms or BS&W unless it contains one percent (1%) or more oil content by volume. [See: 68 O.S. §1013]

710:45-11-2. Transporter license and permits

The Audit Services Division of the Oklahoma Tax Commission is authorized to issue and renew non-transferrable licenses and vehicle permits, upon license and permit forms approved by the Commission, to transporters, other than railroad or pipeline transporters, of any product subject to the Oklahoma gross production tax, upon receipt of the following:

- (1) A properly completed Application for Transporters License, OTC Form 309-A;
- (2) Completed and duly executed gross production tax bond in the amount of One Thousand Dollars (\$1,000.00), which has been approved by the Commission; and
- (3) Payment of a fee in the amount of One Hundred Fifty Dollars (\$150.00) for each license issued, renewed or reinstated for the first vehicle permit,

and Five Dollars (\$5.00) for each additional vehicle permit. [See: 68 O.S. § 1013]

[Source: Amended at 12 Ok Reg 2627, eff 6-26-95; Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 34 Ok Reg 2060, eff 9-11-17; Amended at 38 Ok Reg 1525, eff 9-1-21]

710:45-11-3. Operation without license and permit prohibited

No person or firm shall engage in transportation of any product subject to Gross Production Tax prior to securing from the Tax Commission a License to Transport Petroleum Liquid Hydrocarbons and a Gross Production Vehicle Permit for each truck or other conveyance used in the transportation of such products.

710:45-11-4. Expiration and renewal

Licenses to Transport Petroleum Liquid Hydrocarbons shall be issued for periods of three (3) years and shall become invalid unless renewed on or before the anniversary of their issuance. Gross Production Vehicle Permits shall expire on the same date as the licenses under which they are issued. No license or permit issued hereunder may be leased, sold or otherwise transferred to any other person or firm.

[Source: Amended at 12 Ok Reg 2627, eff 6-26-95]

710:45-11-5. Security required

The security required by law to be posted by petroleum transporters shall run to the State of Oklahoma and shall be for the purpose of guaranteeing payment of all taxes and penalties and interest thereon, any amount due under 68 O.S. §1003, and any penalties imposed by the Commission under 68 O.S. §1010, for failure or refusal to file any report required by statute or regulation, or for late filing thereof or for failure or refusal to provide any information demanded by the Commission. [See: 68 O.S. §1013]

710:45-11-6. Display of license and permit; strict compliance; employer liability

(a) The petroleum transporter license issued pursuant to this Subchapter shall be posted in the office of the licensee's place of business and the vehicle permits shall be displayed in the cabs of the vehicles for which they are issued. The licensee shall maintain in the office of the licensee's place of business a file of the vehicle permit duplicates. Licensees shall promptly notify the Audit Services Division of the sale or discontinuance of the use of any vehicle and surrender the permit therefor. They shall apply for a gross production vehicle permit for any additional vehicle before it is placed into use. Permits may not be exchanged from one vehicle to another. Licensees shall have painted or affixed by decalomania process, in four-inch letters and numbers on the door of each vehicle, their company name and the gross production vehicle permit number, which shall be preceded by the initials "O.T.C."

(b) Every person or firm required to be licensed hereunder shall be responsible for seeing that the driver of any vehicle or conveyance owned or leased by the licensee and used in the transportation of any substance covered herein has read this regulation and complies with its requirements. The licensees of such vehicles shall be strictly accountable for the actions of their employees.

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 38 Ok Reg 1525, eff 9-1-21]

710:45-11-7. Load ticket or invoice required

(a) No petroleum transporter licensee or employee thereof shall enter upon any oil or gas lease or other place where products covered by the provisions of this Subchapter are stored, remove any product or substance from any oil or gas lease or other place of storage, without the express consent of the lease operator or owner or an agent or employee of that operator or owner.

(b) Petroleum transporters shall not remove from any oil or gas lease or other place of storage within this state any product covered by 68 O.S. §1013 unless prior to removal, such transporter shall prepare, in triplicate, an invoice or load ticket covering the product removed and leave a copy of that load ticket or invoice at the place from which it is removed. It shall be the duty of every lease operator to provide a receptacle on each lease to receive such load tickets or invoices.

(c) The driver of the truck or other conveyance used to remove any substance covered herein from any lease or other place of storage shall keep a copy of the load ticket in his possession at all times while the load is in transit and upon delivery of the load shall furnish a copy to the person or firm buying or receiving the load. After delivery, he shall give his copy to the person or firm licensed to operate the transporting vehicle.

(d) Every person or firm required to receive a copy of the load ticket or invoice shall keep such copies for not less than three years after the date of transportation.

710:45-11-8. Required transporter reports

Every person or firm who transports any oil, gas or other liquid hydrocarbon or any deleterious substance as defined by 52 O.S. §139 shall maintain a log on OTC Form 323A of all loads transported and shall keep such log for a period of three years from the date of transportation. Each person or firm required to be licensed hereunder shall complete OTC Form 323A listing each load of products regulated by 68 O.S. §1013 transported during the preceding month. Such report shall be submitted to the Tax Commission upon request of the Tax Commission.

[Source: Amended at 34 Ok Reg 2060, eff 9-11-17]

SUBCHAPTER 13. REFINERS AND PROCESSORS

710:45-13-1. Refiner or processor license

(a) The Director of the Audit Services Division of the Oklahoma Tax Commission, or a designee, is authorized to issue non-transferrable licenses, upon the license form approved by the Commission, to refiners, or other processors of any product subject to the Oklahoma gross production tax, upon receipt of the following:

- (1) Completed and duly executed Request for Assignment of Production Unit Number, OTC Form 320-A, from the applicant; and,
- (2) Completed and duly executed Application for Refiner's License to Process Petroleum Oil or Casinghead Gas, OTC Form 309-C, in triplicate, from the applicant; and,
- (3) Completed and duly executed gross production tax bond from the applicant, which has been approved by the Commission.

(b) Any refiner-applicant, who has established that it has tangible assets in this state of sufficient value to protect the state against loss of gross production, petroleum excise or conservation excise taxes, may obtain a refiner's license without bond.

[See: 68 O.S. §1015]

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 34 Ok Reg 2060, eff 9-11-17; Amended at 38 Ok Reg 1525, eff 9-1-21]

SUBCHAPTER 15. RECLAIMERS AND RECLAIMING OPERATIONS

710:45-15-1. Additional definitions

In addition to terms defined in 710:45-1-2 and 710:45-11-1, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Load ticket" means a document or bill of lading describing the source, contents and destination of any load of petroleum, tank bottoms, BS&W or other liquid hydrocarbons or salt water or any combination of these products. A load ticket shall not be considered valid unless it contains every item required by the definition set out in 710:45-11-1.

"Petroleum transporter" means any person or firm owning, leasing or otherwise controlling the operation of any vehicle or conveyance, other than railroad cars or pipelines, used in the transportation of measurable amounts (1% or more by volume) of any product subject to the Gross Production Tax.

"Reclaimed oil" means any petroleum, crude oil, mineral oil or other liquid hydrocarbons recovered from tank bottoms, pits, salt water or other source where such oil is not reported to the Tax Commission by either its producer or purchaser of record, as shown by an Oklahoma Tax Commission Form 320A or 320C on file with the Tax Commission, as part of the production of the lease from whence it was produced. Oil or other liquid hydrocarbons blended with reclaimed oil before, during or after the reclaiming process shall be considered reclaimed oil.

"Reclaimer" means any person or firm who buys, salvages, reclaims or processes oil from the waste products associated with the production of oil or gas, including but not limited to salt water and the residue from oil storage tanks; any person operating a reclaiming plant, pit or disposal facility where oil or other liquid hydrocarbons are salvaged or recovered.

"Reclaiming plant" means any facility used for the recovery or salvage of oil or other liquid hydrocarbons from oilfield wastes or contaminated stocks by heating, flotation, chemical treatment, or mechanical or other means except lease operations. It shall include any pit or water disposal system where oil is recovered except where such oil is reported to the Tax Commission, and Gross Production Taxes paid thereon, as production from the lease or leases from whence it was actually produced. No pit or disposal well open to the public shall be exempt from the licensing requirements contained herein.

"Tank bottoms" means the mixture of oil and BS&W (basic sediment and water) that collects or settles in the bottom portion of lease and other oil storage tanks. Tank bottoms may be called BS&W. Salt Water from salt water storage tanks shall not be shown on load tickets as tank bottoms or BS&W unless it contains one percent (1%) or more oil content by volume.

710:45-15-2. Reclaimer licenses

The Audit Services Division of the Oklahoma Tax Commission is authorized to issue and renew non-transferrable licenses, upon license forms approved by the Commission, to reclaimers of products subject to the Oklahoma gross production tax, upon receipt of the following:

- (1) A properly completed Application for Reclaimers License, OTC Form 309-B.
- (2) A surety bond or other security approved by the Tax Commission, as guaranty for payment of all taxes, penalties and interest. Security shall be in

the amount of Ten Thousand Dollars (\$10,000.00) or three months tax liability, whichever is greater, for each license issued, except when issued for a salt water disposal well. Security for each license issued for a salt water disposal well shall be in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) or three months tax liability, whichever is greater. A person or firm having five or more licenses shall be required to post security in the total amount of Fifty Thousand Dollars (\$50,000.00) or three months tax liability, whichever is greater; except that for persons or firms having five or more licenses for salt water disposal facilities, the security requirement shall be a total of Ten Thousand Dollars (\$10,000.00) or three months tax liability, whichever is greater.

(3) A One Hundred Fifty Dollar (\$150.00) three-year license fee for each new, renewed, or reinstated license. [See: 68 O.S. §1015.1]

[Source: Amended at 12 Ok Reg 2627, eff 6-26-95; Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 32 Ok Reg 1344, eff 8-27-15; Amended at 34 Ok Reg 2060, eff 9-11-17; Amended at 38 Ok Reg 1525, eff 9-1-21]

710:45-15-3. License required for each location

(a) A separate reclaimers license shall be required for each plant location or salt water disposal facility operated. Licenses shall be valid for use only by the person or firm to whom issued and at the location specified by legal description on the license.

(b) Security posted shall be required to guarantee payment, to the limit of the amount posted, of the taxpayer's liability under all operations for which he is responsible for Gross Production Taxes and the other liabilities.

710:45-15-4. License limited; strict source compliance; recordkeeping

(a) No person or firm, by reason of being licensed as a reclaimer, shall be authorized to engage in the purchase of oil or other liquid hydrocarbons other than tank bottoms from any oil or gas lease in this state. Any reclaimer purchasing or picking up tank bottoms from any

(b) No person or firm, by reason of being licensed as a reclaimer, shall purchase or take into his possession, any petroleum or other crude oil, mineral oil or other liquid hydrocarbon except from the following sources:

- (1) a lease as described in (a) of this Section,
- (2) a petroleum transporter licensed by the Oklahoma Tax Commission,
- (3) another licensed reclaimer,
- (4) a purchaser of oil or gas who has been approved and assigned a purchaser reporting number by the Oklahoma Tax Commission, or
- (5) an out-of-state shipper.

(c) Every load of such products purchased or taken into the possession or storage of any reclaimer must be entered into his inventory on OTC Form 323A and must be supported by a load ticket or invoice, furnished by the selling or transferring party, that complies with the load ticket requirements set out in 710:45-11-7. Any product found to have been in the possession of any reclaimer that cannot be documented by a valid load ticket as coming from a source authorized herein shall be considered to have come from an unknown source as described in 68 O.S. 1003, and shall be subject to payment to the Commission of the royalty interest as provided by that Section. The operators of salt water disposal facilities shall be required to pay to the Tax Commission the royalty interest of 12 ½%, as provided by 68 O.S. 1003, on the amount of oil recovered in excess of two percent (2%) of the volume of water handled. Such reclaimers shall receive and maintain load

tickets showing the individual loads by volume and lease from which received.

[Source: Amended at 13 Ok Reg 3095, eff 7-11-96; Amended at 19 Ok Reg 2432, eff 6-27-02]

710:45-15-5. Computation of gross production tax by reclaimers

The Gross Production and Petroleum Excise Taxes shall be computed on the value of the first actual cash sale of reclaimed oil. The gross value of tank bottoms purchased by a reclaimer shall be the price paid the seller before deduction of Gross Production and Petroleum Excise Taxes. The net amount received by the seller shall be considered to have had taxes deducted. The gross value of oil received by a reclaimer for services rendered or oil recovered at a disposal pit or well shall be the amount received by the reclaimer from its sale. Before computing Gross Production and Petroleum Excise Taxes on such oil, the reclaimer may deduct his actual treating cost from the sale price. Cost allowed to be deducted shall be limited to the cost of chemicals and boiler fuel used in treating the oil and the labor used in the actual treating. There shall be no cost deduction allowed for oil upon which no tax is paid or upon which the gross value is the purchase price paid by the reclaimer. [See: 68 O.S. §1015.1]

710:45-15-6. Reports and payment; due dates for reclaimers

The operators of reclaiming plants, including disposal facilities, shall be required to remit the Gross Production and Petroleum Excise Taxes on all oil coming into their possession except where such taxes have previously been paid or when it can be shown that such oil was not subject to tax for reason of being exempt by law or having been produced in another state. Taxes shall be due on oil purchased by a reclaimer on the first day of the month following the month of purchase. Taxes shall be due on oil recovered from water at a disposal facility the first day of the month following the month it was sold by the reclaimer who recovered it. The tax shall become delinquent if not received by the Tax Commission on or before the twenty-fifth (25th) day of the second month in which it became due. Reclaimer's Monthly Gross Production Tax Report is due on the same date as the tax and shall be delinquent if not received by the twenty-fifth (25th) day of the second month following the month in which it becomes due. The report shall be made on OTC Form 323.

[Source: Amended at 22 Ok Reg 1531, eff 6-11-05; Amended at 34 Ok Reg 2060, eff 9-11-17]

710:45-15-7. Penalties for reclaimers

Penalties shall apply to all late filing or non-filing of reports required of reclaimers and any failure or refusal to supply any information relative to their operation demanded by the Commission. Any violation of the Gross Production Tax Code may also subject the reclaimer to prosecution and penalty. The Commission may cancel or refuse to renew or reinstate any license of any reclaimer found to be in violation of any tax law of the State of Oklahoma or of any rule of the Oklahoma Tax Commission. [See: 68 O.S. §§1010(d), 1017]

APPENDIX A. MARKETING COSTS

[Figure 1](#)

[Figure 2](#)

[Figure 3](#)

[Figure 4](#)

[Figure 5](#)

[Figure 6](#)

[Figure 7](#)

[Figure 8](#)

[Figure 9](#)

[Source: Added at 25 Ok Reg 2039, eff 7-1-08]

CHAPTER 50. INCOME

[Authority: 3A O.S., § 724.2(C) and (D); 68 O.S., §§ 203, 205.2(H), 283, 2357.11, 2357.22, 2357.29A, 2357.32A(F), 2357.32B(E), 2357.41(F), 2357.46(F), 2357.47(C), 2357.59(E), 2357.104(C), 2357.201(I), 2357.202(I), 2357.206, 2358, 2358.4(C), 2360(A), 2367(3), 2368, 2369, 2385.9(C), 3608, 3806, 3907, 3917, 4108, 4208 and 4309; 74 O.S., §§ 5064.7(B), 5075(B), and 5078(B)]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:50-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250. 1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to income.

710:50-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Commission**" means the Oklahoma Tax Commission.

"**OTC**" means the Oklahoma Tax Commission.

"**OTC Form**" means a form required by the Oklahoma Income Tax Code.

710:50-1-3. Taxpayer assistance [REVOKED]

[Source: Revoked at 34 Ok Reg 2065, eff 9-11-17]

710:50-1-4. Confidentiality

(a) **Inquiry.** Information can be given only to the taxpayer/taxpayers named on the return.

(b) **Address correction.** A written notification is required from the taxpayer/taxpayers for an address correction.

(c) **Social Security Number correction.** If an incorrect Social Security Number has been used in filing an individual return, a written statement is required from the taxpayer showing the correct Social Security Number and the taxpayer's name.

710:50-1-5. Public records

The annual list of persons making and filing an Oklahoma income tax return shall be made available for public inspection in the Taxpayer Resource Center during the normal working hours of the Tax Commission. [See: 68 O.S. §§ 205(D), 2385.20]

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 31 Ok Reg 2427, eff 9-12-14; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-1-6. Requests for copies of income tax returns and associated documents

The Tax Commission will provide, to any taxpayer or to his designated representative, copies of the taxpayer's return and/or accompanying documents in accordance with the procedures set out in this Section.

- (1) Requests shall be made either in writing, to the Income Tax Accounts Division, or in person at the Taxpayer Resource Center.
- (2) If the request is in writing it must be signed by the taxpayer involved, or if the request is from a taxpayer's representative it must be accompanied by an authorization signed by the taxpayer.
- (3) If the request is in person the taxpayer must have a valid identification, or in the case of a taxpayer's representative the representative must have an authorization signed by the taxpayer.

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-1-7. Copying fees

- (a) Copies of returns will cost the following:
 - (1) One or two years - \$2.00
 - (2) Three years - \$2.75
 - (3) Four years - \$3.50
 - (4) Five years - \$4.25
- (b) Copies of additional returns will cost 25 cents per item.
- (c) Remittance shall be made payable to the Oklahoma Tax Commission.

SUBCHAPTER 3. RETURNS AND REPORTS

PART 1. GENERAL INFORMATION

710:50-3-1. Who must file an Oklahoma individual income tax return

- (a) **Resident taxpayers.** Effective for tax year 2017 and subsequent tax years, every resident individual taxpayer with the following filing status shall file an Oklahoma individual income tax return if their gross income exceeds the following amounts:
 - (1) Taxpayers filing as married joint, \$14,700.00;
 - (2) Taxpayers filing as single or married separate, \$7,350.00;
 - (3) Taxpayers filing as head of household, \$10,350.00; and
 - (4) Taxpayers filing as a qualifying widow with a dependent child, \$13,700.00.
- (b) **Part-year resident taxpayer.** Every part-year resident, during the period of residency, has the same filing requirements as a resident individual. During the period of non-residency, an Oklahoma return is required if the Oklahoma part-year resident has gross income from Oklahoma sources of \$1,000.00 or more.
- (c) **Non-resident taxpayer.** Every non-resident with Oklahoma source gross income of \$1,000.00 or more is required to file an Oklahoma income tax return.
- (d) **Gross income.** "Gross income" means all the income received in the form of money, goods, property, and services including any income from sources outside the United States or from the sale of taxpayer's main home. Gross income does not include any social security benefits unless:
 - (1) Taxpayer's filing status is married filing separate and taxpayer lived with a spouse at any time during the tax year; or
 - (2) One-half of taxpayer's social security benefits plus other gross income is in excess of \$25,000.00 (\$32,000.00 if filing status is married filing joint).

(e) **Taxpayers not required to file a federal return.** Resident individuals not required to file a federal income tax return must attach a completed federal income tax return to the Oklahoma income tax return to show how adjusted gross income and deductions were determined, if their gross income is more than their adjusted gross income.

[Source: Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-3-2. Verification of joint reports or returns

Pursuant to Sections 245 and 2368(H) of the Oklahoma Statutes, Income Tax Returns filed jointly must be signed by both parties.

710:50-3-3. Due dates; timely filing of returns

(a) Income tax returns of individuals are due on the 15th day of the fourth month following the close of the taxable year unless the returns are filed electronically. If the individual income tax returns are filed electronically, the returns are due on the 20th day of the fourth month following the close of the taxable year. This change to the due date will be effective for tax year 2007 returns and subsequent tax years.

(b) If the Internal Revenue Code provides for a later due date for returns of individual filers, the Oklahoma income tax returns may be filed by the later due date and will be considered timely filed. This change to the due date will be effective for tax year 2007 returns and subsequent tax years.

(c) To be considered timely filed, income tax returns are to be filed with and received by the Oklahoma Tax Commission at 123 Robert S. Kerr Ave, Oklahoma City, Ok. 73102 on or before the statutory filing date. However, dates placed on returns by the Oklahoma Tax Commission corresponding to postmarks that indicate timely mailing will be accepted as timely filed. In the case of electronically filed returns, any payment of taxes due on the 20th day of the fourth month following the close of the taxable year must also be remitted electronically in order to be considered timely paid. If balances due on electronically filed returns are not remitted to the Oklahoma Tax Commission electronically, penalty and interest will accrue from the 15th day of the fourth month following the close of the taxable year.

[Source: Amended at 25 Ok Reg 728, eff 12-27-07 (emergency); Amended at 25 Ok Reg 2056, eff 7-1-08; Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-3-4. Extension of time for filing returns

A valid extension of time in which to file a Federal Income Tax Return automatically extends the due date of the Oklahoma Income Tax Return, unless an Oklahoma liability is owed. A copy of the Federal extension must be attached to the Oklahoma Return. If the due date for filing the Federal Return is not extended or if an Oklahoma liability is owed, an extension of time to file the Oklahoma Return may be granted only by OTC Form 504. Ninety percent (90%) of the tax liability must be paid by the original due date for the return to avoid penalty charges for late payment. Interest will be charged from the original due date of the return.

[Source: Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-3-5. Withholding certificate

(a) Where the W-2 shows Oklahoma wages and withholding in error, the taxpayer must attach a letter, from the person or entity that issued the W-2, stating the correct Oklahoma wages and withholding.

(b) When the taxpayer is unable to obtain the original W-2 from the employer, a copy of the Federal substitute wage statement filed with the Federal Return shall be filed with the Oklahoma Return. This statement shall show Oklahoma withholdings. [See: 68 O.S. §2385. 17]

710:50-3-6. Amended returns for individuals

(a) If a resident taxpayer is required or elects to file an individual amended Oklahoma income tax return for tax years prior to 2013, OTC Form 511X must be submitted. For tax years 2013 and subsequent, if a resident taxpayer is required or elects to amend an individual Oklahoma income tax return, OTC Form 511 must be used and the appropriate box indicating that the return is an amended return must be marked.

(b) Part-year residents and nonresidents must use OTC Form 511NR and indicate the return is an amended return by marking the appropriate box.

(c) Whenever an individual Oklahoma income tax return is amended, items listed in (1) through (3) of this subsection should be attached or an explanation if the item is not applicable:

(1) A copy of the amended federal income tax return, or a copy of the Federal Form 1040X, or Federal Form 1045,

(2) Proof that Internal Revenue Service has accepted the claim, such as a copy of the statement of adjustment, any correspondence from Internal Revenue Service, or a copy of the deposit slip of the federal refund,

(3) Supporting documents for any adjustments to federal adjusted gross income to support each **final** adjusted amount.

(d) When an individual taxpayer wishes to file or is required to file amended returns for more than one year, an amended return must be completed for each year an amendment is made. No amended return may encompass more than one single year. [See: 68 O.S. 2368]

[Source: Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 22 Ok Reg 1532, eff 6-11-05; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-3-7. Duplicate returns

If a refund is not processed in a reasonable amount of time, a duplicate Income Tax Return should not be filed until the taxpayer is advised to do so by a representative of the Oklahoma Tax Commission.

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-3-8. Adjustments by the Internal Revenue Service

(a) If any taxpayer's Federal Income Tax Return is adjusted, an Amended Oklahoma Income Tax Return must be filed within one year. All supporting documentation must be enclosed with an Oklahoma Amended Income Tax Return for the tax year involved. Upon request, the taxpayer must furnish a complete copy of the Federal Income Tax Return, including all schedules, to enable the Tax Commission to determine the correct Oklahoma tax. A recomputation of taxable income under I.R.C. § 1341(a)(5)(B) shall constitute an adjustment to taxable income for the year the income was initially received.

(b) The Commission has two (2) years from the date the return or notice was filed to make an assessment or refund and not thereafter, unless a waiver is agreed to and signed by the Commission and the taxpayer.

(c) In the event of failure by a taxpayer to comply with the requirement set out in (a) of this Section, the statute of limitations is tolled until the Amended Oklahoma Income Tax Return is actually furnished.

(d) When the Internal Revenue Service changes the Federal Income Tax Return by issuing its final determination, the Tax Commission shall have the authority to audit each and every item of income, deduction, credit or any other matter related to the return, where such items or matters relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government, even if such items or matters were not affected by revisions made in such final determination. Where such items or matters do not relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government, the Tax Commission shall be bound by the revisions made in such final determination.

[See: 68 O.S. § 2375]

[Source: Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 13 Ok Reg 3105, eff 7-11-96; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 22 Ok Reg 1532, eff 6-11-05; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-3-9. Amended Oklahoma return under federal claim of right adjustment

(a) Section 1341 of the Internal Revenue Code allows taxpayers who make repayments of income which were received under claim of right in a prior year to take a federal deduction or claim a federal tax credit for the taxable year in which the repayment was made. The Oklahoma Income Tax Code contains no parallel claim of right provision which would allow a credit or deduction in the year of repayment. [See OTC Order No. 89-11-14-10 (Precedential) and OTC Order No. 91-02-22-013 (Precedential).]

(b) If a taxpayer receives a credit under I.R.C. § 1341(a)(5) on its federal income tax return for the year in which the repayment was made, Oklahoma will recognize a recomputation of federal adjusted gross income for the year(s) the income was initially received under claim of right. This recomputation allows the taxpayer to amend its Oklahoma return(s) for the year(s) the income was initially received to exclude from federal adjusted gross income the amount of income repaid. Taxpayer must attach to its amended return(s) a claim of right worksheet showing the recomputation of adjusted gross income for the year(s) in which the income was initially received. [See OTC Order No. 94-02-24-010.]

(c) When a taxpayer's federal taxable income is recomputed for a prior year as described in (b) of this Section, an amended Oklahoma income tax return for the year(s) in which the income was initially received must be filed within one (1) year from the date the federal return claiming the Section 1341 credit was filed.

[Source: Added at 34 Ok Reg 2065, eff 9-11-17]

PART 3. LIABILITY; PENALTIES

710:50-3-20. Person liable; definition

The phrase "Any person, or any member of any firm or association, or any official, agent or employee of any corporation..." shall include, but not be limited to, the person who, in the normal course of business, is responsible for the daily accounting or recordkeeping, reporting, preparation of financial statements, custodian of records, or who has supervisory responsibility for any of the persons or duties described. These terms shall also include all officers or directors involved to any extent in the daily operation of the business, or in any way with the

management of the business or financial decision making process. It shall also include any person filing an Oklahoma Income Tax Return, or, in the determination of a filing requirement, any person who the Commission has reason to believe is required to file an Oklahoma Income Tax Return. [See: 68 O.S. §§206, 243]

710:50-3-21. Penalty for filing insufficient or spurious information; no response to impermissible inquiries

(a) For the purposes of this Subchapter, a return shall be considered to be in "**not processible form**" if it does not contain sufficient information to properly determine the accuracy and correctness of any and all claims. This is intended to include all applicable schedules from Federal Income Tax Returns, or any other documentary evidence deemed necessary by the Tax Commission to properly administer or enforce any state tax law. This may also include any statements or claims that the taxpayer is not subject to tax, that Federal Reserve Notes do not carry the same value as dollars, assertions of 5th Amendment Rights, the substitution of the word "Object" or "Objection" for any number required on any income tax form, or any other similar claim or scheme.

(b) It shall be the policy of the Tax Commission to not respond to telephone inquiries or correspondence from a taxpayer which contains questions of a nature, or state a position, which, if included in, or on, an Income Tax Return, would subject the taxpayer to penalty imposed by Statute. [See: 68 O.S. §247]

[Source: Amended at 33 Ok Reg 1068, eff 8-25-16]

710:50-3-22. Commission may compel information, books, records

The Tax Commission may request or demand, and the taxpayer, or its duly authorized agent or representative, shall furnish, any information the Tax Commission shall deem necessary to determine the amount of any income tax liability or the requirement to file any tax return, whether such return shall indicate an amount of tax due or not. [See: 68 O.S. §248]

710:50-3-23. Penalty for fraud

(a) The 50% penalty for fraud imposed by statute is computed on the amount of tax determined to be due, and is in addition to any other penalties which may be imposed by law.

(b) The following action or inaction by the taxpayer may result in the imposition of a penalty of 50% for fraud:

- (1) Continued failure to file Oklahoma Income Tax Returns;
- (2) Filing false tax returns;
- (3) Filing frivolous tax returns;
- (4) Other action or inaction tending to evidence an intent to defraud the State or evade tax. However, evidence of fraud by the taxpayer is not limited to the factors listed in this Section.

(c) In cases where a return has not been filed, and an assessment is based on information furnished to the Commission by the Internal Revenue Service indicating the imposition of a penalty for Negligence, Fraud, Failure to File, or Substantial Understatement of Income, the taxpayer's failure to file an Oklahoma Income Tax Return is evidence of fraud with the intent to evade tax. [See: 68 O.S. §2375(E)]

710:50-3-24. Failure to file; evidence of fraud; criminal prosecution

(a) Failure to file an Oklahoma income tax return, when the files and records of the Commission indicate a prior knowledge of the requirement to file an income tax return, shall be evidence of intent to defraud the state and evade the payment of taxes.

(b) Any attempt by the Commission to collect any tax, penalty or interest which may be due in a case where a return which was required to be filed, and which was not filed within the time required, shall not be deemed to be an action taken in lieu of prosecution, but rather an action taken in addition to any prosecution for the violation of state tax laws.

(c) In cases where the Commission deems it appropriate, violators of the state tax laws may be prosecuted as provided by law. [See: 68 O.S. §§240.1, 241, 2377]

[Source: Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-3-25. Additional penalty for criminal violations

The penalty imposed by statute for a criminal violation of the Oklahoma Income Tax Code shall be based on the amount of tax, penalties, and interest determined in criminal action to be due. For collection purposes, this penalty shall not be recomputed as additional interest continues to accrue, but shall remain the same as was computed at the time it was imposed. [See: 68 O.S. §259]

PART 5. FILING STATUS; ELECTIONS; ACCOUNTING PERIODS AND METHODS

710:50-3-35. Filing status and elections

For the purpose of determining any income tax liability, a taxpayer's filing status, and any elections, such as itemized deductions (subject to the limitations in *OAC* 710:50-15-50), shall be the same as on the Federal Income Tax Return. In cases where no return has been filed, any information made available by the I.R.S., whether a Revenue Agents Report (R.A.R.), or other related return information, shall constitute the filing status and elections for the purpose of the determination, assessment, and collection of any Oklahoma Income Tax liability.

[Source: Amended at 34 Ok Reg 81, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-3-36. Residency

(a) An Oklahoma resident is a person domiciled in this state. "**Domicile**" is the place established as a person's true, fixed, and permanent home. A domicile, once established, remains until a new one is established.

(b) One is presumed to retain his Oklahoma residency if he has:

- (1) An Oklahoma Homestead Exemption;
- (2) His family remains in Oklahoma;
- (3) He retains an Oklahoma drivers license;
- (4) He intends to return to Oklahoma; or
- (5) He has not abandoned his Oklahoma residence.

[Source: Amended at 14 Ok Reg 2699, eff 6-26-97]

710:50-3-37. Military residency

If a taxpayer was a resident of Oklahoma at the time of entrance into military service, assignment to duty outside Oklahoma does not, of itself, change the state of residence. An Oklahoma Income Tax Return should be filed as a resident of Oklahoma until such time as a permanent residence in another state is

established.

710:50-3-38. Nonresidents; who must file

(a) A nonresident is required to file an Oklahoma Income Tax Return Form 511NR if \$1,000.00 of gross receipts is from Oklahoma sources.

(b) A return is required to establish a loss year, even though gross receipts may be less than \$1,000.00.

(c) Employees of interstate carriers (including railroads) are only subject to state income tax of the state of residence of said employee. [See: 49 U.S.C.A. §§ 11502 and 14503]

[Source: Amended at 17 Ok Reg 2669, eff 6-25-00]

710:50-3-39. Part-year resident

An Oklahoma Income Tax Return Form 511NR must be completed and filed by those individuals who move into or out of the State of Oklahoma during the year.

[Source: Amended at 17 Ok Reg 2669, eff 6-25-00]

710:50-3-40. Husbands and wives

(a) **Filing methods of married taxpayers, where one is resident and the other is non-resident.** Married taxpayers who file a joint federal return, where one spouse is an Oklahoma resident (civilian or military), and the other is a nonresident civilian (non-military), must file using one of the following methods:

(1) **File as Oklahoma residents, married, filing separately.** The Oklahoma resident, filing a joint Federal return with a nonresident civilian spouse, may file their Oklahoma return as "married, filing separately". If the nonresident civilian spouse has an Oklahoma filing requirement, OTC Form 511NR is to be utilized for filing purposes, using "married, filing separately" rate charts, and reporting only the nonresident civilian's income and deductions. The resident spouse will file on OTC Form 511, using the "married, filing separately" rates, and reporting only his or her income and deductions. OTC Form 574 "Allocation of Income and Deductions" must be filed with the return(s).

(2) **File as though both spouses were residents.** The spouses may file as if both the resident and the nonresident civilian were Oklahoma residents, on OTC Form 511, using the "married, filing jointly" filing status, and reporting all the income. A tax credit (OTC Form 511TX) may be used to claim credit for taxes paid to the other state, if applicable, under this method. A statement should be attached to the return stating that the nonresident is filing as a resident for tax purposes only.

(b) **When (a)(1) and (a)(2) do not apply.** The filing methods described in (a) of this Section do not apply if either spouse is a **part-year resident**, or an Oklahoma resident (civilian or military) files a joint Federal return with a nonresident **military** spouse. In these instances, they must use the same filing status as used on the Federal income tax return. In these instances, OTC Form 511NR shall be completed and must include all Oklahoma source income of both spouses in the "Oklahoma" amount column.

[Source: Amended at 17 Ok Reg 2669, eff 6-25-00; Amended at 21 Ok Reg 2571, eff 6-25-04]

710:50-3-41. Deceased taxpayer

If a taxpayer died during the tax year (or following year before filing a return for the tax year), the executor, administrator or surviving spouse must file an Oklahoma Income Tax Return for the decedent. Enter the date of death following the first name of decedent.

710:50-3-42. Exempt organizations

Generally an organization exempt from Federal income taxation is exempt from Oklahoma income taxation. [See: 68 O.S. §2359]

710:50-3-43. Charitable organization and solicitor registration [REVOKED]

[Source: Revoked at 14 Ok Reg 2699, eff 6-26-97]

710:50-3-44. Accounting periods and methods

The taxpayer must use the same accounting periods and methods as used for Federal Income Tax purposes. There must be an Oklahoma Income Tax Return filed for every Federal Return filed, using the same period as used on the Federal Return. The taxpayer may not combine two or more Federal short periods into one Oklahoma Return.

710:50-3-45. Verification of signatures on electronically-filed returns

- (a) **General provisions.** Section 2368 of the Oklahoma Statutes requires that any return must be verified by a written declaration that it is made under penalties of perjury and further, authorizes the Tax Commission to promulgate rules to provide procedures for verification of signatures on returns which are filed electronically.
- (b) **Authentication.** For Oklahoma income tax purposes, the Tax Commission will permit a taxpayer to sign any electronically-filed return pursuant to the Oklahoma Income Tax Code using any electronic signature method authorized by the Internal Revenue Service (IRS). Use of an electronic signature will only be allowed on a joint federal/state return or a linked electronically-filed return and will not be allowed on a state-only or unlinked return.
- (c) **Verification.** For purposes of verifying the information provided by a taxpayer filing electronically, as required by Section 2368 of the Oklahoma Income Tax Code, completion of the electronic filing process operated by the Internal Revenue Service, shall serve as verification of the information provided by the taxpayer during the transmission.

[Source: Added at 17 Ok Reg 2669, eff 6-25-00; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-3-46. Electronic filing requirement for tax return preparers

All individual income tax returns, prepared by a specified tax return preparer and filed after December 31, 2010, shall be filed electronically. The term "specified tax return preparer" has the same meaning as provided in Section 6011 of the Internal Revenue Code of 1986, as amended. *The preparation of a substantial part of a return or a claim for refund is deemed to be the preparation of the entire return or claim for refund.*

. [68 O.S. § 2385]

[Source: Added at 21 Ok Reg 2571, eff 6-25-04; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-3-47. Pass-Through Entity Tax Equity Act of 2019

- (a) An entity that is required to file either an Oklahoma partnership income tax return or an Oklahoma Subchapter S corporate income tax return may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years by filing a pass-through entity (PTE) election. [(68 O.S. § 2355.IP-1 et seq.)]
- (b) A PTE election may be made by a qualifying PTE at any time during the preceding tax year or two (2) months and fifteen (15) days after the beginning of the current tax year by filing OTC Form 586. The Oklahoma Tax Commission shall send an acknowledgement letter to each PTE that files a pass-through entity election. Each electing PTE shall provide its shareholders, partners or members, with a copy of the Oklahoma Tax Commission acknowledgment letter and advise the shareholder, partner or member of the requirement to attach a copy of the Oklahoma Tax Commission acknowledgment letter to the Oklahoma income tax return of the partner, shareholder or member.
- (c) For income distributed to estates, trusts or individuals, electing entities are taxed at the highest marginal individual income tax rate. For income distributed to corporations, electing entities are taxed at the corporate income tax rate. [68 O.S. §2355]
- (d) Oklahoma income or losses the electing PTE included in computing its tax will not be used to calculate the Oklahoma taxable income of the partners, members or shareholders of the electing entity.
- (e) For tax years beginning on or after January 1, 2020, estimated tax payments shall be required of an electing PTE as provided in 68 O. S. § 2385.9.
- (f) A PTE election is binding until revoked by the electing PTE or by the Oklahoma Tax Commission.
- (1) An electing PTE may revoke the election by filing OTC Form 586. The effective date of a PTE's revocation of an election made within two (2) months and fifteen (15) days of the electing PTE's taxable year shall be the first day of such taxable year. If the revocation is made after this time period, the revocation is effective on the first day of the following taxable year.
- (2) If the amount of tax required to be paid by an electing PTE is not paid when due, the Oklahoma Tax Commission may, in its discretion, revoke the PTE's election effective for the first year for which the tax is not paid.

[Source: Added at 38 Ok Reg 1527, eff 9-1-21]

PART 7. OTHER REQUIRED REPORTING

710:50-3-50. Reports required from persons making payments to taxpayers

- (a) Oklahoma law requires persons making payments totaling \$750 or more annually, to taxpayers to file a report. The required report is to include payments required to be reported by the Internal Revenue Service, unless specifically excluded by the Commission. [See: 68 O.S. §2369(A)]
- (b) Reports may be required in the case of payments of interest upon bonds which are exempt from Federal Taxation, but which are not specifically excluded from Oklahoma Taxation. Any broker transacting any business for any person or individual subject to Oklahoma tax may be required to report the name and address of each person or individual transacting business, a description of the business transacted, and such specific details as the Tax Commission shall deem necessary to determine the true tax liability of any taxpayer. Such reports shall be in a form and manner as the Tax Commission shall require. [See: 68 O.S. §§2358(A)(1), 2369(B)]

(c) Reports are required for production payments as follows:

- (1) Although reports for production payments may not have been made previously, they may be required for any time period, regardless of any recordkeeping requirements. [See: 68 O.S. §2369(D)(4)]
- (2) Requirements for the method of reporting production payments shall be set by the Commission as it deems appropriate. Failure of the Commission to notify any person or corporation of its obligation to make a report required by statute shall not relieve that person or corporation of its obligation to do so.
- (3) For the purposes of 68 O.S. 2369(D)(4), a report shall be defined as that required for each recipient of payments as defined in 710:50-3-52.
- (4) Income taxes withheld pursuant to 68 O.S. § 2385.26 shall be reported to the taxpayer on either IRS Form 1099 or Oklahoma Tax Commission Form 500-A.

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-3-51. Production payments

- (a) Amounts of production payments necessitating the reporting requirements of 68 O.S. 2369 may be determined by the Commission as it deems appropriate. Under no circumstances shall this amount be less than that required by the Internal Revenue Service.
- (b) Reports of production payments shall be made in such a form as the Commission shall prescribe and shall be due to the Oklahoma Tax Commission no later than February 28 for reporting production payments for the preceding calendar year.
- (c) Prior to the issuance of an order to withhold production payments, the Commission shall notify any taxpayer deemed to be delinquent that they are required to file an Income Tax Return and that the records of the Commission do not indicate that a return has been filed. This notice shall be deemed to be a demand for the filing of an Oklahoma Income Tax Return. [See: 68 O.S. §2369(D)]
- (d) Failure of the taxpayer to file a return as required by 710:50-3-50 shall result in an assessment against the taxpayer of an amount determined by information furnished by persons making payments to the taxpayer. This assessment shall be made in accordance with the provisions of the Uniform Tax Procedure Code, and mailed to the address of the taxpayer, as reported by the persons making payments to the taxpayer. In the event the taxpayer does not protest this assessment or pay the taxes due within the time allowed, a tax warrant shall be issued. [See: 68 O.S. §221]
- (e) At such time as an assessment becomes final, a notice shall be mailed to the taxpayer. [See: 68 O.S. §2369(D)(3)]

[Source: Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-3-52. "Reports," "records" defined

- (a) For the purposes of assessing penalties set out for refusal or failure to file, the **"reports"** required by statute from persons making production payments means each record, containing the information concerning each individual recipient of payments.
- (b) The term **"record"** shall mean each document, if reported on Oklahoma Form 500-A, as amended, or Federal Form 1099, or each individual recipient, if reported on magnetic media or listed on a **"computer listing"**.

(c) The term "**report**" or "**record**" does not refer cumulatively to all payments made, if made to more than one single recipient. Furthermore, each corporation, if a part of a consolidated group, must separately report for purposes of this subsection, regardless of their filing status for Income Tax Returns.

[Source: Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-3-53. Income tax withholding - oil and gas royalties

(a) Effective for royalty payments made on or after October 1, 2000 and before July 1, 2006, any remitter who distributes revenue to a non-resident royalty interest owner is required to deduct and withhold Oklahoma income tax from each payment being made with respect to production of oil and gas in Oklahoma. The amount of income tax to be withheld is six and three-fourth's percent (6.75%) of the gross royalty amount paid. Effective for royalty payments made on or after July 1, 2006, the rate of withholding for any remitter who distributes revenue to a non-resident royalty interest owner is five percent (5%) with respect to production of oil and gas in Oklahoma

(b) For purposes of this Section, "**remitter**" means any person who distributes revenue to royalty interest owners; "**gross royalty**" means that amount which is reported for federal income tax purposes on IRS Form 1099; "**non-resident royalty interest owner**" means any person who is not a current or permanent resident of Oklahoma who retains a non-working interest in oil or gas production; and "**oil**" and "**gas**" shall have the meaning as the terms are defined in 68 O.S. § 1001.2. Oil and gas royalty payments made to publicly-traded partnerships as defined by Section 7704 (b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes or its publicly-traded partnership affiliates are not subject to the withholding requirement in subsection (a).

(c) Remitters are required to file an Oklahoma Nonresident Royalty Withholding Tax Return and pay the Oklahoma income tax withheld on a quarterly basis, pursuant to this subsection:

(1) For royalty payments made during January, February, and March, the amount withheld is due no later than April 30;

(2) For royalty payments made during April, May, and June, the amount withheld is due no later than July 30;

(3) For royalty payments made during July, August, and September, the amount withheld is due no later than October 30; and

(4) For royalty payments made during October, November, and December, the amount withheld is due no later than January 30 of the following year.

(d) The remitter is also required to provide non-resident individual royalty owners and the Oklahoma Tax Commission an annual written statement showing the name of the remitter, to whom the royalty was paid, the amount of the royalty payment and the amount of Oklahoma income tax withheld. Further, the statement must also furnish the royalty owner's name, address, and social security number or Federal Employer Identification Number. This annual filing with the Oklahoma Tax Commission may be done separately, or in conjunction with the annual reporting requirement under 68 O.S. § 2369, if applicable to the remitter.

(e) Any non-resident royalty interest owner from whom an amount is withheld pursuant to the provisions of this Section, and who files an Oklahoma income tax return is entitled to a credit for the amount withheld. If the amount withheld is greater than the tax due, the non-resident royalty interest owner will be entitled to a refund of the amount of the overpayment.

(f) If the non-resident royalty interest owner is a pass-through entity, the pass-through entity shall allocate the non-resident royalty withholding to its partners, shareholders or members in the same manner as the royalty income.

[Source: Added at 18 Ok Reg 2810, eff 6-25-01; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 36 Ok Reg 1216, eff 8-11-19]

710:50-3-54. Income tax withholding for pass-through entities

(a) **General provisions.** Generally, any pass-through entity that makes a distribution to a non-resident member is required to deduct and withhold Oklahoma income tax from distributions of taxable income being made with respect to Oklahoma source income.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Member"** means:

- (A) A shareholder of a Subchapter S Corporation;
- (B) A partner in a general partnership;
- (C) A partner in a limited partnership;
- (D) A partner in a limited liability partnership;
- (E) A member of a limited liability company; or,
- (F) A beneficiary of a trust.

(2) **"Non-resident"** means an individual who is not a resident of, or domiciled in, this state; a business entity which does not have a commercial domicile in this state; or a trust which is not organized in this state.

(3) **"Pass-through entity"** means:

- (A) A corporation that is treated as a Subchapter S Corporation under the Internal Revenue Code;
- (B) A general partnership;
- (C) A limited partnership;
- (D) A limited liability partnership;
- (E) A trust; or,
- (F) A limited liability company that is not taxed as a corporation for federal income tax purposes. [68 O.S. § 2385.29]

(4) **"Pass-through entity"** does not include an entity which is disregarded for income tax purposes under the Internal Revenue Code.

(c) **Subchapter S Corporations; general, limited, or limited liability partnerships; limited liability companies.** In the case of Subchapter S Corporations; general, limited, or limited liability partnerships; and limited liability companies, withholding of five percent (5%) is required on the Oklahoma portion of the taxable income distributed to each non-resident member. In the case of Subchapter S Corporations paying the tax on behalf of non-resident shareholders (68 O.S. § 2365) or partnerships filing composite returns on behalf of non-resident partners, the non-resident members withholding can be claimed on the return filed by the Subchapter S Corporation or the partnership.

(d) **Trusts.** For trusts, withholding of five percent (5%) is required on the Oklahoma portion of the taxable income distributed to each beneficiary of the trust.

(e) **Non-resident members not subject to withholding.** The following persons and organizations are not subject to required withholding by a pass-through entity:

- (1) Persons, other than individuals, who are exempt from federal income tax;
- (2) Organizations granted an exemption under Section 501(c)(3) of the Internal Revenue Code;

(3) Insurance companies subject to the Oklahoma gross premium income tax and therefore exempt from Oklahoma income tax pursuant to 68 O.S. § 2359(C); and

(4) Non-resident members who have submitted a Nonresident Member Withholding Exemption Affidavit to the pass-through entity and which pass-through entity has submitted the affidavit information on behalf of the member to the Tax Commission. In the affidavit, the non-resident member agrees to be subject to the personal jurisdiction of the Tax Commission in the courts of this state for the purpose of determining and collecting any Oklahoma taxes, including estimated tax payments, together with any related interest and penalties. See (k) of this Section for the procedure to be followed in filing the affidavit.

(A) For non-resident partners included in a composite partnership return under *OAC* 710:50-19-1 and filing a Nonresident Member Withholding Exemption Affidavit, the inclusion of the partner's income within the composite partnership return will satisfy the requirements contained in the affidavit.

(B) For non-resident shareholders filing a Nonresident Member Withholding Exemption Affidavit and electing not to file Oklahoma income tax returns under 68 O.S. § 2365, inclusion of the non-resident shareholder's income in the Subchapter S corporate income tax return will satisfy the requirements contained in the affidavit.

(C) For non-resident beneficiaries included in a trust return and filing a Nonresident Member Withholding Exemption Affidavit, the inclusion of the beneficiary's income within the trust return will satisfy the requirements contained in the affidavit.

(f) When pass-through entities are not required to withhold. Withholding is not required in the following instances:

(1) When an entity is not required to file a federal income tax return, or properly elects out of such duty;

(2) When a pass-through entity is making distributions of income not subject to Oklahoma income tax;

(3) When a pass-through entity has withheld tax on royalty interest income pursuant to 68 O.S. § 2385.25 et seq.;

(4) When a pass-through entity is making distributions to another pass-through entity. Provided however, the exception set out in this paragraph does not relieve the lower-tiered pass-through entity from the duty to withhold on distributions it makes which are not otherwise exempt;

(5) When a pass-through entity is a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code, and is treated as a partnership for purposes of the Internal Revenue Code. Provided the publicly traded partnership has agreed to file an annual information return reporting the name, address, taxpayer identification number, and other information requested by the Tax Commission of each unit-holder with an income in the state in excess of Five Hundred Dollars (\$500.00);

(6) When a distribution made by a pass-through entity has been determined to be not subject to the provisions of this Section by the Commission; or

(7) When a pass-through entity that is required to file either an Oklahoma partnership income tax return or an Oklahoma Subchapter S corporate income tax return makes an election to pay income tax at the entity level pursuant to the Pass-Through Entity Tax Equity Act of 2019. [68 O.S. §

2355.IP-1 et seq.]

(g) **Due dates for payment of pass-through entity withholding.** Pass-through entities that withhold income tax on distributions of taxable income to non-resident members are required to remit the amount of tax withheld from each non-resident member on or before the due date of the pass-through entity's income tax return, including extensions. Any pass-through entity that can reasonably expect the total amount of income tax withheld from all non-resident members to exceed Five Hundred Dollars (\$500.00) for the taxable year must make quarterly estimated tax payments. Oklahoma Nonresident Distributed Income Estimated Withholding Tax Report is to be used to remit the quarterly estimated tax payments. The required estimated tax payments are due on or before the last day of the month after the end of the calendar quarter and must be made in equal quarterly installments. The total of the required quarterly estimated tax payments is the lesser of seventy percent (70%) of the withholding tax that must be withheld for the current taxable year, or one hundred percent (100%) of the withholding tax withheld for the previous taxable year. Any pass-through entity that can reasonably expect the total amount of tax withheld from all non-resident members to be less than Five Hundred Dollars (\$500.00) for the taxable year may, *at their option*, make quarterly estimated tax payments.

(h) **Required reports.** The pass-through entity is required to provide non-resident members and the Oklahoma Tax Commission an annual written statement showing the name of the pass-through entity, to whom the distribution was paid, the amount of taxable income distributed, and the amount of Oklahoma income tax withheld. Further, the statement must also furnish the non-resident member's name, address, and social security number or Federal Employer Identification Number. To accomplish this:

- (1) Each pass-through entity must provide non-resident members with Oklahoma Tax Commission Form 500-B on or before the due date of the pass-through entity's income tax return, including extensions. Copies of OTC Form 500-B, along with OTC Form 501, must be sent to the Oklahoma Tax Commission by the same date.
- (2) Each pass-through entity must file with the Oklahoma Tax Commission the appropriate income tax withholding return on or before the due date of the pass-through entity's income tax return, including extensions.
- (3) Each non-resident member must enclose a copy of OTC Form 500-B with the Oklahoma income tax return as verification for this withholding.

(i) **Non-resident members entitled to credit, or refund, from Oklahoma income taxes paid.** Any non-resident member from whom an amount is withheld pursuant to the provisions of this Section, and who files an Oklahoma income tax return is entitled to a credit for the amount withheld. If the amount withheld is greater than the tax due, the non-resident member will be entitled to a refund of the amount of the overpayment.

(j) **Pass-through entities must register.** Pass-through entities that make distributions subject to Oklahoma withholding must register with the Oklahoma Tax Commission.

(k) **Affidavit filing procedures.** Non-resident members who elect to file a Nonresident Member Withholding Exemption Affidavit agreeing to be subject to the personal jurisdiction of the Tax Commission in the courts of this state for the purpose of determining and collecting any Oklahoma taxes, including estimated tax payments, and any related interest and penalties, must remit the affidavit to the appropriate pass-through entity. The pass-through entity is to retain the affidavit

and file the following information with the Oklahoma Tax Commission by the due date of the required annual tax return of the pass-through entity.

(1) **Content.** The name, address, and social security number or federal identification number of the non-resident member having signed an affidavit. All pass-through entities are required to file the non-resident member affidavit information on a diskette or CD with the Oklahoma Tax Commission - Audit Services Division.

(2) **Format.** The format for filing the diskette or CD will be in either a spreadsheet format (i.e. Lotus 1-2-3 or Excel) or a database format (i.e. dbf or Access).

(3) **Waiver.** Pass-through entities may obtain a waiver from the diskette or CD filing requirement if the pass-through entity can demonstrate that a hardship would result if it were required to file on a diskette or CD. Direct waiver requests to the Oklahoma Tax Commission - Audit Services Division.

[Source: Added at 21 Ok Reg 2571, eff 6-25-04; Amended at 22 Ok Reg 170, eff 10-21-04 (emergency); Amended at 22 Ok Reg 1532, eff 6-11-05; Amended at 29 Ok Reg 1468, eff 6-25-12; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-3-55. Reporting the transfer or allocation of a tax credit

(a) **General provisions.** The transfer or allocation of any tax credit authorized pursuant to the provisions of Title 68 of the Oklahoma Statutes, except as otherwise provided in this Section, shall be reported to the Tax Commission.

(b) **Exceptions.** This Section shall not apply to the following tax credits:

- (1) Sales Tax Relief Credit (68 O.S. § 5011)
- (2) Low Income Property Tax Relief Credit (68 O.S. § 2907)
- (3) Earned Income Tax Credit (68 O.S. § 2357.43)
- (4) Child Care/Child Tax Credit (68 O.S. § 2357)
- (5) Credit for Taxes Paid to another State (68 O.S. § 2357)

(c) **Report.** The transfer or allocation of any tax credit, on or after July 1, 2011, shall be reported to the Tax Commission (OTC Form 569) by the entity transferring or allocating the credit. Said form shall be filed on or before the twentieth day of the second month after the tax year in which an act occurs which allows the tax credit to eventually be claimed.

(d) **Transferable credits.** If the credit is transferable, the report shall state:

- (1) Name of the taxpayer and taxpayer identification number to whom the credit is transferred;
 - (2) Tax type;
 - (3) Amount of credit;
 - (4) Statutory or other legal authority which forms the basis for the credit;
- and
- (5) Any other information the Tax Commission may require.

(e) **Allocable credits.** If the credit is allocated, the report shall state:

- (1) Identity of the shareholder, partner or member of the pass-through entity to whom the credit is allocated;
- (2) Taxpayer identification number of the shareholder, partner or member of the pass-through entity to whom the credit is allocated;
- (3) Whether the shareholder, partner or member of the pass-through entity to whom the credit is allocated is a pass-through entity;
- (4) Tax type;
- (5) Amount of credit;

(6) Statutory or other legal authority which forms the basis for the credit;
and

(7) Any other information the Tax Commission may require.

(f) **Failure to file report.** If a taxpayer claims a credit on any state tax return that was not previously reported to the Tax Commission, pursuant to this Section, the Tax Commission shall disallow the credit and recompute the applicable tax liability including any penalty and interest; provided, upon the filing of the report, the credit shall be allowed.

[Source: Added at 29 Ok Reg 1468, eff 6-25-12; Amended at 36 Ok Reg 1216, eff 8-11-19]

PART 9. "INNOCENT SPOUSE" RELIEF PROCEDURE

710:50-3-60. Relief of spouse from Oklahoma income tax liability on joint Oklahoma income tax return

If a joint Oklahoma income tax return was filed on which there is, or there is subsequently determined to be, a liability attributable to income or activity for one spouse, the other spouse may be relieved of the liability for the Oklahoma income tax, including interest and penalty, if the spouse requesting relief can establish, by a preponderance of the evidence, that:

- (1) The liability is attributable to the income or business activity of the non-requesting spouse; and
- (2) It would be inequitable to hold the requesting spouse liable for the tax liability. Factors, not all-inclusive, which may be considered in determining whether it would be inequitable to hold the requesting spouse liable are:
 - (A) Whether the requesting spouse received a benefit, such as a lavish gift, increased standard of living or additional money from the nonpayment of tax;
 - (B) Whether the spouse requesting relief has been deserted, divorced, separated, or widowed;
 - (C) Business background or education of the requesting spouse;
 - (D) Involvement of the requesting spouse in the financial affairs of the family; and
 - (E) Involvement of the requesting spouse in the business or transaction giving rise to the tax liability.

[Source: Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-3-61. Docketing of request for relief [REVOKED]

[Source: Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96; Revoked at 38 Ok Reg 1527, eff 9-1-21]

710:50-3-62. Initial review, determination of recommendation

The Income Tax Accounts Division will review all requests for relief and the supporting documentation and will make a recommendation that the Tax Commission grant the requested relief if the documentation has established that the liability is attributable to the income or business activity of the non-requesting spouse and that to hold the requesting spouse liable for the deficiency for the tax year involved would be inequitable.

[Source: Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-3-63. Procedure upon adverse recommendation

If the Income Tax Accounts Division does not intend to recommend that the Commission grant the requesting spouse relief, the Division shall notify the requesting spouse of the recommendation. The notification letter shall state prominently that should the applicant wish to pursue the request, the applicant should do so by contacting the Income Tax Accounts Division, in writing, within thirty days of the mailing of the notification. Failure of the applicant to pursue the request within thirty days of the mailing of the notification shall constitute grounds for the denial of relief.

[Source: Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-3-64. Presentation of relief request to Commission

(a) All requests for relief, whether recommended or not, shall be presented to the Commission at a regularly scheduled meeting. The Income Tax Accounts Division shall set forth the facts in writing, have the request placed on the Commission's docket, and notify the applicant of the day the request will be heard by the Commission. The applicant may appear before the Commission and present documentary evidence and testimony in the form of affidavit(s).

(b) No hearing other than the appearance at a regularly scheduled meeting of the Commission will be held. No transcript of the appearance before the Commission will be prepared.

(c) Should the applicant desire a transcription or recording of taxpayer's appearance before the Commission, the applicant will need to contact a certified court reporter, and make the necessary arrangements for the presence of the reporter at the Commission meeting, and the cost thereof. The cost of transcribing will be borne by the applicant, who must furnish the original of the transcript to the Commission.

[Source: Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-3-65. "Preponderance of the evidence" defined

For purposes of implementing Section 2361 of Title 68 of the Oklahoma Statutes and the rules set out in this Part, "**preponderance of the evidence**" means the evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; evidence which as a whole shows that the fact sought to be proved is more probable than not.

[Source: Added at 13 Ok Reg 51, eff 10-2-95 (emergency); Added at 13 Ok Reg 3105, eff 7-11-96]

SUBCHAPTER 5. AUDIT AND ASSESSMENT

PART 1. AUDITS

710:50-5-1. Oklahoma travel law on out-of-state audits [REVOKED]

[Source: Revoked at 16 Ok Reg 2646, eff 6-25-99]

PART 3. ASSESSMENTS

710:50-5-10. Assessment procedure; assessment based upon information derived from Internal Revenue Service

(a) Assessments shall be made in accordance with the Uniform Tax Procedure Code. The income information furnished by the I.R.S. shall be that upon which any tax liability is computed. Unless otherwise indicated in the Revenue Agent's Report (R.A.R.), all income is considered to be from Oklahoma sources, as are all deductions and credit, to the extent that they are allowed by Oklahoma Statute. The taxpayer is considered to be, or to have been an Oklahoma resident during the year or years examined by the I.R.S. by virtue of the fact that the results of the examination are disclosed to the Commission by the I.R.S. The assessment shall be mailed to the address shown on the R.A.R. or the last known address of the taxpayer.

(b) In cases where returns have not been previously filed by the taxpayer, the Tax Commission may, in its discretion and in the alternative to assessing taxes, demand that the taxpayer file a return as required. For the purpose of this Section, the determination that the taxpayer was, in fact, required to file an Oklahoma Tax Return shall be based on the information furnished by the I.R.S.

710:50-5-11. Protests of assessments [REVOKED]

[Source: Revoked at 38 Ok Reg 1527, eff 9-1-21]

710:50-5-12. Limitation of time for assessment

(a) There shall be no assessment of any income tax after the expiration of 3 years from the date the return was required to be filed or the date the return was filed, whichever period expires latest. To determine when a return was filed, the Commission shall rely on its files and records, unless the taxpayer can furnish satisfactory evidence that the return was, in fact, filed.

(b) When no return has been filed, or where it is determined that a false or fraudulent report or return has been filed, the Commission may, at any time, compute, determine, and assess the estimated amount of tax due from any information in its possession.

710:50-5-13. Exceptions to statute of limitations

(a) When the Internal Revenue Service and the taxpayer have consented in writing to an extension prior to the time allowed in 68 O.S. §223, the Tax Commission may assess or refund income tax, as imposed under Title 68, any time prior to the expiration of time agreed upon.

(b) The Oklahoma Tax Commission may make assessment or refund after the expiration of time allowed in 68 O.S. §223 if corrections or changes are made by the Internal Revenue Service. The taxpayer shall notify the Oklahoma Tax Commission within one (1) year after such change or correction is made by the Internal Revenue Service and the Oklahoma Tax Commission shall, within two (2) years from the date of notification by the taxpayer, make such assessment or refund, unless a waiver between the taxpayer and the Oklahoma Tax Commission has been agreed to and signed. Failure to notify the Oklahoma Tax Commission of such changes shall cause the statute of limitations to be tolled.

(c) The Commission shall have the authority to audit each and every item of taxable income, expense, credit or any other matter related to the return where such items are matters of allocation and/or apportionment between Oklahoma and some other state even if such items were not affected by revisions made by the Internal Revenue Service. Where items are not matters of allocation and/or apportionment between Oklahoma and some other state, the Commission shall be bound by the consequences of the assessment of income tax or refund of income tax made by the

Internal Revenue Service after the amount of such net income has been finally ascertained.

(d) Certain claims of military personnel, under conditions described in 68 O.S. § 2358 may not be barred by the 3-year limitation.

(e) There is no statute of limitation for paying an established liability or for a liability on an unfiled return.

[Source: Amended at 10 Ok Reg 3837, eff 7-12-93; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 36 Ok Reg 1216, eff 8-11-19]

SUBCHAPTER 7. REMITTANCES

710:50-7-1. Payment of tax

Individuals filing a joint Oklahoma Income Tax Return are both jointly and individually liable for the payment of any taxes due. [See: 26 U.S.C.A §6013]

710:50-7-2. Application of payments [REVOKED]

[Source: Amended at 25 Ok Reg 2056, eff 7-1-08; Revoked at 32 Ok Reg 1354, eff 8-27-15]

SUBCHAPTER 9. REFUNDS

710:50-9-1. Refunds

If the total of amounts withheld and/or Oklahoma estimated tax payments exceeds the figure computed for Oklahoma Income Tax liability, a refund may be due the taxpayers.

710:50-9-2. When a refund is barred by statute of limitations

When an original return has not been filed, the Commission will not issue a refund on an original income tax return filed 3 years after the original due date of the return. A refund that is "barred by statute" cannot be used as payment on any delinquent account or applied to estimated tax. Exceptions to the statute of limitations set out in 710:50-5-13 also apply to certain refund situations. [See: 68 O.S. §2373]

[Source: Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-9-3. Interest on refunds

(a) **Returns filed prior to January 1, 2004.** For returns filed on or after January 1, 1987, and before January 1, 2004, interest will be paid on income tax refunds that are not processed within ninety (90) days from the date a processible return is filed or due, whichever is later, at the same rate of interest specified for delinquent tax payments.

(b) **Returns filed on or after January 1, 2004 and before January 2, 2010.** In the case of returns filed on or after January 1, 2004 and before January 2, 2010, a taxpayer will be entitled to interest paid at the same rate specified for delinquent tax payments if the refund is not paid to the taxpayer within the following time periods:

(1) For electronically-filed returns, thirty (30) days from the date a processible return is filed or due, whichever is later; and,

(2) For all other returns, one hundred fifty (150) days from the date a processible return is filed or due, whichever is later.

(c) **Returns filed after January 1, 2010 and before July 1, 2016.** For returns filed after January 1, 2010 and before July 1, 2016, a taxpayer will be entitled to interest paid at the same rate specified for delinquent tax payments if the refund is not paid to the taxpayer within the following time periods:

- (1) For electronically-filed returns, twenty (20) days from the date a processible return is filed, and
- (2) For all other returns, ninety (90) days from the date a processible return is filed.

(d) **Returns filed on or after July 1, 2016.** For returns filed on or after July 1, 2016, a taxpayer will be entitled to interest paid at the same rate specified for delinquent tax payments if the refund is not paid to the taxpayer within the following time periods:

- (1) For electronically-filed returns, forty-five (45) days from the date a processible return is filed, and
- (2) For all other returns, ninety (90) days from the date a processible return is filed.

(e) **Processible return.** To be "**processable**", all information on the return, including the computations, must be correct and all documents required by the Tax Commission must be included. In the case of an Amended Oklahoma Income Tax Return with a federal adjusted gross income change, the return must be accompanied by documentation to substantiate that the I.R.S. accepted the requested change. [See: 68 O.S. § 217(H)]

(f) **Exceptions.** Alternative statutory provisions apply in the following instances:

- (1) Interest will not be paid on refunds that are intercepted for state or federal agencies. See provisions of Subchapter 11 of this Chapter. [See: 68 O.S. § 217(H)]
- (2) In the event of litigation, interest will be paid in accordance with 68 O.S. §2374.
- (3) In the case of refunds made to recover taxes illegally collected on bonus payments from oil and gas leases located on tax exempt Indian lands interest at 6 percent (6%) per annum will be calculated from the date of payment by the taxpayer, until the date the refund is issued. [See: 68 O.S. § 2373]

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 22 Ok Reg 1532, eff 6-11-05; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 34 Ok Reg 81, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-9-4. Refunds returned by postal service [REVOKED]

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01; Revoked at 34 Ok Reg 2065, eff 9-11-17]

710:50-9-5. Distribution of refunds [REVOKED]

[Source: Revoked at 15 Ok Reg 2811, eff 6-25-98]

710:50-9-6. Refunds less than \$1.00

The Commission will not issue refund vouchers for income tax overpayments of less than \$1.00. The Commission likewise will not enforce the collection of a tax due of less than \$1.00.

710:50-9-7. Refund vouchers void after 90 days

(a) Refunds issued for overpayment of income tax become void ninety (90) days after issuance. In the case of an income tax refund warrant which has not been presented for payment within the ninety (90) days, a reissue of the refund warrant may be requested from the Tax Commission. Such an income tax refund warrant may be reissued for a like amount up to three (3) years from the date of the issuance of the original warrant. [See: 68 O.S. § 2385.16]

(b) Refunds not claimed at the end of three years from the date of issuance will be turned over to the Unclaimed Property section of the State Treasurer's Office.

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 22 Ok Reg 1532, eff 6-11-05]

710:50-9-8. Reissued vouchers for deceased taxpayer refunds or lost, stolen or forged vouchers

(a) Income tax refunds which are issued in the name of a deceased taxpayer who is not represented by an executor or executrix may be returned to the Oklahoma Tax Commission for reissuance in the name of the claimant, upon a determination that the claimant is the proper recipient. OTC Form 507, along with a separate letter setting out the facts and signed by the claimant, must accompany any such claim.

(b) Claims for refunds that have been lost in the clearing process may be submitted to the State Treasurer's Office for reissue. Upon notification by the State Treasurer, the Tax Commission will reissue the voucher in the name of the taxpayer and forward to the holder in due course.

(c) Refund vouchers which have become lost, stolen or forged will be reissued by the Tax Commission after the taxpayer has properly executed an affidavit setting out the facts, and upon approval by the State Treasurer's office.

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-9-9. Different spouse refunds [REVOKED]

[Source: Revoked at 22 Ok Reg 1532, eff 6-11-05]

710:50-9-10. Checkoff program

(a) **Checkoff program.** The Oklahoma Income Tax Checkoff Program provides a taxpayer with the opportunity to make a financial gift to a variety of Oklahoma organizations from a tax refund due.

(b) **Expiration of a checkoff category.** All income tax checkoffs provided for in state statute shall expire four (4) years after enactment, unless reauthorized by the Legislature. [See: 68 O.S. § 2368.18]

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 34 Ok Reg 2065, eff 9-11-17]

SUBCHAPTER 11. INTERCEPT OF REFUNDS

710:50-11-1. Refunds may be intercepted [REVOKED]

[Source: Revoked at 22 Ok Reg 1532, eff 6-11-05]

710:50-11-2. Notice to taxpayer [REVOKED]

[Source: Amended at 21 Ok Reg 2571, eff 6-25-04; Revoked at 22 Ok Reg 1532, eff 6-11-05]

710:50-11-3. Notice of protest [REVOKED]

[Source: Amended at 21 Ok Reg 2571, eff 6-25-04; Revoked at 22 Ok Reg 1532, eff 6-11-05]

710:50-11-4. Joint returns intercept [REVOKED]

[Source: Revoked at 22 Ok Reg 1532, eff 6-11-05]

710:50-11-4.1. Definition of a qualifying entity

For purposes of this subchapter, a qualifying entity shall mean a:

- (1) State agency;
- (2) Municipal court;
- (3) District court;
- (4) Public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes;
- (5) District attorney seeking to collect unpaid court-ordered monetary obligations; or
- (6) The designee of an entity described in paragraphs (1) through (5) of this subsection. [See: 68 O.S. §205.2(A)]

[Source: Added at 33 Ok Reg 1068, eff 8-25-16]

710:50-11-5. Refunds shall be intercepted

Prior to payment of any refund, the Tax Commission shall deduct from any state refund due to a taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law. [See: 68 O.S. § 205.2(F)]

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 33 Ok Reg 1068, eff 8-25-16]

710:50-11-6. Priority of claims; procedures

(a) The Tax Commission shall have first priority over all qualified entities when the Tax Commission is collecting a debt, municipal fines and cost, or final judgment. Subsequent to the Tax Commission priority, a claim filed by the Department of Human Services for the collection of child support and spousal support shall have priority over all other claims filed pursuant to this Subchapter. Priority in multiple claims by other qualified entities pursuant to the provisions of this Section shall be in the order in which the Tax Commission receives the claim from the qualified entities required by (b) of this Section. [See: 68 O.S. § 205.2(G)]

(b) A qualified entity seeking to collect a debt, unpaid fines and cost, or final judgment of at least Fifty Dollars (\$50.00) from an individual who has filed a state income tax return may file a claim with the Tax Commission, requesting that the amount owed to the qualified entity be deducted from any state income tax refund due to that individual. The claim shall be filed electronically in a form prescribed by the Tax Commission and shall contain information necessary to identify the person owing the debt, including the full name and Social Security Number of the debtor. [See: 68 O.S. § 205.2(B)]

(c) Upon receiving a claim from a qualified entity, the Tax Commission shall deduct the claim amount, plus collection expenses as provided in *OAC 710:50-11-11*, from the tax refund due the debtor and transfer the amount to the qualified entity. Provided, the Tax Commission need not report available funds of less than Fifty Dollars (\$50.00).

(d) The Tax Commission has established a central computerized record keeping system to implement the identification of such debtors and may, upon the proper establishment of a claim by a referring agency, intercept a taxpayer's Oklahoma Income Tax Refund and deliver over the proceeds to the referring agency to satisfy

the debtor's or municipal court defendant's obligations.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16]

710:50-11-7. Notice to taxpayer

(a) The referring qualified entity to whom a debt is owed must notify the taxpayer/debtor of an income tax refund intercept.

(b) The qualified entity shall send notice to the debtor by regular mail at the last-known address of the debtor as shown by the records of the Tax Commission when seeking to collect a debt not reduced to final judgment. The qualified entity shall send notice to the judgment debtor or municipal court defendant by first class mail at the last-known address of the judgment debtor or municipal court defendant as shown by the records of the Tax Commission when seeking to collect a final judgment or unpaid municipal fines and cost. The Tax Commission shall provide in an agreed electronic format to the Department of Human Services the amount withheld by the Tax Commission, the home address and the Social Security number of the taxpayer. The notice shall state:

(1) That a claim has been filed with the Tax Commission for any portion of the tax refund due to the debtor or municipal court defendant which would satisfy the debt, unpaid municipal fines and cost, or final judgment in full or in part;

(2) The basis for the claim;

(3) That the Tax Commission has deducted an amount from the refund and remitted it to the qualified entity;

(4) That the debtor or municipal court defendant has the right to contest the claim by sending a written request to the qualified entity for a hearing to protest the claim and if the debtor or municipal court defendant fails to apply for a hearing within sixty (60) days of the date of mailing of the notice, the debtor or municipal court defendant shall be deemed to have waived the opportunity to contest the claim. If the claim was filed by the Department of Human Services, the notice shall state that the debtor must contest the claim by sending a written request to the Department within thirty (30) days after the date of mailing of the notice; and,

(5) That a collection expense of five percent (5%) of the gross proceeds owed to the qualified entity has been charged to the debtor or municipal court defendant and withheld from the refund.

(c) If the qualified entity determines that a refund is due the taxpayer, the qualified entity shall reimburse the amount claimed plus the five percent (5%) collection expense to the taxpayer. The qualified entity may request reimbursement of the two percent (2%) collection expense retained by the Tax Commission. The request shall be made within ninety (90) days of the reimbursement to the taxpayer. If timely requested, the Tax Commission will make reimbursement to the qualified entity within ninety (90) days of the request.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16]

710:50-11-8. Post intercept notice [REVOKED]

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Revoked at 28 Ok Reg 935, eff 6-1-11]

710:50-11-9. Joint returns intercept

(a) The Tax Commission will intercept a refund from a Joint Income Tax Return to offset a past due obligation if either spouse is legally responsible for the past due obligation.

(b) In the case of a joint return, the notice shall state:

- (1) The name of the taxpayer named in the return, against whom no debt, no unpaid fines and cost, or final judgment is claimed;
- (2) The fact that a debt, unpaid municipal fines and cost, or final judgment is not claimed against the taxpayer;
- (3) The fact that the taxpayer is entitled to receive a refund if it is due, regardless of the debt, municipal fines and cost, or final judgment asserted against debtor or municipal court defendant; and,
- (4) That in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the qualified entity named in the notice within sixty (60) days after the date of the mailing of the notice. If the claim was filed by the Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice. Tax Commission Form 505 can only be used to claim the refund when the Tax Commission is the agency claiming that a debt is owed.

(c) If the taxpayer against whom no debt, no unpaid municipal fines and cost, or final judgment is claimed fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund. If the claim was filed by the Department of Human Services, the notice must state that if the taxpayer fails to apply in writing for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, the taxpayer shall have waived his or her right to a refund. [See: 68 O.S. § 205.2(B)(4)]

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16]

710:50-11-10. Nondebtor spouse protest

If the qualified entity asserting the claim receives a written request for hearing from the debtor or taxpayer against whom no debt, no municipal fines and cost, or final judgment is claimed, the qualified entity shall grant a hearing according to the provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes. It shall be determined at the hearing whether the claimed sum is correct or whether an adjustment to the claim shall be made. Pending final determination at the hearing of the validity of the debt, unpaid fines and cost, or final judgment asserted by the qualified entity, no action shall be taken in furtherance of the collection of the debt, unpaid fines and cost, or final judgment. Appeals from actions taken at the hearing shall be in accordance with the provisions of the Administrative Procedures Act. [See: 68 O.S. § 205.2(C)]

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16]

710:50-11-11. Notification after final determination at hearing

(a) Upon final determination at a hearing, as provided for in 710:50-11-10, of the amount of the debt, unpaid fines and cost, or final judgment, or upon failure of the debtor or taxpayer against whom no debt, no unpaid fines and cost, or final judgment is claimed to request such a hearing, the qualified entity shall apply the amount of the claim to the debt owed. Any amounts held by the qualified entity in excess of the final determination of the debt and collection expense must be

refunded by the qualified entity to the taxpayer. However, if the tax refund due is inadequate to pay the collection expense and debt, unpaid fines and cost, or final judgment, the balance due the qualified entity shall be a continuing debt or final judgment until paid in full.

(b) Upon receipt of a claim as provided in *OAC 710:50-11-6* the Tax Commission shall:

- (1) Deduct from the refund five percent (5%) of the gross proceeds owed to the qualified entity and distribute it by retaining two percent (2%) and transferring three percent (3%) to the qualified entity as an expense of collection. The two percent (2%) retained by the Tax Commission shall be deposited in the Tax Commission Fund;
- (2) Transfer the amount of the claimed debt, unpaid fines and cost, or final judgment or so much thereof as is available to the qualified entity;
- (3) Notify the debtor in writing as to how the refund was applied; and,
- (4) Refund to the debtor any balance remaining after deducting the collection expense and debt, unpaid fines and cost, or final judgment. [See: 68 O.S. § 205.2(D) and (E)]

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16]

710:50-11-12. Debts owed to the Internal Revenue Service

The Tax Commission may employ the procedures provided by Section 205.2 of Title 68 in order to collect a debt owed to the Internal Revenue Service. [See: 68 O.S. § 205.2(J)]

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 33 Ok Reg 1068, eff 8-25-16]

SUBCHAPTER 12. TREASURY OFFSET PROGRAM

710:50-12-1. Purpose

The provisions in this Subchapter have been promulgated to implement and administer, in conjunction with the Internal Revenue Service, the Treasury Offset Program, "TOP" authorized by 26 U.S.C. § 6402(e) and 31 C.F.R. § 285.8.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

710:50-12-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Debt" means past-due, legally enforceable State income tax obligation unless other indicated.

"Debtor" means a person who owes a state income tax obligation.

"IRS" means the Internal Revenue Service, a bureau of the U.S. Department of the Treasury.

"Past-due, legally enforceable State income tax obligation" means a debt which resulted from:

- (A) A judgment rendered by a court of competent jurisdiction, which has determined an amount of State income tax to be due;
- (B) A determination after an administrative hearing which has determined an amount of state income tax to be due and which is no longer subject to judicial review; or,

(C) A State income tax assessment (including a self-assessment) which has become final in accordance with State law but not collected, and which has not been delinquent for more than 10 years.

"Tax refund offset" means withholding or reducing a tax refund overpayment by an amount necessary to satisfy a debt owed by the payee(s).

"Tax refund payment" means any overpayment of Federal taxes to be refunded to the person making the overpayment after the IRS makes the appropriate credits for any liabilities for any Federal tax on the part of the person who made the overpayment.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

710:50-12-3. Address on federal tax return

TOP will only offset a tax refund payment if the address shown on the Federal tax return for the taxable year of the overpayment is an address within the State seeking the offset.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

710:50-12-4. Advance notification to debtor

(a) The State is required to provide a written notification to the debtor by certified mail, return receipt requested, informing the debtor that the State intends to refer the debt for collection by tax refund offset. The notice must also give the debtor at least 60 days to present evidence, in accordance with procedures established by the State, that all or part of the debt is not past-due or not legally enforceable.

(b) The State must, in accordance with procedures established by the State, consider any evidence presented by a debtor in response to the notice described in (a) of this Section and determine whether an amount of such debt is past-due and legally enforceable.

(c) Prior to submitting a debt to TOP for collection by tax refund offset, the State must make reasonable efforts to collect the debt. Reasonable efforts include making written demand on the debtor for payment and complying with any other prerequisites to offset established by the State.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

710:50-12-5. Post-offset notice

(a) When an offset occurs, TOP shall notify the debtor in writing of the following:

- (1) The amount and date of the offset and that the purpose of the offset was to satisfy a past-due, legally enforceable State income tax obligation;
- (2) The State to which this amount has been paid or credited; and,
- (3) A contact point within the State that will handle concerns or questions regarding the offset.

(b) The notice shall also advise any non-debtor spouse who may have filed a joint return with the debtor of the steps which the non-debtor spouse may take in order to secure his or her proper share of the tax refund.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

710:50-12-6. Offsets on joint returns

If the person filing a joint return with a debtor who owes a past-due, legally enforceable State income tax obligation takes appropriate action to secure his or her proper share of a tax refund from which an offset was made, the IRS will pay the

person his or her share of the refund and request that TOP deduct that amount from future amounts payable to the State or that TOP otherwise obtain the funds back from the State. TOP, or the appropriate State, will adjust their debtor records accordingly.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

710:50-12-7. Fees paid to TOP

The State will pay a fee to TOP to cover the full cost of offsets taken. The fee will be established annually in such amount as TOP determines to be sufficient to reimburse TOP for the full cost of the offset procedure. TOP will deduct the fees from amount collected prior to disposition and transmit a portion of the fees deducted to reimburse the IRS for its share of the cost of administering TOP.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 36 Ok Reg 1216, eff 8-11-19]

SUBCHAPTER 13. ESTIMATED TAX

710:50-13-1. Estimated tax

Taxpayers, resident and non-resident, who have income subject to Oklahoma Income Tax and tax is not withheld on that income, must report and pay Estimated Oklahoma Income Tax.

710:50-13-2. Payment of estimated tax [REVOKED]

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01; Revoked at 32 Ok Reg 1354, eff 8-27-15]

710:50-13-3. Who must make payments of estimated tax; due dates

- (a) Payment of estimated income tax must be made by the following:
- (1) A single individual whose tax liability for the year is estimated to be \$500.00 or more in excess of taxes withheld from wages.
 - (2) Married individuals whose combined tax liability for the year is estimated to be \$500.00 or more in excess of taxes withheld from wages.
 - (3) A corporation or trust whose tax liability for the year is estimated to be \$500.00 or more.
- (b) Initial payments of estimated tax should be made by:
- (4) Calendar-year taxpayers, no later than April 15th.
 - (5) Fiscal-year taxpayers, by the fifteenth day of the fourth month following the beginning of the taxable year. [See: 68 O.S. § 2385.7]

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-13-4. Joint declaration of estimated tax [REVOKED]

[Source: Revoked at 18 Ok Reg 2810, eff 6-25-01]

710:50-13-5. Estates and farmers; estimated tax not required; farm income described

- (a) Estates and farmers are not required to file an Estimated Tax Declaration. A "**farmer**" is an individual whose Farm Income for the taxable year is at least 2/3 of the individual's gross income for the taxable year. [See: 68 O.S. §2385.7]
- (b) If an individual qualified as a "**farmer**," pursuant to the definition set out in subsection (a) for the previous taxable year, that individual shall not be required to qualify for the current taxable year. In no event, however, shall the qualification for

the previous taxable year be carried forward for more than one (1) year.

(c) Farm Income includes income received from cultivating the soil or raising or harvesting any agricultural commodity. This includes the income from the operation of a stock, dairy, poultry, fish, bee, fruit or truck farm, plantation, ranch or orchard.

(d) Farm Income does not include gain from sales or income from the lease of farm land and depreciable farm equipment; income received for custom machine work; or oil and gas income. Wages received as an employee of a farm will not be considered "**farm income.**" This includes wages received from a farm corporation even if the taxpayer is a stockholder in the corporation.

(e) Persons qualifying for farm exception shall file OTC Form 511 and include a copy of their Federal Income Tax Return.

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98]

710:50-13-6. Payment of estimated tax

(a) OTC Form OW-8-ES (individual) and OTC Form OW-8-ESC (corporations, fiduciaries and partnerships) should be used to report and pay estimated Oklahoma Income Tax. Print or type taxpayer's name, Social Security Number or Federal I.D. Number, address and the amount of the payment on each voucher

(b) Oklahoma Estimated Income Tax is to be paid on or before the following dates: April 15 of the current taxable year, June 15 of the current taxable year, September 15 of the current taxable year, and January 15 of the following taxable year. Fiscal year filers will pay Oklahoma Estimated Income Tax on or before the following dates: the 15th day of the fourth month of the fiscal year, the 15th day of the sixth month of the fiscal year, the 15th day of the ninth month of the fiscal year, and the 15th day of the first month in the succeeding fiscal year. The estimated tax is to be applied to the applicable tax year's Oklahoma Income Tax liability, and may be claimed on the applicable tax year's Oklahoma Income Tax Return.

(c) Refunds will be applied, at the taxpayer's request, to Oklahoma Estimated Income Tax for the following year, on the original return only.

(d) If a taxpayer elects to have an overpayment credited to the following year's Oklahoma Estimated Income Tax in error, the taxpayer may request, in writing, any or all of the estimated tax payment be refunded to the taxpayer. The request must be filed no later than October 15 of the year in which the refund was to be applied. For example, if a 2015 refund was applied to 2016 estimated tax, the written request for a refund of the estimated tax payment must be received by October 15, 2016.

(e) Provided, however, that when a refund is applied, at the Taxpayer's request, to the following year's Oklahoma Estimated Income Tax and either the Tax Commission or the Internal Revenue Service subsequently determines that additional tax is due for the original tax year, no delinquent interest shall be due on the difference between the original tax paid and the subsequently-determined amount of tax, so long as the refund applied exceeds the additional tax due and the taxpayer makes payment of the additional tax within sixty (60) days of the notice of assessment. In the event that the additional tax due exceeds the refund applied, delinquent interest shall be assessed on the amount of additional tax due from the date the original tax was due, until the total additional tax is paid.

(f) All estimated tax payments should be paid under the Social Security Number listed first on the Oklahoma Income Tax Return.

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 32 Ok Reg 1354, eff 8-27-15; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-13-7. "Required annual payment" of estimated tax defined

- (a) "Required annual payment", as used in this Section, means the lesser of:
- (1) Seventy percent (70%) of the tax shown on the return for the taxable year; or
 - (2) One Hundred percent (100%) of the tax shown on the return for the preceding taxable year of twelve (12) months.
- (b) Where income has not been earned evenly throughout the year, the required annual payment of estimated tax may also be computed pursuant to the provisions of 710:50-13-9, 68 O.S. § 2385.9(C), and applicable sections of the Internal Revenue Code.
- (c) Interest is levied at 20% per annum, computed per quarter, on any underpayment of the required annual payment of estimated tax.

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-13-8. Interest on underpayment of estimated tax; exceptions

- (a) Interest is levied at 20% per annum, for the period of underpayment, on any underpayment of the "required annual payment" of estimated tax, as that term is defined by 68 O.S. § 2385.9(B) and 710:50-13-7.
- (b) The **amount** of the underpayment equals the excess of the required installment over the amount paid on or before the due date of the installment. The **period** of underpayment runs from the due date of the required installment to the earlier of the fifteenth day of the fourth month, or for corporations, the fifteenth day of the third month, following the close of the taxable year or the date on which the required installment is paid.
- (c) Provided, however, no interest will be added to the tax if:
- (1) The tax shown on the return for the taxable year is less than One Thousand Dollars (\$1,000.00); or
 - (2) The taxpayer was an Oklahoma resident throughout the preceding taxable year of twelve (12) months and did not have any liability for tax for the preceding taxable year.
- (d) OTC Form OW-8-P is a schedule provided for calculating interest for underestimating and also provides for an exception for fluctuations of income throughout the year.

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-13-9. Estimated tax using annualized income method

- (a) Corporate taxpayers whose Oklahoma Taxable Income was not earned evenly throughout the year may use the annualized method as described in this Section, or in the case of individual taxpayers, in accordance with the provisions of the Internal Revenue Code.
- (b) The interest for the underpayment of estimated tax is not applicable if the estimated tax paid at the respective installment dates is at least an amount equal to seventy percent (70%) of the tax for the taxable year, computed by placing, on an annualized basis, the Oklahoma taxable income:
- (1) For the first three months of the taxable year in the case of the installment due on the 15th day of the fourth month;
 - (2) For the first three months of the taxable year in the case of the installment due on the 15th day of the sixth month;

- (3) For the first six months of the taxable year in the case of the installment due on the 15th day of the ninth month; and
- (4) For the first nine months of the taxable year in the case of the installment due on the 15th day of the first month of the succeeding taxable year.

(c) To annualize income, multiply the Oklahoma Taxable Income for the applicable period by 12 and divide by the number of months in the applicable period.

[Source: Added at 14 Ok Reg 390, eff 11-27-96 (emergency); Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 28 Ok Reg 935, eff 6-1-11]

710:50-13-10. The return for the taxable year

If an individual taxpayer files an amended return after filing the original return and before the due date for filing the original return, including any extensions, the amended return constitutes "**the return for the taxable year**" pursuant to 68 O.S. § 2385.13. The amount shown on the amended return is used to determine the amount of underpayment. If the amended return is filed after the due date it is not "the return for the taxable year" for purposes of Section 2385.13. In that case, the tax shown on the amended return will not be used to compute the amount of underpayment.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME

PART 1. GENERAL PROVISIONS

710:50-15-1. Oklahoma taxable income

Certain exemptions, deductions and adjustments must be made to Federal taxable income to arrive at Oklahoma taxable income.

710:50-15-2. Application of the Oklahoma Individual Income Tax to Native Americans

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) "**Indian Country**" means and includes formal and informal reservations, dependent Indian communities, and Indian allotments, the Indian titles to which have not been extinguished, whether restricted or held in trust by the United States. [See: 18 U.S.C. § 1151]
- (2) "**Informal reservations**" means and includes lands held in trust for a tribe by the United States and those portions of a tribe's original reservation which were neither allotted to individual Indians, nor ceded to the United States as surplus land, but were retained by the tribe for use as tribal lands.
- (3) "**Dependent Indian communities**" means and refers to a limited category of Indian lands that are neither reservations nor allotments, and that satisfy the following two requirements:
 - (A) They have been set aside by the federal government for the use of the Indians as Indian land; and,
 - (B) They are under federal superintendence.

(b) **Instances in which income is exempt.** The income of an enrolled member of a federally recognized Indian tribe shall be exempt from Oklahoma individual income tax when:

(1) The member is living within "Indian Country" under the jurisdiction of the tribe to which the member belongs; and, the income is earned from sources within "Indian Country" under the jurisdiction of the tribe to which the member belongs; or,

(2) The income is compensation paid to an active member of the Armed Forces of the United States, if the member was residing within his tribe's "Indian Country" at the time of entering the Armed Forces of the United States, and the member has not elected to abandon such residence.

(c) **Instances in which income is not exempt.** The income of an enrolled member of a federally recognized Indian tribe shall not be exempt from Oklahoma individual income tax when:

(1) The income is derived from sources outside of "Indian Country", regardless of the taxpayer's residence.

(2) The member resides in Oklahoma, but not within "Indian Country", regardless of the source of the income.

(3) Either the source of the income or the place of residence is under the jurisdiction of a tribe of which the taxpayer is not a member.

(4) The member claims residence within "Indian Country" primarily by virtue of various Indian health, social, educational, welfare and financial programs. Even though administered by the Tribe within its own service area, these are merely forms of general federal aid, and are not sufficient to support a finding of "Indian Country" for purposes of this Section.

(5) The member claims residence on unrestricted, non-trust property, owned by an Indian Housing Authority. Such property does not fall within the definition of "Indian Country," nor does residence thereon constitute residence within a dependent Indian community.

(d) **Part-time residency.** If an enrolled member of a federally recognized Indian tribe resides within "Indian Country" for a portion of the year, and resides outside "Indian Country" for a portion of the year, such enrolled member shall be taxed based upon where such enrolled member resided when the income in question was earned.

[Source: Added at 20 Ok Reg 2811, eff 6-26-03 (emergency); Added at 21 Ok Reg 2571, eff 6-25-04]

PART 3. EXEMPTIONS

710:50-15-30. Additional exemption for 65 or older

(a) There shall be allowed an additional exemption on the Oklahoma Income Tax Return of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year, based upon the filing status and federal adjusted gross income of the taxpayer. Taxpayers with the following status may claim this exemption if the federal adjusted gross income does not exceed:

(1) Twenty-five Thousand Dollars (\$25,000.00) if married and filing jointly;

(2) Twelve Thousand Five Hundred Dollars (\$12,500.00) if married and filing separately;

(3) Fifteen Thousand Dollars (\$15,000.00) if single; and

(4) Nineteen Thousand Dollars (\$19,000.00) if a qualifying head of household. [See: 68 O.S. §2358(E)]

(b) For taxable years beginning after December 31, 1999, amounts included in the calculation of federal adjusted gross income pursuant to the conversion of a

traditional Individual Retirement Account to a Roth Individual Retirement Account shall be excluded from federal adjusted gross income for purposes of the income thresholds set out in paragraphs (a)(1) through (a)(4) of this Section.

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 31 Ok Reg 2427, eff 9-12-14; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-15-31. Additional exemption for blind

A qualified blind taxpayer shall be allowed an additional exemption on the Oklahoma income tax return. [See: 68 O.S. § 2358(E)(1)(b)]

[Source: Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-32. Small business incubators incentive

(a) **General provisions.** Certain exemptions for the levy of Oklahoma income tax may be allowed for income earned by qualifying sponsors and tenants pursuant to the provisions of the Small Business Incubators Incentive Act (74 O.S. §5071 et seq.)

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Act**" means the Small Business Incubators Incentives Act (74 O.S. §5071 et seq.).

(2) "**Arm's-length basis**" means that standard under which unrelated parties, each acting in his or her own best interest, would carry out a particular transaction.

(c) **Exemption for sponsors.** For tax years ending before January 1, 2020, income earned by a sponsor from rental fees, service fees or any other form of payment for services provided to a tenant as an operator of an incubator, or for providing funding for such a facility, shall be exempt from state income tax for a period not to exceed ten (10) years from the date of the tenant's occupancy in an incubator.

Procedures applicable to sponsors under the Act are as follows:

(1) An approved copy of the Small Business Incubator Incentives Program application must be submitted with the Oklahoma Income Tax Return when it is filed with the Oklahoma Tax Commission.

(2) The amount of exemption will be limited to the net income. If the sponsor is involved in other operations, allocations of overhead applicable to the income must be made on an arm's-length basis.

(3) An audit may be made to verify the income received and expenses relating to the business.

(4) An allowable Oklahoma NOL carryback or carryover shall not include any income or loss attributable to this Section.

(5) Income exempt from income tax is limited to that listed in the Act.

(d) **Exemption for tenants.** Procedures applicable to tenants under the Act are as follows:

(1) The amount of exemption will be limited to the net income. If the tenant is involved in other operations, allocations of overhead applicable to the income must be made on an arm's-length basis.

(2) An audit may be made to verify the income received and expenses relating to the business. If the tenant is organized as either a Subchapter S Corporation or a partnership, the exemption may flow through to the shareholder or partner, as applicable.

(3) An allowable Oklahoma NOL carryback or carryover shall not include any income or loss attributable to this Section which is the result of such

operation. [See: 74 O.S. §§5075(B), 5078(B)]

(4) The period of income exemption for income earned as a result of activities conducted as an occupant, for tenants of incubators is ten (10) years from the date of occupancy in the incubator. The tenant is not required to be an occupant of the incubator for the full ten (10) years to receive the exemption, however, the exemption period cannot exceed a total of ten (10) years for any tenant.

(5) For tax years ending before January 1, 2020, the exemption is applicable in years six (6) through ten (10) only if the tenant makes at least seventy-five percent (75%) of its gross sales to buyers located outside of Oklahoma, to buyers whose principal business activity is located outside of Oklahoma, to the federal government, or to buyers in this state if the product or service is resold to an out-of-state customer or buyer for ultimate use. In years six (6) through ten (10), failure of a tenant to achieve the qualifying percentage for the exemption in any single year will not result in disqualification for subsequent years. [See: 74 O.S. § 5078]

[Source: Added at 10 Ok Reg 3837, eff 7-12-93; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-15-33. Exemption for employers participating in the Oklahoma Department of Labor Safety Pays Consultation Services

There is an annual deduction of One Thousand Dollars (\$1,000.00) for employers who participate in the Oklahoma Department of Labor's Safety Pays Consultation Service effective for tax year 2006. Employers may claim the exemption of One Thousand Dollars (\$1,000.00) on the appropriate Oklahoma income tax return. Employers must be able to substantiate their participation in the Oklahoma Department of Labor's Safety Pays Consultation Service upon request of the Oklahoma Tax Commission.

[Source: Added at 23 Ok Reg 2824, eff 6-25-06]

710:50-15-34. Exemption for death benefits of Emergency Medical Technicians

In taxable years beginning after December 31, 2008, death benefits received as a result of the death of an Emergency Medical Technician are exempt from Oklahoma income tax.

[Source: Added at 26 Ok Reg 2330, eff 6-25-09]

710:50-15-35. Exemption for deceased members and spouses of the Armed Forces

(a) Any payment made by the United States Department of Defense as a result of the death of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces.

(b) Any income earned by the spouse of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces.

(c) In any case where income tax has been paid upon any income exempt pursuant to this Section, the tax paid shall be refunded to the person or personal

representative of the person.

[Source: Added at 27 Ok Reg 2281, eff 7-11-10]

PART 5. OTHER ADJUSTMENTS TO INCOME

710:50-15-47. Oklahoma military pay deduction

(a) For tax years beginning before January 1, 2010, individual taxpayers can subtract from Oklahoma adjusted gross income the first One Thousand Five Hundred Dollars (\$1,500.00) of salary or compensation earned as a member of any component of the Armed Forces of the United States.

(b) For salary or compensation earned on or after January 1, 2010 and before July 1, 2010 individual taxpayers can subtract from Oklahoma adjusted gross income the first One Thousand Five Hundred Dollars (\$1,500.00) of salary or compensation earned as a member of any component of the Armed Forces of the United States.

(c) For salary or compensation earned on or after July 1, 2010 individual taxpayers can subtract from Oklahoma adjusted gross income all salary or compensation earned as a member of any component of the Armed Forces of the United States.

(d) Salary or compensation under this Section does not include retirement benefits.

[Source: Added at 27 Ok Reg 2881, eff 7-11-10]

710:50-15-48. Oklahoma source capital gain deduction

(a) **General provisions.** For tax years beginning on or after January 1, 2005, individual taxpayers can subtract from the Oklahoma adjusted gross income, gains reported on their Oklahoma income tax return and included in federal taxable income receiving capital treatment. The gain must be realized on or after January 1, 2005, in order to be eligible for the Oklahoma exclusion. Effective for tax years beginning on or after January 1, 2006 corporate taxpayers can subtract from the Oklahoma taxable income, gains reported on their Oklahoma income tax return and included in federal taxable income receiving capital treatment. For corporate taxpayers the gain must be realized on or after January 1, 2006 in order to be eligible for the Oklahoma exclusion.

(b) **Qualifying gains receiving capital treatment.** As used in this Section, "**qualifying gains receiving capital treatment**" means the amount of net capital gains, as defined under Internal Revenue Code Section 1222(11), [IRC §1222(11)]. The gain must be included in the federal income tax return of the taxpayer.

(1) **Sale of real or tangible personal property.** To qualify for the Oklahoma deduction, the gain must be earned as a result of the sale of real or tangible personal property located within Oklahoma. Taxpayers must have held the asset for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain.

(2) **Sale of stock or ownership interest.** To qualify for the Oklahoma deduction, the gain must be earned as a result of the sale of stock or ownership interest in an Oklahoma company, limited liability company, or partnership and the stock or ownership interest must have been held by the taxpayer for at least three (3) uninterrupted years prior to the date of the transaction that created the capital gain. For tax year 2006 and subsequent tax years, the stock or ownership interest must have been held by the individual taxpayer for at least two (2) uninterrupted years prior to the date of the transaction that created the capital gain. Non individual taxpayer's

stock or ownership interest must have been held for at least three (3) uninterrupted years prior to the date of the transaction that created the capital gain.

(3) Sale of real or tangible personal property by pass-through entities.

Net capital gains earned by member, partner, or shareholder of a pass-through entity as a result of the sale of real or tangible personal property located within Oklahoma, and included in the a taxpayer's federal taxable income is excludable, provided that the taxpayer has been a member of the pass-through entity for an uninterrupted period of five (5) years and that the pass-through entity has held the asset for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain.

(4) Sale of stock or ownership interests by pass-through entities. Net capital gains earned by a member, partner, or shareholder of a pass-through entity as a result of the sale of stock or an ownership interest in an Oklahoma company, limited liability company, or partnership, is excludable, provided that the taxpayer has been a member of the pass-through entity for an uninterrupted period of three (3) years and that the pass-through entity has held the asset for not less than three (3) uninterrupted years prior to the date of the transaction that created the capital gain. For tax year 2006 and subsequent tax years, the stock or ownership interest must have been held by the individual taxpayer for at least two (2) uninterrupted years prior to the date of the transaction that created the capital gain. Non individual taxpayer's stock or ownership interest must have been held for at least three (3) uninterrupted years prior to the date of the transaction that created the capital gain.

(5) Installment sales. Qualifying gains included in an individual taxpayer's federal taxable income for years after December 31, 2004, or a corporate taxpayer's federal taxable income for years after December 31, 2005, which are derived from installment sales are eligible for exclusion, provided the appropriate holding periods are met.

(c) "Oklahoma company", "limited liability company", "partnership". An Oklahoma company, limited liability company, or partnership is one whose primary headquarters has been located in Oklahoma for at least three (3) years prior to the capital gain transaction. The Oklahoma company, limited liability company, or partnership must meet the three (3) year rule for an uninterrupted period.

[Source: Added at 22 Ok Reg 354, eff 1-1-05 (emergency); Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07]

710:50-15-49. Deduction for retirement income

(a) General provisions applicable to Oklahoma or federal government retirement income. Each individual taxpayer may deduct up to Five Thousand Five Hundred Dollars (\$5,500.00) of retirement benefits paid by the State of Oklahoma or by the federal government. Effective for tax years beginning on or after January 1, 2005, and ending before January 1, 2006, this deduction increases to Seven Thousand Five Hundred Dollars (\$7,500.00). Effective for tax year 2006 and subsequent tax years the deduction increases to Ten Thousand Dollars (\$10,000.00). This deduction cannot exceed the amount included in the taxpayer's Federal Adjusted Gross Income. The total exclusion from all government retirement benefit plans may not exceed Five Thousand Five Hundred Dollars (\$5,500.00), or for tax years beginning on or after January 1, 2005, Seven Thousand Five Hundred Dollars (\$7,500.00); or for tax years beginning on or after

January 1, 2006, Ten Thousand Dollars (\$10,000.00), per individual.

(b) Qualifying Oklahoma or federal government retirement income defined.

For purposes of this Section, "**Oklahoma or federal government retirement income**" means retirement income received from the following sources:

- (1) The Civil Service of the United States;
- (2) Any Component of the Armed Forces of the United States; [See special rule (g)]
- (3) The Oklahoma Public Employees' Retirement System;
- (4) The Oklahoma Teachers' Retirement System;
- (5) Oklahoma Law Enforcement Retirement System;
- (6) Oklahoma Firefighters' Pension and Retirement System;
- (7) Oklahoma Police Pension and Retirement System;
- (8) The Employee retirement systems created by counties pursuant to 19 O.S. §§951 et seq.
- (9) The Uniform Retirement System for Justices and Judges;
- (10) The Oklahoma Wildlife Conservation Department Retirement Fund;
- (11) The Oklahoma Employment Security Commission Retirement Plan; or,
- (12) The Employee retirement systems created by municipalities pursuant to 11 O.S. §§ 48-101 et seq.

(c) Disability income; state and federal government retirees. Disability retirement benefits received by an individual from sources listed in subsection (b) shall qualify for the retirement income deduction, without regard to the recipient's age.

(d) General provisions for other retirement income. Each individual taxpayer aged sixty-five (65) and over may deduct up to Five Thousand Five Hundred Dollars (\$5,500.00) of other retirement benefits received and included in Federal Adjusted Gross Income through tax year 2004. Effective for tax years beginning on or after January 1, 2005, this deduction increases to Seven Thousand Five Hundred Dollars (\$7,500.00) and the taxpayer is no longer required to be sixty-five (65) years of age. Effective for tax year 2006 and subsequent tax years the deduction increases to Ten Thousand Dollars (\$10,000.00). This deduction cannot exceed the amount included in the taxpayer's Federal Adjusted Gross Income. The total exclusion from all retirement benefit plans may not exceed Five Thousand Five Hundred Dollars (\$5,500.00) or, for tax years beginning on or after January 1, 2005, Seven Thousand Five Hundred Dollars (\$7,500.00), or for tax years beginning on or after January 1, 2006, Ten Thousand Dollars (\$10,000.00) per individual.

(1) Income eligibility levels for tax years through 2004. In order to qualify for this exclusion, Oklahoma Adjusted Gross Income cannot exceed Twenty Five Thousand Dollars (\$25,000.00) for individuals using the filing status of "single", "married filing separately", or "head of household". For individuals using "married filing jointly" or "qualifying widow(er)" filing status, Oklahoma Adjusted Gross Income cannot exceed Fifty Thousand Dollars (\$50,000.00) in order to qualify for the exclusion.

(2) Income eligibility levels for tax years 2005 and 2006. Effective for tax years beginning on or after January 1, 2005 and ending prior to January 1, 2007, Oklahoma Adjusted Gross Income cannot exceed Thirty Seven Thousand Five Hundred Dollars (\$37,500.00) for individuals using the filing status of "single", "married filing separately", or "head of household". For individuals using "married filing jointly" or "qualifying widow(er)" filing status, Oklahoma Adjusted Gross Income cannot exceed

Seventy Five Thousand Dollars (\$75,000.00) in order to qualify for the exclusion.

(3) Income eligibility levels for tax year 2007. Effective for tax years beginning on or after January 1, 2007 and ending before January 1, 2008, Oklahoma Adjusted Gross Income cannot exceed Fifty Thousand Dollars (\$50,00.00) for individuals using the filing status of "single", "married filing separately", or "head of household". For individuals using "married filing jointly" or "qualifying widow(er)" filing status, Oklahoma Adjusted Gross Income cannot exceed One Hundred Thousand Dollars (\$100,000.00) in order to qualify for the exclusion.

(4) Income eligibility levels for tax year 2008. Effective for tax years beginning on or after January 1, 2008 and ending before January 1, 2009, Oklahoma Adjusted Gross Income cannot exceed Sixty Two Thousand Five Hundred Dollars (\$62,500.00) for individuals using the filing status of "single", "married filing separately", or "head of household". For individuals using "married filing jointly" or "qualifying widow(er)" filing status, Oklahoma Adjusted Gross Income cannot exceed One Hundred Twenty Five Thousand Dollars (\$125,000.00) in order to qualify for the exclusion.

(5) Income eligibility levels for tax year 2009. Effective for tax years beginning on or after January 1, 2009 and ending before January 1, 2010, Oklahoma Adjusted Gross Income cannot exceed One Hundred Thousand Dollars (\$100,000.00) for individuals using the filing status of "single", "married filing separately", or "head of household". For individuals using "married filing jointly" or "qualifying widow(er)" filing status, Oklahoma Adjusted Gross Income cannot exceed Two Hundred Thousand Dollars (\$200,000.00) in order to qualify for the exclusion.

(6) Income eligibility levels for tax year 2010 and subsequent years. Effective for tax years beginning on or after January 1, 2010, there are no longer any income eligibility requirements to qualify for the exclusion.

(e) "Qualifying other retirement income" defined. For purposes of this Section "other retirement income" must be received from the following and satisfy the requirements of the Internal Revenue Code (IRC):

- (1) An employee pension benefit plan under IRC Section 401;
- (2) An eligible deferred compensation plan under IRC Section 457;
- (3) An individual retirement account, annuity, or trust or simplified employee pension under IRC Section 408;
- (4) An employee annuity under IRC Section 86; or,
- (5) Lump-sum distributions from a retirement plan under IRC Section 402(e).

(f) Disability income; private sector retirees. Disability retirement benefits received by an individual shall qualify for the retirement income deduction, without regard to the recipient's age.

(g) Special rule for certain retirement income from a component of the Armed Forces of the United States. Effective for tax year 2006, the deduction for retirement income from any component of the Armed Forces of the United States is the greater of Ten Thousand Dollars (\$10,000.00) or fifty percent (50%) of the amount included in the taxpayer's Federal Adjusted Gross Income. Effective for tax year 2007 and subsequent tax years, the deduction for retirement income from any component of the Armed Forces of the United States is the greater of Ten Thousand Dollars (\$10,000.00) or seventy-five percent (75%) of the amount included in the

taxpayer's Federal Adjusted Gross Income.

(h) Special rule for Federal civil service retirement income. Beginning with tax year 2007, retirement benefits received by Federal civil service retirees, including survivor annuities paid in lieu of Social Security benefits, are allowed to be excluded from Oklahoma taxable income to the extent such benefits are included in the taxpayer's Federal Adjusted Gross Income, pursuant to the provisions of Section 86 of the Internal Revenue Code. For tax year 2007, twenty percent (20%) of such taxable benefits will be excludable. For tax year 2008, forty percent (40%) of such taxable benefits will be excludable. For tax year 2009, sixty percent (60%) of such taxable benefits will be excludable. For tax year 2010, eighty percent (80%) of such taxable benefits will be excludable. For tax year 2011 and subsequent tax years, one hundred percent (100%) of such taxable benefits will be excludable.

[Source: Added at 20 Ok Reg 20, eff 10-8-02 (emergency); Added at 20 Ok Reg 2165, eff 6-26-03; Amended at 22 Ok Reg 354, eff 1-1-05 (emergency); Amended at 22 Ok Reg 1532, eff 6-11-05; Amended at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07]

710:50-15-50. Deductions

(a) In the event federal itemized deductions are used on the federal return, federal itemized deductions must be used on the Oklahoma return. Oklahoma itemized deductions to income will be the same as federal itemized deductions, subject to the limitations in (i) of this Section. In the event the standard deduction is used on the federal return, the Oklahoma standard deduction must be used on the Oklahoma return.

(b) For tax year 2005 and prior, the standard deduction for Oklahoma is the larger of \$1,000.00 or 15% of Oklahoma Adjusted Gross Income not to exceed \$2,000.00 (if married filing separately, the larger of \$500.00 or 15% not to exceed \$1,000.00).

(c) For tax year 2006, taxpayers filing as married joint, head of household or surviving spouse will have a standard deduction for Oklahoma of \$3,000.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$2,000.00.

(d) For tax year 2007, taxpayers filing as married joint or surviving spouse will have a standard deduction for Oklahoma of \$5,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$2,750.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of \$4,125.00.

(e) For tax year 2008, taxpayers filing as married joint, or surviving spouse will have a standard deduction for Oklahoma of \$6,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$3,250.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of \$4,875.00.

(f) For tax year 2009, taxpayers filing as married joint, or surviving spouse will have a standard deduction for Oklahoma of \$8,500.00. Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$4,250.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of \$6,375.00.

(g) For tax year 2010 through tax year 2016, taxpayers will have a standard deduction for Oklahoma equal to the standard deduction allowed by the Internal Revenue Code of 1986 based upon the amount and filing status prescribed by the Code for purposes of filing federal individual income tax returns.

(h) For tax year 2017 and subsequent tax years, taxpayers filing as married joint or qualifying widow will have a standard deduction for Oklahoma of \$12,700.00.

Taxpayers filing as single or married separate will have a standard deduction for Oklahoma of \$6,350.00. Taxpayers filing as head of household will have a standard deduction for Oklahoma of \$9,350.00.

(i) Oklahoma itemized deductions to income will be the same as federal itemized deductions, subject to the following limitations:

(1) For tax year 2016 and subsequent tax years, taxpayers shall add back state and local sales or income taxes which were allowed as an itemized deduction on the federal income tax return.

(2) For tax year 2017 and subsequent tax years, state and local sales or income taxes which were not allowed as an Oklahoma itemized deduction but were required to be recaptured on the federal income tax return will not be included in Oklahoma taxable income.

(3) For tax year 2018 and subsequent tax years, Oklahoma itemized deductions may not exceed \$17,000.00 provided charitable contributions and medical expenses deductible for federal income tax purposes are excluded from the \$17,000.00 cap.

[Source: Amended at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 34 Ok Reg 81, eff 9-30-16; Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 36 Ok Reg 35, eff 10-7-18 (emergency); Amended at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-51. Military pay of nonresidents and income earned by spouse of nonresident servicemember

(a) Military pay earned in Oklahoma by nonresident personnel, stationed in Oklahoma while on active duty, shall be exempt from Oklahoma income tax. These earnings are treated as "out-of-state income. This exemption applies only to military pay earned in Oklahoma; any other income from the performance of a service other than military duty is subject to Oklahoma income tax.

(b) Beginning with tax year 2009, a nonresident spouse of a nonresident servicemember may be exempt from Oklahoma income tax on income from services performed in Oklahoma if all of the following conditions are met:

(1) The servicemember is in Oklahoma in compliance with military orders;

(2) The spouse is in Oklahoma to be with the servicemember; and

(3) The spouse maintains the same domicile as the servicemember or, for tax years beginning on or after January 1, 2018, elects to use the same residence for tax purposes as the servicemember in accordance with the Veterans Benefits and Transition Act of 2018.

(c) The following types of income of a nonresident spouse of a nonresident servicemember are not exempt from Oklahoma income tax:

(1) Income from an unincorporated business activity conducted in Oklahoma.

(2) The distributive share of the Oklahoma part of partnership income, gains, losses or deductions.

(3) The distributive share from Subchapter S Corporations doing business in Oklahoma.

(4) Net rents and royalties from real and tangible personal property located in Oklahoma.

(5) Gains from the sales or exchanges of real property, located in Oklahoma.

[Source: Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-15-52. Out-of-state income

(a) For residents, "**out-of-state income**" consists of income from real or tangible personal property or business income in another state. Any amount deducted must be substantiated with the appropriate Federal schedule which sets out the Oklahoma portion.

(b) Losses sustained from property owned or from a business located outside the State of Oklahoma must be added to Federal adjusted gross income to arrive at Oklahoma adjusted gross income.

(c) Out-of-State income is limited to the net income from real or tangible personal property or net business income in another state. [See: 68 O.S. §2358(A)(4)]

[Source: Amended at 17 Ok Reg 2669, eff 6-25-00]

710:50-15-53. Oklahoma net operating loss for individual returns

(a) Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code and will be calculated utilizing Oklahoma Form 511-NOL Schedule A for resident individuals and Form 511-NR-NOL Schedule A for nonresident and part-year individuals.

(b) An election may be made to forego the Net Operating Loss (NOL) carryback period. In order to waive the carryback period, a written statement of the election must be part of the timely filed Oklahoma loss year return.

(c) The years to which such losses may be carried shall be determined by reference to Section 172 of the Internal Revenue Code, as follows:

(1) For net operating losses incurred for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2007, the loss carryback shall be for a period as allowed in the Internal Revenue Code; and

(2) For net operating losses incurred for tax years beginning after December 31, 2007, and ending on or before December 31, 2008, the loss carryback period shall be for a period of two (2) years; and

(3) For tax years beginning after December 31, 2008, the loss carryback period shall be for a period as allowed by Section 172 of the Internal Revenue Code.

(d) Resident individuals will use Oklahoma Form 511-NOL Schedule B to compute the amount of the loss absorbed in each intervening year. Nonresident and part-year resident individuals will use Oklahoma Form 511-NR-NOL Schedule B to compute the amount of loss absorbed in each intervening year.

(e) Taxpayers who incur a net operating loss from farming, allowed under IRC 172 (b)(G), in tax years beginning after December 31, 1999, will be allowed to carry that loss back, in accordance with the carryback provisions of the Internal Revenue Code. However, the amount of the farm net operating loss available for carryback is limited to the lesser of Sixty Thousand Dollars (\$60,000) or the loss shown on Federal Schedule F of the Internal Revenue Service Form 1040, reduced by fifty percent (50%) of the income from all other sources, except those included on Federal Schedule F.

[Source: Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 17 Ok Reg 2669, eff 6-25-00; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 29 Ok Reg 1475, eff 6-25-12]

710:50-15-54. Federal tax deduction

Federal income tax deduction shall include federal income tax, foreign income tax, surtaxes imposed on income or excess profits taxes, less any credits allowed by the Internal Revenue Service. The deduction for federal income taxes

allowed on the Oklahoma income tax return is computed as though the taxpayer were on the accrual basis of accounting. [See: 68 O.S. §2358(E)(7)(c)]

[Source: Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-55. Depletion

(a) The Oklahoma depletion deduction from income for oil and gas produced in Oklahoma is twenty-two percent (22%) of the gross income from the property, provided that for tax years beginning on or after January 1, 1997, and ending on or before December 31, 1999, and for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2011, in the case of major oil companies, as defined by 52 O.S. §288.2, the allowance may not exceed fifty percent (50%) of the net income from the property computed without the allowance for depletion.

During years not specified herein, for all taxpayers, the allowance shall not exceed fifty percent (50%) of the net income from the property (computed without allowance for depletion). This allowance is allowable in the amount so computed minus the Federal depletion claimed. The applicable Federal schedule and a detailed depletion schedule must be enclosed.

(b) Lease bonus depletion of 22% is allowable; any such depletion claimed must be restored to income in the case of non-producing properties upon expiration of the lease. Individuals claiming lease bonus depletion may be required to furnish a copy of the lease and division order. [See: 68 O.S. §2353(10)]

[Source: Amended at 14 Ok Reg 2699, eff 6-26-97; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 24 Ok Reg 2359, eff 6-25-07]

710:50-15-56. Interest on U.S. Government obligations

(a) An "**obligation of the United States**" is defined as a credit instrument characterized by:

- (1) Written document;
- (2) The bearing of interest;
- (3) A binding promise of the United States to pay specified sums at specified dates; and
- (4) Issued pursuant to specific congressional authorization which also pledges the full faith and credit of the United States in support of the promise to pay.

(b) If the interest on a U.S. Government obligation is paid through a regulated investment company the taxpayer requesting the exclusion must furnish a detailed schedule of the obligations that the fund has invested in and the amount or percentage of the interest from each investment. [See: 68 O.S. §2358(A)(2)]

710:50-15-57. Adjustment for state and local obligations

(a) Income received on obligations issued by any state or political subdivision which is exempt from Federal taxation but not specifically exempt from state taxation by Federal or Oklahoma Statute shall be added to Federal Adjusted Gross Income.

(b) Income from obligations issued by the State of Oklahoma or any political subdivision is exempt if so provided by the statute authorizing issuance of the obligation OR if it is a local governmental obligation issued **after** July 1, 2001, for a purpose **other** than to provide financing for nonprofit corporate projects.

(c) For purposes of this Section, "**local governmental obligations**" includes, but is not limited to, bonds or notes issued by, or on behalf of, or for the benefit of, Oklahoma educational institutions, cities, towns, or counties, or by public trusts of

which any of the foregoing is a beneficiary.

(d) All income from obligations issued by any state or political subdivision of a state other than Oklahoma is taxable. [See: 68 O.S. §2358(A)(1)]

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-58. Adjustment for municipal interest

Due to the fact that income earned on obligations of a state or political subdivision is exempt from federal taxation, an Oklahoma Income Tax Return may be required under some circumstances, even though no Federal Return is due. [See: 68 O.S. §2368]

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-59. Compensation paid to precollege mathematics or science teachers [REVOKED]

[Source: Revoked at 15 Ok Reg 2811, eff 6-25-98]

710:50-15-60. Inventors assistance income exclusion

(a) Royalty earned by an inventor from a product developed and manufactured in this State shall be exempt from Oklahoma Income Tax for a period of seven (7) years, from January 1, of the first year in which the royalty is received, as long as the manufacturer remains in the State.

(b) An investment/new jobs credit may be available to the manufacturer of new inventions when manufactured in this State. [See: *OAC* 710:50-15-74]

(c) In addition, the manufacturer may exclude from Oklahoma taxable income sixty-five percent (65%) of the cost of depreciable property purchased and utilized directly in manufacturing the product. The maximum exclusion shall not exceed Five Hundred Thousand Dollars (\$500,000.00). If the exclusion exceeds the Oklahoma taxable income, the excess may be carried forward for a period not to exceed four (4) years. "**Depreciable property**" means machinery, fixtures, equipment, buildings, or substantial improvements placed in service in this State during the taxable year.

(d) Requirements for qualification, certification and records required are as follows:

(1) A copy of the Fee Agreement between the inventor and the Oklahoma Center for the Advancement of Science and Technology (OCAST) must be provided to the Commission by the inventor or owner of the rights.

(2) A certification by the Division Director or designee of the Technology Development Programs Division of OCAST must be provided to the Commission, specifying the certification date, product/process or service, inventor, manufacturer, and contract numbers.

(3) A certification by the Division Director or designee of the Technology Development Programs of OCAST must be provided to the Commission, specifying the date of first commercial product sale.

(4) The inventor must furnish annually a schedule of all income inuring to the benefit of the inventor attributable to the certified product/process or service.

(5) Manufacturers in this State must furnish annually a copy of the contract with the inventor and a schedule of all payments, disbursements, salaries, wages, benefits, and anything else of value paid, distributed or transferred to the inventor.

(6) Manufacturers in this State must furnish a schedule of receipts and expenses, including any overhead properly attributable to the product/process or service.

(7) Commission auditors will be available to assist in determining if the terms of the contracts are being fulfilled if requested by OCAST. [See: 74 O.S. Sections 5064.1 et seq.]

[Source: Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 21 Ok Reg 2571, eff 6-25-04]

710:50-15-61. Medical savings account deduction

(a) **General provisions.** There shall be allowed a deduction to arrive at Oklahoma Taxable Income for contributions made to and interest earned on Medical Savings Accounts (MSA).

(b) **Eligibility.** In order to be eligible for this deduction, contributions must be made to a MSA program approved by either the State Department of Health or by the Insurance Commissioner.

(c) **Procedure for claiming deduction.** In order to claim the deduction, a statement of the contributions made and interest earned on the MSA must be provided by the administrator of the Plan, and enclosed as part of the income tax return filed for the applicable period.

(d) **Limitation.** In no event shall contributions that are made and excluded from taxable income under Section 125 of the Internal Revenue Code be allowed to be deducted under this Section.

(e) **Eligibility of specific plans.** Contributions made to and interest earned on a MSA program offered by the State and Education Employees Group Insurance Benefit Board may be eligible for the deduction.

[Source: Added at 14 Ok Reg 2699, eff 6-26-97]

710:50-15-62. Agricultural commodity processing facility income/investment exclusion

(a) **General provisions.** Owners of agricultural commodity processing facilities may exclude from Oklahoma Taxable Income, or in the case of individuals, from Oklahoma Adjusted Gross Income, a portion of their investment costs in any new or expanded agricultural commodity processing facility located in this state.

(1) **For investments made on or after January 1, 1997, but before December 31, 1998.** Owners of agricultural commodity processing facilities may exclude fifteen percent (15%), of their investment cost in a new or expanded agricultural commodity processing facility located in Oklahoma.

(2) **For investments made on or after January 1, 1999.** If the exclusion for investment in agricultural processing facilities results in the reduction in total Oklahoma Income Tax in excess of one million dollars (\$1,000,000.00) in any previous calendar year, the percentage of investment subject to exclusion will be adjusted. The adjusted percentage allowable will be determined by dividing \$1,000,000.00 by six percent, then further dividing the result by the total previous year's investment subject to exclusion.

(b) **Definitions.** For purposes of this Section, the following words and terms, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Agricultural commodities"** means a farm or ranch product, including but not limited to, wheat, corn, soybeans, cotton, timber, cattle, hogs, sheep, horses, poultry, animals of the families bovidae, cervidae, and

antilocapridae, or birds of the ratite group, produced in farming or ranching operations, or a product of such crop or livestock in its unmanufactured state, such as ginned cotton, wool-dip, maple syrup, milk, and eggs, or any other commodity listed under any Industry Group Number under Major Group 20, Division D, of the Standard Industrial Classification Manual.

(2) "**Agricultural commodity processing facility**" means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. Effective November 1, 2000, the term shall also mean a dairy operation that requires a depreciable investment of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) and which produces milk from dairy cows. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities. [See: 68 O.S. § 2358(A)(6)(a)]

(3) "**Facility**" means each part of the facility which is used in a process primarily for:

(A) The processing of agricultural commodities, including receiving or storing agricultural commodities, or, effective November 1, 2000, the production of milk at a dairy operation, [See: 68 O.S. § 2358(A)(6)(b)]

(B) Transporting the agricultural commodities or product before, during or after the processing, or

(C) Packaging or otherwise preparing the product for sale or shipment.

(c) **Qualification.** In order to qualify for the exclusion, the agricultural commodity processing facility must be operated primarily for the processing or production of agricultural commodities to marketable products.

(d) **Limitations.** This exclusion from income is to be taken in the taxable year when the investment is made. For purposes of this exclusion, the investment is deemed to be made when the property is placed in service. Under no circumstances shall this exclusion from income lower claimant's Oklahoma Taxable Income below zero. In the event the exclusion does exceed income, any unused portion may be carried forward for a period not to exceed six (6) years from the initial year of qualification. If the exclusion from income amount is determined based on the percentage allowable but not used, the amount shall not change based on subsequent change in percentage allowable to be excluded. In no event will the exclusion percentage exceed fifteen percent (15%).

(e) **Information return required.** Owners who intend to claim the exclusion for investment costs described in this Section must file, on a form prescribed by the Commission, an information return, reporting the amount of qualified property placed in service during the preceding calendar year. The information return must be submitted by January 31.

[Source: Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-15-63. Deduction for nonrecurring adoption expenses

(a) **General provisions.** In taxable years beginning after December 31, 1995, and ending before January 1, 2003, a deduction is allowed to resident individual taxpayers for nonrecurring adoption expenses, not to exceed ten thousand dollars (\$10,000.00) per calendar year, paid in connection with the adoption of a minor, or proposed adoption of a minor which did not result in a decreed adoption. Effective

for taxable years beginning after December 31, 2002, the deduction for nonrecurring adoption expenses shall not exceed Twenty Thousand Dollars (\$20,000.00) per calendar year.

(b) **Allowable expenses.** For purposes of this Section "**nonrecurring adoption expenses**" means and includes:

- (1) Adoption fees;
- (2) Court costs;
- (3) Medical expenses;
- (4) Attorney fees;
- (5) Expenses directly related to the legal process of the adoption of a child and are not reimbursed by other sources, to include, but not limited to costs related to:

- (A) The adoption study;
- (B) Health and psychological examinations;
- (C) Transportation and reasonable costs of food and lodging for the child or adoptive parents which are incurred to complete the adoption process. Transportation expense by either commercial or private means may be claimed based upon actual unreimbursed costs incurred, or in the case of travel by private means, the mileage rate allowed pursuant to the Internal Revenue Code for determining business travel expense may be elected.

- (6) Costs associated with physical remodeling, renovation, or alteration of the adoptive parents home or property, if incurred in conjunction with the adoption of a special needs child, as authorized by the court.

(c) "**Nonrecurring adoption expenses**" shall not mean or include:

- (1) Costs reimbursed by other sources.
- (2) Attorney fees incurred from and after the commencement of an action involving a contest of an adoption.
- (3) Costs associated with physical remodeling, renovation, or alteration of the adoptive parent's home or property, with the exception noted in (b)(6) of this Section.

(d) **Verification.** A schedule describing the expenses claimed must be enclosed and filed with the claimant's tax return. Receipts supporting the claimed expenses are not required to be submitted with the tax return and descriptive schedule, but must be retained and be available upon request by the Commission.

[Source: Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 20 Ok Reg 2165, eff 6-26-03]

710:50-15-64. Elections for individuals engaged in a farming business

(a) For tax years beginning after December 31, 2000, an individual engaged in a farming business may elect to determine the tax imposed by 68 O.S. § 2355 as the sum of:

- (1) A tax computed under Section 2355, on taxable income, reduced by elected farm income; and
- (2) The increase in tax imposed by 68 O.S. § 2355 which would result if taxable income for each of the three (3) prior taxable years were increased by an amount equal to one-third (1/3) of the elected farm income.

(b) An adjustment under this Section for any taxable year shall be taken into account in applying the provisions of this Section for any subsequent taxable year.

(c) For purposes of this Section, "**elected farm income**" means so much of the taxable income for the taxable year which is attributable to any farming business, and which is specified in the election under subsection (a) of this Section. For

purposes of this subsection, a gain from the sale or other disposition of property, other than land, regularly used by the taxpayer in a farming business for a substantial period shall be treated as attributable to the farming business;

(d) "**Individual**" shall not mean or include any estate or trust.

(e) "**Farming business**" shall have the same meaning as the term is defined in 26 U.S.C. § 263A(e)(4).

[Source: Added at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-65. Discharge of indebtedness - individuals engaged in production agriculture

For taxable years beginning after December 31, 1999, individuals engaged in production agriculture who filed a Schedule F form with the taxpayer's federal income tax return for such taxable year, may exclude from Oklahoma taxable income, any amount that was included in federal taxable income or federal adjusted gross income, which consisted of the discharge of an obligation by a creditor of the taxpayer incurred to finance the production of agricultural products. [See: 68 O.S. §2358(E)(15)]

[Source: Added at 18 Ok Reg 2810, eff 6-25-01; Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-66. Deduction for contributions to an Oklahoma College Savings Plan

(a) For tax years beginning after December 31, 2001 and ending before December 31, 2004, individuals may deduct up to Two Thousand Five Hundred Dollars (\$2,500.00) of contributions made to an Oklahoma 529 College Savings Plan Account, established pursuant to the Oklahoma College Savings Act, in arriving at Oklahoma taxable income. If contributions are made to more than one account, the deduction for each contributor is limited to Two Thousand Five Hundred Dollars (\$2,500.00) for each account.

(b) Effective for tax years beginning after December 31, 2004, for contributions made to an Oklahoma 529 College Savings Plan (established pursuant to the Oklahoma College Savings Act) a maximum of Ten Thousand Dollars (\$10,000.00) may be deducted in arriving at Oklahoma Taxable income [Twenty Thousand Dollars (\$20,000.00) if filing an income tax return using married filing joint filing status].

(c) Contributions made to other states' college savings plans, the Coverdell Education Savings Account, or transfers from one Oklahoma College Savings Plan Account to another may not be deducted.

(d) Any contribution, to the extent not deducted, may be carried over as a deduction from income for the succeeding five (5) years.

(e) For taxable years beginning after December 31, 2005, deductions may be taken for contributions and rollovers made during a taxable year and up to April 15th of the succeeding year, or the due date of a taxpayer's state income tax return excluding extensions, whichever is later. Provided a deduction for the same contribution may not be taken for two (2) different taxable years.

(f) For tax years beginning on or after January 1, 2007, taxpayers who elect the five-year carryforward election and take a rollover or have a non-qualified withdrawal during the five-year carryforward period, must reduce the otherwise available tax deduction by the amount which is equal to the rollover or non-qualified withdrawal.

(g) For tax years beginning on or after January 1, 2007, taxpayers who elect to take a rollover or non-qualified withdrawal within the same tax year in which a contribution was made to the taxpayer's account must reduce the otherwise available tax deduction by the amount which is equal to the rollover or non-qualified withdrawal.

(h) For tax years beginning on or after January 1, 2007 taxpayers who elect to take a rollover within one year of the date of contribution for which a deduction has been taken must include the amount of the rollover in their adjusted gross income the taxable year of the rollover.

(i) For tax years beginning on or after January 1, 2007 taxpayers who make a non-qualified withdrawal of contributions for which a deduction was taken must include the amount of the non-qualified withdrawal and any earnings thereon in their adjusted gross income in the taxable year of the withdrawal

(j) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Non-qualified withdrawal"** means a withdrawal from an Oklahoma College Savings Plan account that is not:

(A) a qualified withdrawal;

(B) a withdrawal made as a result of the death or disability of the designated beneficiary of an account;

(C) a withdrawal that is made on the account of a scholarship or the allowance or payment described in Section 135(d)(1)(B) or (C) of Title 26 of the Internal Revenue Code, received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment; and

(D) a rollover or change of designated beneficiary as permitted by subsection F of Section 3970.7 of Title 70 of Oklahoma Statutes.

(2) **"Rollover"** means any transfer of funds from an Oklahoma College Savings plan to any other plan under Section 529 of the Internal Revenue Code.

[Source: Added at 20 Ok Reg 2165, eff 6-26-03; Amended at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 25 Ok Reg 728, eff 12-27-07 (emergency); Amended at 25 Ok Reg 2056, eff 7-1-08]

710:50-15-67. Deduction for living organ donation

(a) Oklahoma resident individuals (or their dependents) who donate one or more human organs while living, may deduct up to Ten Thousand Dollars (\$10,000.00) of un-reimbursed expenses from Oklahoma adjusted gross income to arrive at Oklahoma taxable income.

(b) **"Human organs"** mean all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow.

(c) The deduction is allowed only one time and may be claimed only for un-reimbursed expenses that are incurred by the individual and related to the organ donation of the individual in the taxable year in which the transplant occurs.

[Source: Added at 25 Ok Reg 2056, eff 7-1-08]

710:50-15-68. General provisions applicable to unemployment compensation [REVOKED]

[Source: Added at 27 Ok Reg 2281, eff 7-11-10; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-69. Deduction for foster care expenses

(a) **General provisions.** In taxable years beginning after December 31, 2018, an income tax deduction is allowed to individual taxpayers who contract with a child-placing agency to provide care for a foster child.

(b) **Deduction.** The deduction is for expenses incurred to provide care for a foster child not to exceed Five Thousand Dollars (\$5,000.00) or Two Thousand Five Hundred Dollars (\$2,500.00) for married persons filing separately.

(c) **Qualification.** A taxpayer must be under contract with a child-placing agency, as defined in Section 402 of Title 10, for at least six (6) continuous months regardless of the tax year during which the care occurs. If a taxpayer is under contract with a child-placing agency and providing care for a foster child for at least six (6) continuous months, but less than six (6) months of the tax year, taxpayer may claim only a pro rata share of the credit. For example, if a qualifying taxpayer contracts with a child-placing agency and begins providing care for a foster child on May 1, 2018 and ending on March 31, 2019, taxpayer may deduct up to \$2,500 ($3/6 \times \$5,000.00$) for expenses incurred in 2019 on their 2019 income tax return.

[Source: Added at 37 Ok Reg 2227, eff 9-11-20]

PART 7. CREDITS AGAINST TAX

710:50-15-70. Credits from Oklahoma income tax

Certain credits against the initial Oklahoma Income Tax liability may be taken to arrive at the final amount of Oklahoma Income Tax due.

710:50-15-71. Credit for child care/child tax credit

(a) For tax years beginning before January 1, 2008, resident individuals, part-year resident individuals or nonresident individual members of the Armed Forces may claim a credit against the tax imposed by 68 O.S. § 2355 equal to twenty percent (20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States.

(b) For tax years beginning after December 31, 2007, resident individuals, part-year resident individuals or nonresident individual members of the Armed Forces may claim a credit against the tax imposed by 68 O.S. § 2355 equal to the greater of twenty percent (20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States or five percent (5%) of the child tax credit allowed under the Internal Revenue Code, whichever amount is greater. If federal adjusted gross income is greater than One Hundred Thousand Dollars (\$100,000.00), no credit is allowed.

(c) Taxpayers must attach a completed copy of the Federal child care schedule to the Oklahoma Income Tax Return to receive a child care credit.

(d) The credit is to be prorated on the ratio that Oklahoma Adjusted Gross Income bears to Federal Adjusted Gross Income, not to exceed one hundred percent (100%). If the Federal Adjusted Gross Income is zero or less, the ratio will be 100%.

[Source: Amended at 25 Ok Reg 2056, eff 7-1-08; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-15-72. Credit for taxes paid other states

(a) OTC Form 511 TX shall be used by residents and part-year residents who work in other states after becoming an Oklahoma resident and who are required to file Income Tax Returns with those states.

- (b) This credit is available only on taxes paid in another state for wages and compensation for personal service. For this credit, retirement income and the proceeds from gambling are considered compensation for personal services.
- (c) A copy of the Income Tax Return for each state in which a return was required to be filed must be filed and attached to a completed OTC Form 511 TX. A separate OTC Form 511 TX must be filed for each state. [See: 68 O.S. § 2357(B)(1)]

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 21 Ok Reg 2571, eff 6-25-04]

**710:50-15-73. Credit for use of solar energy and passive solar system
[REVOKED]**

[Source: Revoked at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-74. Credit for investment/new jobs

- (a) **For tax years 1981 through 1987.** For tax years 1981 through 1987 the Oklahoma Investment/New Jobs Credit is allowed for Oklahoma Income Tax purposes only on investment in qualified depreciable property which directly results in a net increase in the number of employees engaged in manufacturing or processing in this state.
- (b) **For 1988, and later years.** For 1988, and later years, the Oklahoma Investment/New Jobs Credit may be calculated on the investment or new employees when other qualifications are met. (See OTC Form 506).
- (c) **Examples.** A company engaged in the process of cooking hamburgers for sale to the general public does not qualify for the Investment/New Jobs Credit. The Oklahoma Supreme Court determined, in the case **McDonald's Corp. vs. Oklahoma Tax Commission**, 563 P.2d 635 (Okla. 1977), that a company engaged in retail sales or a service organization (laundry, transportation, oil & gas production, drilling, restaurant, repair services, etc.) does not qualify for Oklahoma Investment/New Jobs Credit. [See: 68 O.S. §§ 2357.4, 2357.5]
- (d) **"Processing" defined.** For purposes of this Section, **"processing"** means the preparation of tangible personal property for market. "Processing" begins when the form, context, or condition of the tangible personal property is changed with the intent of eventually transforming the property into a saleable product. "Processing" ends when the property being processed is in the form in which it is ultimately intended to be sold at retail. A business that has the majority of its emphasis on the retail side of business does not qualify as a processor or a manufacturer for purposes of this credit.
- (e) **Leasing of employees by manufacturing or processing entity for purposes of the new jobs credit.** A company that engages in manufacturing or processing may still qualify for the Oklahoma New Jobs Credit pursuant to 68 O.S. § 2357.4 even though they lease their employees through an employee leasing company. The leased employees must still meet the requirements of 68 O.S. § 2357.4 for full-time equivalent employees and there must exist an employer-employee relationship between the leased employees and the employer who seeks the new jobs credit pursuant to 68 O.S. § 2357.4. Whether the employer-employee relationship exists between the employer manufacturing or processing entity and an employee who is leased will be determined on a case by case basis by considering the following factors:
- (1) The right of the employer to control the details of the employees work;
 - (2) The employer furnishing the tools and the workplace;
 - (3) The employee having taxes, worker's compensation and unemployment insurance funds withheld and the employer being liable for these items;

- (4) The employer's right to discharge the employee; and
- (5) The permanency of the employer-employee relationship.

(f) **Transfer of employees.** The transfer of employees to or from a leasing company cannot generate any additional credit, nor will any transfer of employees extend the period of time in which a current credit may be claimed.

(g) **Carryover.** Any credits allowed based on assets placed into service prior to January 1, 2000, or an increase in employment but not used may be carried over, in order, to each of the four (4) years following the year of qualification, and to the extent not used in those years, in order, to each of the fifteen (15) years following the initial five-year period. Credits allowed for assets placed into service after December 31, 1999, but not used may be carried over, in order, to each of the four (4) years following the year of qualification, and to the extent not used in those years, to any year following the initial five-year period.

(h) **Limitations.**

(1) No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act) or Section 3911 et seq. of the Oklahoma Statutes (21st Century Quality Jobs Incentive Act) shall be eligible to receive the credit described in this Section in connection with the activity and establishment for which incentive payments have been, or are being received. Effective January 1, 2010, this limitation does not apply to the investment / new jobs credit earned under 68 O.S. § 2357.4 (which requires a \$40 million investment within a three (3) year time period). Further, the entity must pay an annualized wage which equals or exceeds the state average wage. The qualifying entity must also obtain a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate. [See: 68 O.S. §§ 3607, 3909 and 3919]

(2) Business entities that benefit from proceeds of obligations issued by the Oklahoma Development Finance Authority from the Economic Development Pool may not generate, accrue or otherwise claim any investment tax credits during the period of time that withholding taxes attributable to the payroll of said entity are being paid to the Community Economic Development Pooled Finance Revolving Fund or in any manner used for the payment of principal, interest or other costs associated with any obligations issued by the Oklahoma Development Finance Authority pursuant to the provisions Oklahoma Community Economic Development Pooled Finance Act.

(3) Beginning January 1, 2017, except with respect to tax credits allowed from investment or job creation occurring prior to January 1, 2017, the credits authorized by 68 O.S. § 2357.4 shall not be allowed for investment or job creation in electric power generation by means of wind as described by the North American Industry Classification System No. 221119.

(4) Effective for tax years beginning on or after January 1, 2016 and ending on or before December 31, 2018, no more than Twenty-five Million Dollars (\$25,000,000.00) of credit may be allowed as an offset in a taxable year. The formula to be used for the percentage adjustment shall be Twenty-five Million Dollars (\$25,000,000.00) divided by the amount of credits used to offset tax in the second preceding year. [68 O.S. § 2357.4(L)] The Tax Commission shall determine the percentage which may be claimed as a

credit no later than September 1 of each calendar year. Any credits carried over into or earned during the 2016, 2017, and 2018 tax years but which are not allowed to be offset against income tax due to the application of the Twenty-five Million Dollar (\$25,000,000.00) cap may be carried over as outlined in subsection (g) and will be available to offset income tax in subsequent tax years.

(i) Tax credit moratorium.

(1) Credits based on assets placed in service or jobs created prior to July 1, 2010 are not affected by the tax credit moratorium and may be claimed as provided under 68 O.S. § 2357.4.

(2) No credit may be claimed for assets placed in service or new jobs created on or after July 1, 2010 through June 30, 2012. Credits generated during this time period are deferred, and may be claimed beginning with tax year 2012 returns, subject to the following limitations:

(A) Credits accrued during the period from July 1, 2010 through June 30, 2012, shall be limited to a period of two (2) taxable years.

(B) Only fifty percent (50%) of the total amount of the credit generated between July 1, 2010 and June 30, 2012 may be claimed each taxable year.

(C) Amended returns shall not be filed after July 1, 2012 to claim the credits generated between July 1, 2010 and June 30, 2012 for tax years prior to tax year 2012.

(3) For example, a calendar year taxpayer places qualifying assets of \$150,000.00 in service in August 2010 which generates \$1,500.00 of credit for investment/new jobs per tax year for a five (5) year period (tax year 2010 through 2014) for a total of \$7,500.00. This results in the taxpayer generating \$3,000.00 of tax credits between July 1, 2010 and June 30, 2012. The taxpayer can initially claim \$1,500.00 in tax year 2012 and \$1,500.00 in tax year 2013 of credits generated during the moratorium. Taxpayer may also claim an additional \$1,500.00 of credits in both tax year 2012 and 2013. Final \$1,500.00 of credits can be claimed in tax year 2014.

[Source: Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 13 Ok Reg 3105, eff 7-11-96; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 34 Ok Reg 81, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-15-75. Recycling, reuse and source reduction incentives [REVOKED]

[Source: Amended at 11 Ok Reg 555, eff 10-11-93 (emergency); Amended at 15 Ok Reg 3497, eff 6-26-94; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-76. Oklahoma coal credits

(a) General provisions applicable to qualifying business entities purchasing Oklahoma-mined coal. There shall be allowed a credit against the tax imposed by Sections 1803 and 2355 of Title 68 or Sections 624 and 628 of Title 36 of the Oklahoma Statutes for legal business entities purchasing Oklahoma-mined coal for qualifying purposes. In order to qualify for the Oklahoma Coal Credit, the business entity must either furnish water, heat, light, or power to the citizens or to the State of Oklahoma, or burn coal to generate heat, light, or power for use in manufacturing operations in Oklahoma. [See: 68 O.S. § 2357.11; *Wyoming v. Oklahoma*, 112 S.Ct. 789 (1992)]

(1) **Basic credit.** For tax years beginning on or after January 1, 1993, and ending on or before December 31, 2005 and for the period beginning January 1, 2006 through June 30, 2006, the credit shall be Two Dollars (\$2.00) per ton of Oklahoma-mined coal purchased. For the period July 1, 2006 through December 31, 2006 and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Two Dollars and eighty-five cents (\$2.85) per ton of Oklahoma-mined coal purchased, except as provided in (h) of this Section.

(2) **Extended basic credit.** For the period July 1, 2006 through December 31, 2006 and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Two Dollars and fifteen cents (\$2.15) per ton of Oklahoma-mined coal purchased. The extended basic credit may not be claimed or transferred prior to January 1, 2008, except as provided in (h) of this Section.

(3) **Additional credit for large quantity purchasers.** For tax years beginning on or after January 1, 1995, and ending on or before December 31, 2005 and for the period beginning January 1, 2006 through June 30, 2006, there shall be allowed, in addition to the credit described in (1) of this subsection, a **supplemental** credit of Three Dollars (\$3.00) per ton of Oklahoma-mined coal purchased. However, to obtain the credit described in this paragraph, purchases must total at least Seven Hundred Fifty Thousand (750,000) tons of Oklahoma-mined coal in the tax year for which credit is sought.

(b) **General provisions applicable to qualifying business entities that mine, produce, or extract coal.** For tax years beginning on or after January 1, 2001, and ending on or before December 31, 2021, there shall be allowed a credit against the tax imposed by Sections 1803 and 2355 of Title 68 or Sections 624 and 628 of Title 36 of the Oklahoma Statutes for every business entity in this state primarily engaged in mining, production, or extraction of coal, and holding a valid permit issued by the Oklahoma Department of Mines, **so long as** the average price of coal mined, produced, or extracted in any month for which credits are claimed is less than Sixty-eight Dollars (\$68.00) per ton.

(1) **Basic credit.** For tax years beginning on or after January 1, 2001 and ending on or before December 31, 2005, and for the period beginning January 1, 2006 through June 30, 2006, the credit shall be Ninety-five Cents (\$0.95) per ton and for the period of July 1, 2006 through December 31, 2006, and for tax years beginning on or after January 1, 2007 and ending on or before December 31, 2021, the credit shall be Five Dollars (\$5.00) for each ton of coal mined, produced, or extracted in, on, under, or through a permit in this state, except as provided in (h) of this Section.

(2) **Additional credit for thin seam coal.** For tax years beginning on or after January 1, 2001 and ending on or before December 31, 2005, and for the period of January 1, 2006 through June 30, 2006, there shall be allowed, in addition to that described in (1) of this subsection, a **supplemental** credit in the amount of Ninety-five Cents (\$0.95) per ton of coal mined, produced, or extracted from **thin seams** in this state, **so long as** the purchaser of the thin seam coal purchases less than Seven Hundred Fifty Thousand (750,000) tons of Oklahoma coal per year.

(3) **Extended credit for thin seam coal.** For tax years beginning on or after January 1, 2005 and ending on or before December 31, 2005, for the period of January 1, 2006, through June 30, 2006, there shall be allowed, in

addition to that described in (1) and (2) of this subsection, a **supplemental** credit in the amount of Ninety-five Cents (\$0.95) per ton of coal mined, produced, or extracted from **thin seams** in this state on or after July 1, 2005.

(c) **Transferability.** The coal credits allowed, but not used, shall be freely transferable by written agreement to subsequent transferees, at any time during the five (5) years following the year of qualification.

(1) **"Eligible transferee" defined.** For purposes of this subsection, an **"eligible transferee"** means *any taxpayer subject to the tax imposed by Section 1803 or 2355 of Title 68 or Section 624 or 628 of Title 36 of the Oklahoma Statutes.* [See: 68 O.S. § 2357.11(H)] Pursuant to the statutory definition, an "eligible transferee" taxpayer may be an individual, as well as a legal business entity.

(2) **Written transfer agreement requirements.** The business entity which originally earned the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring entity, and the tax year or years for which the credit may be claimed.

(3) **Claiming transferred credit.** A copy of OTC Form 572 must be attached to any tax return on which a taxpayer claims a transferred credit.

(4) **Limitation of transferability.** Credits earned after December 31, 2013, shall not be transferable.

(d) **Application of credit election.** Any coal credit may, upon the election of the taxpayer, be claimed as a payment of tax, a prepayment of tax, or a payment of estimated tax for purposes of Section 1803 or 2355 of Title 68 or Section 624 or 628 of Title 36. In no event shall the credit reduce the tax below zero, and as such, this credit is non-refundable. Coal credits shall not be used to lower the price of any Oklahoma-mined coal sold that is produced by a subsidiary of the person receiving a tax credit under this Section to other buyers of the Oklahoma-mined coal.

(e) **Carryover provisions.** Any coal credit earned prior to January 1, 2014, to the extent not used, may be carried over in order to each of the five (5) years following the year of qualification. However, at no time may the credit claimed exceed the tax liability for credits earned prior to January 1, 2014.

(f) **Refund of tax credits.** Credits earned on or after January 1, 2014, but not used, shall be refunded to the taxpayer at eighty-five percent (85%) of the face amount of the credits. If the taxpayer is a pass-through entity and does not file a claim for a direct refund, the pass-through entity shall allocate the credit to one or more of the shareholders, partners or members of the pass-through entity. The total amount of credits refunded or allocated shall not exceed the amount of the credit or refund to which the pass-through entity is entitled.

(g) **Tax credit moratorium.** No credit may be claimed for coal purchased, mined, produced or extracted during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for Oklahoma-mined coal for qualifying purposes purchased, mined, produced or extracted on or after July 1, 2012.

(h) **Tax credit limitation.**

(1) For any credits calculated pursuant to (a)(1) or (a)(2), or (b)(1) of this Section for activities occurring on or after January 1, 2016, the amount of

credit allowed shall be equal to seventy-five percent (75%) of the amount otherwise provided. [68 O.S. § 2357.11(N)]

(2) For tax years beginning on or after January 1, 2018, the total amount of credits authorized by this Section used to offset tax or paid as a refund shall be adjusted annually to limit the annual amount of credits to Five Million Dollars (\$5,000,000.00). The Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this Section shall be reduced so the total amount of credits used to offset tax or paid as a refund does not exceed Five Million Dollars (\$5,000,000.00) per year.

[Source: Amended at 10 Ok Reg 3837, eff 7-12-93; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 14 Ok Reg 2699, eff 6-26-97; Amended at 17 Ok Reg 2669, eff 6-25-00; Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Amended at 34 Ok Reg 81, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 36 Ok Reg 35, eff 10-17-18 (emergency); Amended at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-77. Venture capital company credit

(a) Each qualified Venture Capital Company, as defined in Section 2357.7 of Oklahoma Income Tax statutes, shall file a complete annual report with the Tax Commission and list all funds invested in such company which may qualify for the tax credit allowed by the act. The report shall state the amount of funds the Venture Capital Company invested in each business during the taxable year, the name of such business and its Taxpayer/Employer Identification Number (EIN), date of investment and type of investment.

(b) Each qualified Venture Capital Company shall furnish to each investor in the Company during the preceding year, a written statement showing the name and EIN number of the Venture Capital Company, the name and Taxpayer/Employer Identification Number of the investor and the total amount of the investment of the investor. This statement will be furnished no later than January 31st of the year following the year of their investment in the Venture Capital Company. A copy of this statement is to be attached to the Oklahoma Income Tax Return of the investor in order to qualify for the tax credit.

(c) The credit may be used in the year of the original investment in the Venture Capital Company and for the three succeeding years. This is a non-refundable credit and may not be carried back to a year prior to obtaining the credit.

(d) The original investor may transfer the credit without any limitation. This credit may also be transferred by the transferee at any time during the period that the credit is available for use. The transferred credit may only be used from the time of the transfer forward and is limited to the original qualifying period. [See: 68 O.S. §2357]

(e) An example of the application of the venture capital company credit is as follows:

[Source: Amended at 9 Ok Reg 3031, eff 7-13-92]

710:50-15-78. Qualification as a venture capital company

(a) The venture capital credit is an income tax credit for the investment in qualified venture capital companies.

(b) To qualify as a venture capital company, capitalization must be at a level of at least five million dollars. Capitalization may consist of cash and/or property or debt obligations. Each venture capital company claiming something other than cash to meet the qualification will be closely examined for compliance with statute and with the Rules of the Oklahoma Tax Commission. Effective for capitalization after

January 1, 1999, seventy-five percent (75%) of a Venture Capital Company's funds must be invested in Oklahoma business ventures.

(c) The tax credit allowed shall be twenty percent (20%) of the cash amount invested; for example: Investors contribute three million in cash and use debt obligation of two million to qualify as a venture capital company. The tax credit will be limited to twenty percent (20%) of three million, or \$600,000.00.

(d) No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), or Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act), shall be eligible to receive the credit described in this Section in connection with the activity and establishment for which incentive payments have been, or are being received. [See: 68 O.S. §§ 3607, 3909]

[Source: Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 16 Ok Reg 2646, eff 6-25-99]

710:50-15-79. Health insurance tax credit [REVOKED]

[Source: Added at 10 Ok Reg 3837, eff 7-12-93; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 15 Ok Reg 2811, eff 6-25-98; Revoked at 19 Ok Reg 2433, eff 6-27-02]

710:50-15-80. Credit for wind or photovoltaic energy systems [REVOKED]

[Source: Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94]

710:50-15-81. Credit for qualified clean-burning motor vehicle fuel property

(a) **Definitions.** For purposes of the clean-burning motor vehicle fuel property credit, "*motor vehicle*" means a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways. [See: 68 O.S. § 2357.22(C)] "**Vehicle**" shall not mean conveyor belts, forklifts, riding mowers, tractors, or other similar items. An entity that converts property to qualified clean-burning motor vehicle fuel property may lease such property and retain the right to claim the credit. Property on which the credit has previously been claimed is ineligible for the credit.

(b) **Limitations of eligibility.** No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), or Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act), shall be eligible to receive the credit for qualified clean-burning motor vehicle fuel property provided by 68 O.S. §2357.22, in connection with the activity and establishment for which incentive payments have been, or are being received. [See: 68 O.S. §§3607, 3909]

(c) **Sunset date.** This credit will only be available through tax years beginning before December 31, 2027.

(d) **Tax credit limitation.** For tax years beginning on or after January 1, 2020, the total amount of credits used to offset tax shall be adjusted annually to limit the annual amount of credits to Twenty Million Dollars (\$20,000,000.00). The Tax Commission shall annually calculate and publish by the first day of the affected taxable year a percentage by which the credits shall be reduced so the total amount of credits used to offset tax does not exceed Twenty Million Dollars (\$20,000,000.00) per year.

[Source: Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Amended at 13 Ok Reg 3105, eff 7-11-96; Amended at 15 Ok Reg 2699, eff 6-26-97; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at

21 Ok Reg 2571, eff 6-25-04; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14; Amended at 35 Ok Reg 2066, eff 9-14-18; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-15-82. Amendment and repeal of certain tax credit provisions; preservation of certain claims under repealed law [REVOKED]

[Source: Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-83. Limitation of credits allowed by the Oklahoma Quality Jobs Program, the Small Employer Quality Jobs Incentive Acts and the 21st Century Quality Jobs Incentive Act

No establishment which qualifies under the terms of Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act), or Section 3911 et seq. of the Oklahoma Statutes (21st Century Quality Jobs Incentive Act) and has received or is receiving incentive payments pursuant to those Acts, nor its contractors or subcontractors, shall be eligible to receive, in connection with the activity and establishment for which incentive payments have been, or are being received, the credits described as follows:

- (1) The investment credit provided for by 68 O.S. §2357.4. [See: 710:50-15-74]
- (2) The credit for investments in qualified venture capital companies provided for by 68 O.S. §2357.7. [See: 710:50-15-77 and 710:50-15-78]
- (3) The credit for clean-burning motor vehicle fuel property, provided for by 68 O.S. §2357.22. [See: 710:50-15-81]
- (4) The credits provided pursuant to the Oklahoma Research and Development Incentives Act, 68 O.S. §54003.

[Source: Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-84. Recycling facility credit [REVOKED]

[Source: Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-85. Credit for investment in Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association [REVOKED]

[Source: Added at 14 Ok Reg 2699, eff 6-26-97; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 23 Ok Reg 2824, eff 6-25-06; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 32 Ok Reg 1354, eff 8-27-15]

710:50-15-86. Small Business Capital Company / Oklahoma Small Business Venture credits [REVOKED]

[Source: Added at 15 Ok Reg 2811, eff 6-25-98; Amended at 16 Ok Reg 2646, eff 6-25-99; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 22 Ok Reg 1532, eff 6-11-05; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-86.1. Letter rulings pursuant to the Small Business Capital Formation Incentive Act [REVOKED]

[Source: Added at 24 Ok Reg 2359, eff 6-25-07; Amended at 25 Ok Reg 728, eff 12-27-07 (emergency); Amended at 25 Ok Reg 2056, eff 7-1-08; Amended at 26 Ok Reg 2330, eff 6-25-09; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-87. Oklahoma Rural Small Business Capital Company / Rural Small Business Venture credits [REVOKED]

[Source: Added at 18 Ok Reg 2810, eff 6-25-01; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-87.1. Letter rulings pursuant to the Rural Venture Capital Formation Incentive Act [REVOKED]

[Source: Added at 24 Ok Reg 2359, eff 6-25-07; Amended at 25 Ok Reg 728, eff 12-27-07 (emergency); Amended at 25 Ok Reg 2056, eff 7-1-08; Amended at 26 Ok Reg 2330, eff 6-25-09; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-88. Tourism attraction project credit [RESERVED]

[Source: Reserved at 18 Ok Reg 2810, eff 6-25-01]

710:50-15-89. Oklahoma coal production credit [REVOKED]

[Source: Added at 19 Ok Reg 2433, eff 6-27-02; Amended at 20 Ok Reg 2165, eff 6-26-03]

710:50-15-90. Oklahoma earned income tax credit

(a) Effective for tax years beginning on or after January 1, 2002, there shall be an Oklahoma Earned Income Tax Credit for resident and part year resident individuals.

(b) The Oklahoma Earned Income Tax Credit shall be an amount equal to five percent (5%) of the Federal Earned Income Tax Credit allowed under Section 32 of the Internal Revenue Code. Effective for tax year 2016 and subsequent tax years, if the credit exceeds the tax imposed by Section 2355 of Title 68, the excess amount shall not be refunded to the taxpayer, nor shall any amount be carried forward to a subsequent tax year. The Oklahoma Earned Income Tax Credit may not be paid in advance and must be claimed on the individual income tax return when filed.

(c) The credit is to be prorated on the ratio that Oklahoma Adjusted Gross Income bears to Federal Adjusted Gross Income, not to exceed one hundred percent (100%). When the Oklahoma Adjusted Gross Income or the Federal Adjusted Gross Income is negative the ratio will be determined as follows:

- (1) When the Oklahoma Adjusted Gross Income is negative and is less than the Federal Adjusted Gross Income, the ratio shall be 0%. (For example: Oklahoma Adjusted Gross Income is negative \$1,000 and the Federal Adjusted Gross Income is negative \$500, the ratio shall be 0%).
- (2) When the Federal Adjusted Gross Income is negative and is equal to or less than the Oklahoma Adjusted Gross Income, the ratio will be 100%. (For example: Oklahoma Adjusted Gross Income is negative \$500 and the Federal Adjusted Gross Income is negative \$1,000 the ratio is 100%).

[Source: Added at 19 Ok Reg 2433, eff 6-27-02; Amended at 23 Ok Reg 2824, eff 6-25-06; Amended at 34 Ok Reg 81, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-15-91. Credit for employers incurring expenses for the provision of child care services

(a) **General Provisions.** There shall be a non-refundable tax credit against the tax imposed by 68 O.S. § 2355 for employers incurring eligible expenses in the connection with providing child care services for children of their employees. The

credit is based on the amount of eligible expenses incurred prior to January 1, 2014, and shall be twenty percent (20%) of the eligible expense subject to limits based on the type of expense. The credit is effective for tax years beginning after December 31, 2001.

(b) **Eligible expenses subject to the \$3,100.00 cap.** Eligible expenses subject to the \$3,100.00 cap per employee-child are those amounts paid for the purchase of childcare services for children of employees at a facility licensed by the Department of Human Services and rated at least two stars.

(c) **Eligible expenses subject to the \$50,000.00 cap.** Eligible expenses subject to the \$50,000.00 cap are those expenses associated with providing a child care center. These include expenses associated with planning, preparing, constructing, or expanding a child care center; equipment for a child care center; or maintenance and operating expenses of a child care center, including direct administrative and staff costs.

(d) **Eligible expenses subject to the \$5,000.00 cap.** Eligible expenses subject to the \$5,000.00 cap are those expenses for fees and grants to child care resource and referral organizations doing business within Oklahoma.

(e) **Credit is in lieu of expense deduction.** The credit for employers incurring expenses for the provision of child care services shall be in lieu of a deduction of eligible expenses used in computing Oklahoma taxable income. If the credit is claimed or generated, then none of the expenses on which the credit is based shall be allowed as deduction in calculating Oklahoma taxable income.

(f) **Carryforward allowed.** Credits generated but not used are allowed to be carried forward four (4) years following the year generated.

(g) **Tax credit moratorium.** No credit may be claimed for any expenditure occurring during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for eligible expenditures occurring on or after July 1, 2012.

[Source: Added at 20 Ok Reg 2165, eff 6-26-03; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-15-92. Credit for manufacturers of advanced small wind turbines

(a) **General provisions.** Oklahoma manufacturers of advanced small wind turbines may claim an Oklahoma income tax credit for manufacturing advanced small wind turbines in this state. This credit is available for advanced small wind turbines manufactured between January 1, 2003 and December 31, 2012.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Advanced small wind turbines (ASWT)"** are upwind, furling wind turbines that have a rated capacity of at least one kilowatt (1kw) but no more than fifty kilowatts (50kw). The wind turbine must also incorporate advanced technologies such as new airfoils, new generators, new power electronics, and variable speed. In order to qualify as an advanced small wind turbine, at least one unit of each model must have undergone testing at the United States Department of Energy National Wind Technology Center and must comply with appropriate interconnection safety standards of the Institute of Electrical and Electronics Engineers as are applicable to small wind turbines.

(2) **"Rotor Swept Area"** means an area calculated by using the formula π times D^2 divided by 4, (D being the rotor diameter in feet, $\pi = 3.1416$).

(3) "**Oklahoma manufacturer**" means, for purposes of this Section, a manufacturer who operates facilities that have the capability of manufacturing small wind turbine products in this state.

(4) "**Small wind turbine products**" means and includes rotor blades and alternator fabrication.

(c) **Computation of the credit.** The credit is based on the square footage of the rotor swept area of the advanced small wind turbine manufactured in Oklahoma. For ASWT manufactured between January 1, 2003, and December 31, 2003, the credit is Twenty-five Dollars (\$25.00) per square foot of the rotor swept area. For ASWT manufactured between January 1, 2004, and December 31, 2004, the credit is Twelve Dollars and Fifty Cents (\$12.50) per square foot of the rotor swept area. For ASWT manufactured between January 1, 2005, and December 31, 2007, the credit is Twenty-five Dollars (\$25.00) per square foot of the rotor swept area.

(d) **Transfer of the credit.** Effective for tax year 2004, the credit for manufacturers of advanced small wind turbines may be transferred.

(e) **Tax credit moratorium.** No credit may be claimed for any advanced small wind turbines manufactured during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for advanced small wind turbines manufactured on or after July 1, 2012.

[Source: Added at 20 Ok Reg 2165, eff 6-26-03; Amended at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11]

710:50-15-93. Credit for qualified Oklahoma space transportation vehicle providers [REVOKED]

[Source: Added at 21 Ok Reg 353, eff 12-10-03 (emergency); Added at 21 Ok Reg 2571, eff 6-25-04; Revoked at 32 Ok Reg 1354, eff 8-27-15]

710:50-15-94. Volunteer firefighter credit

(a) **General provisions.** An income tax credit of Two Hundred Dollars (\$200.00) is available for a volunteer firefighter who has completed at least twelve (12) hours toward the State Support or State Basic Firefighter or Firefighter I offered by Oklahoma State University Fire Service Training or Oklahoma Department of Career and Technology Education. After the initial year, an additional Two Hundred Dollar (\$200.00) income tax credit is allowed each year the volunteer firefighter has completed an additional six (6) hours of State Support or State Basic Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshall Commission until such program or its equivalent is completed.

(b) **Advanced training credit.** An income tax credit of Four Hundred Dollars (\$400.00) each year is available for a volunteer firefighter who, after completing the State Support or State Basic Firefighter program:

- (1) Completes at least six (6) hours of continuing education each year until the firefighter completes Intermediate or Advanced Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshall Commission or its equivalent;
- (2) After completion of Intermediate or Advanced Firefighter or Firefighter I, the volunteer firefighter shall complete six (6) hours of training per year to claim the tax credit;

- (3) Provides documentation from the fire chief of the applicable department that the firefighter has participated in all annual training as required by federal and state authorities; and,
- (4) Provides documentation from the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-95. Poultry litter credit

(a) **General provisions.** Effective for tax years beginning on or after January 1, 2005, and ending on or before December 31, 2009 an income tax credit is established for the purchase and transportation of poultry litter. The credit is five dollars (\$5.00) per ton of poultry litter purchased and transported. Effective for tax years beginning on or after January 1, 2010, and ending on or before December 31, 2013 the credit is Ten Dollars (\$10.00) per ton of poultry litter purchased and transported. Any unused credit may be carried over for up to five (5) years.

(b) **Qualification.** In order to qualify for the credit the poultry litter must:

- (1) Be purchased from a registered, Oklahoma-based poultry operation located within an environmentally sensitive and nutrient-limited watershed;
- (2) Be used or spread in a watershed that is not environmentally sensitive and nutrient-limited; and,
- (3) Be applied by a certified poultry waste applicator and in a manner consistent with the Animal Waste Management Plan.

(c) **Limitation.** The sum total of all such credits claimed cannot exceed Three Hundred Seventy-five Thousand Dollars (\$375,000.00) annually, for all claimers of the credit.

(d) **Tax credit moratorium.** No credit may be claimed for purchases occurring during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for poultry litter purchased and transported on or after July 1, 2012.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11]

710:50-15-96. Sales tax relief credit

(a) **General provisions.** Eligible individual taxpayers may claim an income tax credit for "Sales Tax Relief" pursuant to 68 O.S. § 5011. The credit is forty dollars (\$40.00) multiplied by the number of allowable personal exemptions the taxpayer is entitled to claim under the Oklahoma Income Tax Act.

(b) **Eligible taxpayers.** For purposes of this Section, "**Eligible Taxpayer**" means an individual who is a resident of, and domiciled in Oklahoma, for the entire calendar year.

(c) **Gross Household Income.** For purposes of this Section "**Gross Household Income**" is the gross income of every type received by all persons occupying the same household. It includes, but is not limited to, pensions, annuities, federal social security benefits, unemployment payments, veterans disability compensation, loss-of-time insurance payments, capital gains, and any other type of income. It is not relevant whether or not the income is taxable for state or federal income tax

purposes. "**Gross Household Income**" does not include gifts, or income that is considered deferred.

(d) **Eligibility for tax year 2004.** To be eligible to claim this credit, the following Gross Household Income limits apply for tax year 2004:

(1) For those taxpayers that can claim no allowable personal exemption other than themselves or their spouse, Gross Household Income cannot exceed Fifteen Thousand Dollars (\$15,000.00).

(2) For those taxpayers who can claim a personal exemption other than themselves or their spouse; who are at least 65 years of age; or, who have a physical disability that is a substantial handicap to employment, Gross Household Income cannot exceed Thirty Thousand Dollars (\$30,000.00).

(e) **Eligibility for tax year 2005 and following years.** To be eligible to claim this credit, the following Gross Household Income limits apply for tax year 2005 and following years:

(1) For those taxpayers that can claim no allowable personal exemption other than themselves or their spouse, Gross Household Income cannot exceed Twenty Thousand Dollars (\$20,000.00).

(2) For those taxpayers who can claim a personal exemption other than themselves or their spouse; who are at least 65 years of age; or, who have a physical disability that is a substantial handicap to employment, Gross Household Income cannot exceed Fifty Thousand Dollars (\$50,000.00).

(f) **Filing Requirements.** Procedures for claiming the "Sales Tax Relief" credit are:

(1) For tax years beginning before January 1, 2007:

(A) If the claim for sales tax relief is taken as a direct credit against the income taxes owed by the taxpayer, the claim must be filed by April 15 as part of the regular income tax return, using Oklahoma Tax Commission Form 538S (OTC Form 538S). Extensions of time to file an Oklahoma income tax return will **not** extend the time to file for the Sales Tax Relief Credit.

(B) If the claim for sales tax relief is not taken as a direct credit against income taxes owed by the taxpayer, the claim must be filed by June 30 for the preceding calendar year, using Form 538S as a stand-alone refund claim.

(2) For tax years beginning on or after January 1, 2007:

(A) If the taxpayer has an income tax filing requirement, the claim must be filed by April 15 as part of the regular income tax return in the year following the close of the taxable year, unless the taxpayer has been granted a valid extension of time to file said income tax return (including the April 20th due date for electronically filed returns). In the case where a valid extension of time to file has been granted, the claim for sales tax relief may be filed with the income tax return pursuant to the extension granted. In all cases taxpayers must attach Oklahoma Tax Commission Form 538S (OTC Form 538S) to their regular income tax return in order to claim the sales tax relief credit.

(B) If the taxpayer does not have an income tax filing requirement the claim must be filed by June 30 for the preceding calendar year, using Form 538S.

(g) **Exceptions and exclusions.** The exceptions and exclusions set out in this subsection apply to the "Sales Tax Relief" credit.

- (1) Persons who have received temporary assistance for needy families (TANF) for any month during the tax year are not eligible for the sales tax refund under this Section, but shall receive sales tax relief as a part of their monthly TANF benefit. [See: 68 O.S. § 5013(B)]
- (2) The Oklahoma Department of Human Services will issue the sales tax refund to persons who have continuously received aid to the aged, blind, disabled or Medicaid payments for nursing home care for the tax year. [See: 68 O.S. §5013(C),(D)]
- (3) A person convicted of a felony shall not be permitted to file a claim for sales tax relief for any year for which that person is an inmate in the custody of the Department of Corrections for any part of that year. [See: 68 O.S. § 5011(E)]
- (4) Alien individuals living in Oklahoma under a temporary or restricted status do not qualify for the sales tax relief credit. [See: 8 U.S. § 1101(a)(15)(B) and § 1101(a)(15)(F)(i)]
- (5) If a taxpayer or spouse died during the tax year, the sales tax credit cannot be claimed for the deceased. However, if the death occurred after the close of the tax year, but before the claim for sales relief was filed, the sales tax credit or refund for the deceased will be issued to the deceased's estate. [See: 68 O.S. § 5011]

[Source: Added at 22 Ok Reg 354, eff 1-1-05 (emergency); Added at 22 Ok Reg 1532, eff 6-11-05; Amended at 25 Ok Reg 728, eff 12-27-07 (emergency); Amended at 25 Ok Reg 2056, eff 7-1-08]

710:50-15-97. Credit for qualified direct costs of a business enterprise of specially trained canines

- (a) **General provisions.** An Oklahoma income tax credit of fifty percent (50%) of the qualified direct costs associated with the operation of a business enterprise whose principal purpose is the rearing of specially trained canines is allowed, for expenditures made before November 1, 2013. In order to qualify for the credit the business enterprise must meet certain eligibility requirements.
- (b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:
 - (1) **"Nonqualified operating expenditures"** means labor costs, salary and other compensation, whether direct or indirect, paid to directors, officers, limited liability company members, limited liability company managers, partners or other principals or employees of the business entity;
 - (2) **"Qualified direct costs"** means expenditures, other than nonqualified operating expenditures, to construct dog kennels, fences, pens, training areas for canines, structures for office space or other improvements to real property necessary for the proper training of a specially trained canine, including the cost of food, water, veterinary expenses and other costs directly related to the operation of the training facility;and
 - (3) **"Specially trained canines"** means dogs that are raised by a person who is officially licensed as a dog breeder by the United States Department of Agriculture.
- (c) **Qualification.** In order to qualify for the credit, applicant must have:
 - (1) An official copy of the United States Department of Agriculture dog breeder license; and
 - (2) Documentation showing that the business enterprise's principal purpose is the rearing of specially trained canines. Also, a written description of the services of the organization, as may be evidenced by copies of:

- (A) Articles of incorporation;
- (B) By-laws;
- (C) Brochure; or
- (D) Notarized letter from the President or Chairman of the business enterprise.

(3) Evidence of qualification must be provided to the Oklahoma Tax Commission upon request.

(d) **Computation of credit.** The taxpayer must attach a schedule showing qualified direct costs to the Oklahoma Income Tax Return. The allowed credit is equal to fifty (50%) of the "qualified direct costs". Receipts for all "qualified direct costs" must be provided to the Oklahoma Tax Commission upon request.

(e) **Limitations.** The credit will not reduce the tax liability of the taxpayer to less than zero (0) and any credit allowed but not used any tax year may be carried over, in order, to each of the five (5) subsequent taxable years. The credit is also not transferable.

(f) **Tax credit moratorium.** No credit may be claimed for any expenditure occurring during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for expenditures occurring on or after July 1, 2012 for qualified direct costs associated with the operation of a business enterprise whose principal purpose is the rearing of specially trained canines

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-15-98. Credits for biodiesel production

(a) **General provisions.** For tax years beginning after December 31, 2004 and before January 1, 2013, there is an income tax credit for biodiesel production at certain biodiesel facilities.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Biodiesel"** is any diesel-equivalent biofuel made from renewable materials such as vegetable oils or animal fats.
- (2) **"Biodiesel facility"** is a plant or facility primarily engaged in the production of biodiesel derived from animal fats, grain components, coproducts, or byproducts. The facility must be located within the State of Oklahoma.
- (3) **"Name plate design capacity"** means the original designed capacity of a biodiesel facility. Capacity must be specified as gallons of biodiesel produced per year.

(c) **Basic credit.** Any biodiesel facility which is in production at the rate of at least twenty-five percent (25%) of its name plate design capacity for the production of biodiesel, on or before December 31, 2008 is eligible for a credit in the amount of twenty cents (\$0.20) per gallon of biodiesel produced for the first sixty (60) months provided the biodiesel facility maintains an average production rate of at least twenty-five percent (25%) of its name plate design capacity for at least six (6) months after the first month for which it is eligible to receive such credit. The credit of twenty cents (\$0.20) per gallon of biodiesel produced expires for production after December 31, 2013.

(d) **Excess production credit.** Any biodiesel facility eligible for the basic credit above may also receive an income tax credit in the amount of twenty cents (\$0.20) per gallon of biodiesel produced in excess of the original name plate design

capacity which results from expansion of the facility completed on or after July 1, 2005 and before December 31, 2008. Such tax credit shall be allowed for sixty (60) months beginning with the first month for which production from the expanded facility is eligible to receive such tax credit and ending not later than December 31, 2013.

(e) **Credit for production after December 31, 2013.** For production of biodiesel after December 31, 2013 a biodiesel facility may receive an income tax credit in the amount of seven and one-half cents (\$0.075) per gallon of biodiesel, for new production for a period not to exceed thirty-six (36) consecutive months.

(1) **"New production" defined.** For purposes of the credit for production after December 31, 2011, new production means production which results from a new facility, a facility which has not received credits prior to January 1, 2012, or the expansion of the capacity of an existing facility by at least two million (2,000,000) gallons first placed into service after January 1, 2012, as certified by the design engineer of the facility to the Oklahoma Tax Commission. For expansion of the capacity of an existing facility, new production is defined as the annual production that is in excess of twelve times the monthly average of the highest three (3) months of biodiesel production at a biodiesel facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer. No credits are allowed under this subsection for expansion of the capacity of an existing facility until production is in excess of twelve times the three-month average amount determined under this subsection during any twelve-consecutive-month period beginning no sooner than January 1, 2012.

(2) **Credit approval.** The amount of a credit granted pursuant to this section that is based on new production must be approved by the Tax Commission based on the biodiesel production records as are necessary to reasonably determine the level of new production.

(f) **Limitations:** The credits allowed in this Section are subject to the limitations described in this subsection.

(1) The Credit for Biodiesel Production Facilities is only allowed for biodiesel that is produced at a plant at which all biodiesel esterification takes place.

(2) Not more than twenty-five million (25,000,000) gallons of biodiesel produced annually at a biodiesel facility shall be eligible for the basic credit or excess production credit. The credits may only be claimed by a producer for production that occurs on or before December 31, 2011.

(3) Not more than ten million (10,000,000) gallons of biodiesel produced during any twelve-consecutive-month period at a biodiesel facility shall be eligible for credit for production after December 31, 2011. The credit for production after December 31, 2011 may only be claimed by a producer for production that occurs on or before December 31, 2014.

(4) The Tax Commission may examine or cause to have examined, by any agent or representative designated for that purpose, any books, papers, records, or memoranda bearing upon such matters to ascertain the validity of the credit outlined in this section.

(g) **Carryover.** Any credits allowed under this Section but not used may be carried forward as a credit against subsequent income tax liability for a period not exceeding five (5) years, beginning July 1, 2009.

(h) **Tax credit moratorium.** No credit may be claimed for any biodiesel production during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for biodiesel production at certain biodiesel facilities produced on or after July 1, 2012.

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 25 Ok Reg 2056, eff 7-1-08; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11]

710:50-15-99. Dry fire hydrant credit

(a) **General provisions.** For tax years beginning after December 31, 2005, there is allowed a credit against the tax imposed by 68 O.S. Section 2355 for the cost of the purchase of a dry fire hydrant or the cost to provide an acceptable means of water storage for such dry fire hydrants including a pond, tank, or other storage facility with the primary purpose of fire protection within the State of Oklahoma, purchased before January 1, 2014.

(b) **Definitions. "Dry fire hydrant"** means nonpressurized pipes permanently installed in lakes, farm ponds, and streams that provide a ready means of drawing water.

(c) **Qualification.** In order to qualify for the credit, the dry fire hydrants or new water storage facilities must meet the following criteria:

- (1) Each body of water or water storage structure must be able to provide two hundred fifty (250) gallons per minute for a continuous two-hour period during a fifty-year drought or freeze at a vertical lift of eighteen (18) feet for each body of water or water storage structure.
- (2) Each dry fire hydrant must be located within twenty-five (25) feet of an all-weather roadway and accessible to fire protection equipment.
- (3) Dry fire hydrants must be located at a reasonable distance from other dry or pressurized hydrants.

(d) **Certification.** The Oklahoma Tax Commission will receive certifications from The State Fire Marshall's Office. Allowed credits will be based on these certifications. The Taxpayer must attach a copy of the certification to the Oklahoma Income Tax Return.

(e) **Computation of credit.** Upon certification, the allowed credit shall be equal to fifty percent (50%) of the purchase price of a dry fire hydrant or the actual expenditure for the new water storage construction, equipment, development and installation of the dry hydrant or new water storage facility.

(f) **Limitations.** The amount of credit allowed pursuant to this Section shall not exceed \$5,000.00 for each taxpayer and any credit allowed but not used in any tax year may be carried over, in order, to each of the four (4) years following the year of qualification.

(g) **Tax credit moratorium.** No credit may be claimed for purchases occurring during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for purchases on or after July 1, 2012 of a dry fire hydrant or the cost to provide an acceptable means of water storage for such dry fire hydrants including a pond, tank, or other storage facility with the primary purpose of fire protection within the State of Oklahoma.

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-15-100. Credit for qualified wages, capital expenditures, and training expenses [REVOKED]

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 26 Ok Reg 2330, eff 6-25-09; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-101. Twenty-five percent (25%) Film and Music Profit Reinvestment Credit [REVOKED]

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 32 Ok Reg 1354, eff 8-27-15; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-103. Credit for qualified railroad reconstruction or replacement expenditures

(a) **General provisions.** For tax years beginning after December 31, 2005, and ending before January 1, 2025, there is a credit allowed against the tax imposed by Section 2355 of Title 68 equal to 50% of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures. [68 O.S. § 2357.104]

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Eligible taxpayer"** means any railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(2) **"Qualified railroad reconstruction or replacement expenditures"** means expenditures for track maintenance, natural disasters, and reconstruction or replacement of railroad infrastructure. This includes track, roadbed, crossings, bridges, industrial leads and track-related structures owned or leased by a Class II or Class III railroad as of January 1, 2006. Qualified railroad reconstruction or replacement expenditures can also include new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings by a Class II or Class III railroad.

(c) **Limitations.**

(1) The amount of the credit may not exceed the product of the number of miles of railroad track owned or leased within this state by the eligible taxpayer as of the close of the taxable year and:

(A) Five Hundred Dollars (\$500.00) for tax year 2007.

(B) Two Thousand Dollars (\$2,000.00) for tax years 2008 through 2019.

(C) Five Thousand Dollars (\$5,000.00) for tax years 2020 through 2024.

(2) Effective for tax years beginning on or after January 1, 2016, and ending before January 1, 2020, the credit is limited to seventy-five percent (75%) of the otherwise allowable credit.

(d) **Transferability.** The credits allowed pursuant to this Section that are not used are freely transferable by written agreement, to subsequent transferees, at any time during the five (5) years following the year of qualification.

(1) **"Eligible transferee" defined.** For purposes of this subsection, an "eligible transferee" shall be any taxpayer subject to the tax imposed by Section 2355 of Title 68.

(2) **Written transfer agreement requirements.** The person originally allowed the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days

of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person, and the tax year or years for which the credit may be claimed.

(e) **Carryover provisions.** Any credit allowed pursuant to the provisions of this Section, to the extent not used, may be carried over in order to each of the five (5) years following the year of qualification.

(f) **Tax credit limitation.** The total amount of credits authorized by this Section used to offset tax shall be adjusted annually to limit the annual amount of credits to Two Million Dollars (\$2,000,000.00) for tax years 2018 and 2019 and Five Million Dollars (\$5,000,000.00) for tax year 2020 and all subsequent tax years. The Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this Section shall be reduced so the total amount of credits used to offset tax does not exceed the applicable annual limit.

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 34 Ok Reg 81, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17; Amended at 36 Ok Reg 35, eff 10-7-18; Amended at 36 Ok Reg 1216, eff 8-11-19; Amended at 38 Ok Reg 1527, eff 9-1-21]

710:50-15-104. Credit for construction of energy efficient residential property

(a) **General provisions.** Effective for the time period beginning on or after January 1, 2006, and ending on or before July 1, 2016, a credit is available for contractors who construct either energy efficient residential property or energy efficient manufactured homes. The credit is dollar for dollar based on the cost of certain eligible expenditures.

(b) **Definitions.** For purposes of this Section, the following words and terms, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Contractor"** is the taxpayer who actually constructed the residential property or manufactured home. In cases if more than one person qualifies as the contractor, the primary contractor.

(2) **"Eligible energy efficient residential property"** means a newly constructed residential property or manufactured home property located in the State of Oklahoma. Further the home cannot exceed two thousand (2,000) square feet in order to be eligible for the credit. The eligible energy efficient residential property must be substantially complete after December 31, 2005.

(3) **"Eligible expenditure"** includes the cost of energy efficient heating or cooling systems, insulation material specifically designed to reduce the heat gain or loss of a residential property, exterior windows, exterior doors or metal roofs with appropriate pigmented coatings designed to reduce the heat gain which meets Energy Star program requirements.

(4) **"Home energy ratings"** means a confirmed rating involving an on-site inspection of a home by a residential energy efficiency professional trained and certified by a Residential Energy Services Network accredited home energy rater.

(5) **"Residential energy services network provider"** means an accredited home energy inspector certified by Residential Energy Services Network.

(6) **"Residential property"** means a single dwelling unit, duplex, or townhouse with three stories or less, that provides independent living and could be sold or leased as separate property. The term does not include Group R-2 and R-4 residential buildings as defined in the International

Energy Conservation Code.

(7) "**Substantially complete**" means the residential property or manufactured home has a certificate of occupancy issued if located in a municipality. For residential property or manufactured home in non-metropolitan area, the property will be substantially complete after passing the appropriate inspections required under the applicable County Building Codes permitted under 19 O.S. § 863.44.

(c) Amount of credit.

(1) The credit is capped at Four Thousand Dollars (\$4,000) for those residential properties that are certified at forty percent (40%) or above of the International Energy Conservation Code 2003 and any supplement in effect at the time of completion. If the residential property is certified between twenty percent (20%) and thirty-nine (39%) of the International Energy Conservation Code of 2003 and any supplement in effect at the time of completion, the credit is limited to Two Thousand Dollars (\$2,000.00).

(2) The credit is not available if the residential property is in excess of Two Thousand (2,000) square feet.

(d) Carryover provisions. Any credit allowed pursuant to the Section, to the extent not used, may be carried over in order to each of the four (4) years following the year of qualification. However, at no time may the credit claimed exceed the tax liability.

(e) Transfer of the credit. Effective for credits earned on or after August 25, 2006, the credit for construction of energy efficient residential property may be transferred.

(f) Tax credit moratorium. No credit may be claimed for any expenditure made during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. A credit will be allowed for eligible expenditures made prior to July 1, 2010 regardless of when the property is substantially complete. This credit may be claimed for tax year 2012 and subsequent tax years, for eligible expenditures made on or after July 1, 2012, by contractors who construct either energy efficient residential property or energy efficient manufactured homes.

(g) Termination of the credit. No credit may be claimed for any expenditure made on or after July 1, 2016 for which the credit would otherwise be allowable. The credit shall be allowed for eligible expenditures made prior to July 1, 2016; however, the property must be substantially complete before January 1, 2017.

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 34 Ok Reg 81, eff 9-30-16 (emergency); Amended at 34 Ok Reg 2065, eff 9-11-17]

710:50-15-105. Credit for research and development

(a) General provisions. For taxable years beginning after December 31, 1992, and before January 1, 2003, and for taxable years beginning after December 31, 2005, there is an income tax credit for a net increase in the number of full-time-equivalent employees of a qualifying computer services, data processing or research and development entity occurring before January 1, 2014.

(b) Definitions. Qualifying computer services, data processing or research and development entities are those who are primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372, 7373, 7374 and 7375 of the SIC Manual (latest revision) and those entities which are primarily engaged in research and development as defined under Industrial Group Numbers 8731, 8732, 8733 and 8734 of the SIC Manual (latest revision).

(c) **Qualifications.** In order to qualify for the credit, entities primarily engaged in computer services and data processing (as defined under Industrial Group Number 7374 of the SIC Manual [latest revision] must also have a minimum of One Hundred Thousand Dollars (\$100,000.00) in purchases of computers, data processing equipment, related peripherals, telephone, telegraph, or telecommunications service or telecommunications equipment. All qualified entities must derive fifty percent (50%) of revenues from out-of-state buyers or consumers. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be sales to an out-of-state buyer or consumer. All qualified entities must also annually file an affidavit with the Oklahoma Tax Commission stating that the business so qualifies and such other information as required by the Commission.

(d) **Amount of credit.** The credit allowed is Five Hundred Dollars (\$500.00) for each new employee, but in no event may the total annual credit exceed fifty new employees. The credit is allowed in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. However the credit is allowed in each of the eight (8) subsequent years only if the level of new employees is maintained in the subsequent year and if the credit is taken for taxable years beginning after December 31, 2005. *In calculating the credit by the number of new employees, only those employees whose paid wages or salary were at least Thirty-five Thousand Dollars (\$35,000.00) during each year the credit is claimed shall be included in the calculation. The number of new employees shall be determined by comparing the monthly average number of full-time employees subject to Oklahoma income tax withholding for the final quarter of the taxable year with the corresponding period of the prior taxable year, as substantiated by such reports as may be required by the Tax Commission.*

(e) **Limitations.** This credit is not transferable. Unused credits may be carried over in order to each of the four (4) years following the year of qualification and to the extent not used in those initial four (4) years in order to each of the following five (5) years.

(f) **Tax credit moratorium.** No credit may be claimed for jobs created during the period of July 1, 2010 through June 30, 2012, for which the credit would otherwise be allowable. This credit may be claimed for tax year 2012 and subsequent tax years, for new jobs created on or after July 1, 2012.

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-15-106. Credits for ethanol production [REVOKED]

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 25 Ok Reg 2056, eff 7-1-08; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Revoked at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-107. Eligible wage and modification expenses credits [REVOKED]

[Source: Added at 23 Ok Reg 2824, eff 6-25-06; Amended at 25 Ok Reg 2056, eff 7-1-08; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 32 Ok Reg 1354, eff 8-27-15; Revoked at 36 Ok Reg 1216, eff 8-11-19]

710:50-15-108. Credit for qualified rehabilitation expenditures

(a) **General Provisions.** The Credit for Qualified Rehabilitation Expenditures is one hundred percent (100%) of the allowable federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code. All rehabilitation work to

which the Credit for Qualified Rehabilitation Expenditures may be applied must be reviewed by the State Historic Preservation Office. The State Historic Preservation Office will forward the information to the National Park Service for certification in accordance with 36 C.F.R., Part 67. A certified historic structure may be rehabilitated for any lawful use or uses, including without limitation mixed uses and still retain eligibility for the credit provided for in this section.

(b) Definitions.

(1) "**Certified historic hotel or historic newspaper plant building**" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to 68 O.S. § 2357.41.

(2) "**Certified historic structure**" means a building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to this section or a building located in Oklahoma which is certified by the State Historic Preservation Office as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the State Historic Preservation Office as eligible for listing in the National Register of Historic Places.

(3) "**Qualified rehabilitation expenditures**" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that relate to safety or accessibility. In addition, qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

(c) Provisions for tax years beginning after December 31, 2000 and ending before January 1, 2006. Only certified historic hotel or historic newspaper plant buildings located in an increment or incentive district created pursuant to the Local Development Act (62 O.S. §§ 850 et. seq.) are eligible for the Credit for Qualified Rehabilitation Expenditures.

(d) Provisions for tax years beginning on or after before January 1, 2006. The Credit for Qualified Rehabilitation Expenditures is available for qualified rehabilitation expenditures incurred after January 1, 2006 in connection with any certified historic structure.

(e) Provisions for claiming the credit. Generally, the first year the Credit for Qualified Rehabilitation Expenditures is eligible to be claimed is the first tax year that the federal rehabilitation credit, provided for in Section 47 of Title 26 of the United States Code, is eligible to be claimed. For carryover of the credit, see carryover provisions below. Further the Credit for Qualified Rehabilitation Expenditures may only be claimed after the relevant local governmental body responsible for doing so issues a certificate of occupancy or other document that is a precondition for the applicable use of the building or structure that is the basis upon which the credit is claimed. All requirements with respect to qualification for the credit authorized by Section 47 of Title 26 of the United States Code shall be applicable to the Credit for Qualified Rehabilitation Expenditures.

(f) Carryover. If the Credit for Qualified Rehabilitation Expenditures exceeds the amount of income taxes due or if there are no state income taxes due, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10)

years following the qualified expenditures.

(g) **Transferability.** The Credit for Qualified Rehabilitation Expenditures allowed, but not used, shall be freely transferable by written agreement to subsequent transferees, at any time during the five (5) years following the year of qualification.

(h) **Written transfer agreement requirements.** The entity which originally earned the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. Subsequent transfers will require the transferor and transferee to jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring entity, and the tax year or years for which the credit may be claimed as well as a representation by the transferor that the transferor has neither claimed such credits for its own behalf nor conveyed said credits to any other transferee. Such filing of the written credit transfer agreement with the Oklahoma Tax Commission will perfect said transfer.

(i) **Claiming transferred credit.** A copy of OTC Form 572 must be attached to any tax return on which a taxpayer claims a transferred credit.

(j) **Repayment of disallowed credit.** Effective January 1, 2009, if the Credit for Qualified Rehabilitation Expenditures has been transferred and is subsequently reduced as the result of an adjustment by the Internal Revenue Service, the Oklahoma Tax Commission, or any other applicable government agency, only the transferor originally allowed the credit will be held liable to repay any amount of disallowed credit. Any subsequent transferee of the credit is not liable to repay the amount of disallowed credit.

(k) **Tax credit moratorium.** No credit may be claimed for any qualified rehabilitation expenditures made during the period of July 1, 2010 through June 30, 2012, prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2012, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012.

[Source: Added at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11]

710:50-15-109. Credit for qualified employers and employees of the aerospace sector

(a) **General provisions.** For tax years beginning after December 31, 2008 and before January 1, 2026, three (3) credits are allowed against the tax imposed by Section 2355 of Title 68 for the employment of qualified employees in the aerospace sector. The three (3) credits are as follows:

- (1) Credit for qualified employers for tuition reimbursement to qualified employees.
- (2) Credit for qualified employers for compensation paid to qualified employees.
- (3) Credit for qualified employees.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Aerospace sector"** is a private or public organization that is:
 - (A) a manufacturer of aerospace or defense hardware and/or software;

- (B) provides aerospace maintenance, repair or overhaul;
- (C) supplies parts to the aerospace industry;
- (D) provides services and/or support relating to the aerospace industry;
- (F) provides research and development of aerospace technology and systems, or
- (G) provides education or training of aerospace personnel.

(2) "**Compensation**" includes salary or other remuneration, wages subject to withholding tax paid to either a part-time employee or full-time employee and payments in the form of contract labor for which the payor is required to provide a Form 1099 to the person paid. Compensation does not include any employer-provided benefits, including but not limited to retirement, medical or health-care benefits; reimbursement for travel, meals, lodging or any other expense.

(3) "**Institution**" is any institution included within The Oklahoma State System of Higher Education or any other public or private college or university that is accredited by a national accrediting body.

(4) "**Qualified employer**" is an entity whose principal business activity involves the aerospace sector. This includes sole proprietors, general partnerships, limited partnerships, limited liability companies, corporations, or any other legally recognized business entity, or public entity.

(5) "**Qualified employee**" is any person, regardless of the date of hire by the qualified employer, newly employed by or contracting with a qualified employer in Oklahoma on or after January 1, 2009. Further, the person must have been awarded an undergraduate or graduate degree from a qualified program by an institution. Qualified employee does not include a person employed in the aerospace sector in this state immediately preceding employment or contracting with a qualified employer. Qualified employee may include a person who was employed in the aerospace sector, but not as a full-time engineer, prior to being awarded an undergraduate or graduate degree from a qualified program by an institution or any person who has been awarded an undergraduate or graduate degree from a qualified program by an institution and is employed by a professional staffing company and assigned to work in the aerospace sector in this state.

(6) "**Qualified program**" is any program that awards undergraduate or graduate degrees and has been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET)

(7) "**Tuition**" is the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program. Tuition does not include the cost of books, any other fees or the cost of room and board.

(c) **Credit for tuition reimbursement.**

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes based on the amount of tuition reimbursed to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.

(2) The credit for tuition reimbursement may only be claimed if the qualified employee has been awarded an undergraduate or graduate degree within one (1) year of starting employment with the qualified employer. The undergraduate or graduate degree must be from a qualified program.

(3) The credit for tuition reimbursement is equal to fifty percent (50%) of the tuition reimbursed to a qualified employee and may be claimed for the first through fourth years of employment with the qualified employer. The credit is only allowed to be claimed in the tax year that the tuition was reimbursed to the qualified employee and may not exceed in any taxable year fifty percent (50%) of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

(4) The credit for tuition reimbursement may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for tuition reimbursement may not be claimed after the fourth year of employment of the qualified employee.

(d) Credit for compensation paid.

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for compensation paid to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.

(2) The credit for compensation paid equals:

(A) Ten percent (10%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located in this state.

(B) Five percent (5%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located outside this state.

(3) The credit for compensation paid cannot exceed Twelve Thousand Five Hundred Dollars (\$12,500.00) for each qualified employee annually.

(4) The credit for compensation paid may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for compensation paid may not be claimed after the fifth year of employment.

(e) Credit for qualified employees.

(1) For taxable years beginning after December 31, 2008, a qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes of up to Five Thousand Dollars (\$5,000.00) per year for a period of time not to exceed five (5) years.

(2) The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

(3) Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

[Source: Added at 26 Ok Reg 2330, eff 6-25-09; Amended at 28 Ok Reg 18, eff 8-9-10 (emergency); Amended at 28 Ok Reg 935, eff 6-1-11; Amended at 29 Ok Reg 1468, eff 6-25-12; Amended at 32 Ok Reg 1354, eff 8-27-15; Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-110. Income tax credit moratorium [REVOKED]

[Source: Added at 28 Ok Reg 18, eff 8-9-10 (emergency); Added at 28 Ok Reg 935, eff 6-1-11; Amended at 29 Ok Reg 1468, eff 6-25-12; Revoked at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-111. Wire transfer fee credit

(a) **General provisions:** For taxable years ending before January 1, 2017, a credit is allowed against the tax imposed under 68 O.S. § 2355 in the amount of all electronic funds transfers fees paid per 63 O.S. § 2-503.1j by any individual or entity.

(b) **When to claim credit:** The credit for fees paid between July 1, 2009 and December 31, 2010 cannot be claimed prior to January 1, 2011 and must be claimed on the 2010 income tax return. The credit for fees paid on or after January 1, 2011 must be claimed on the tax return that corresponds with the tax year during which the fees were paid.

(c) **Credit non-refundable, nontransferable; carryover provision.** This credit may not be taken as a refund; nor may it be transferred. If the credit exceeds a taxpayer's liability, unused credits may be carried over for five (5) succeeding years.

[Source: Amended at 32 Ok Reg 1354, eff 8-27-15]

710:50-15-112. Credit for electric motor vehicle manufacturers

(a) **General provisions.** Electric motor vehicle manufacturers may claim a one-time income tax credit for electric motor vehicles, medium-speed electric motor vehicles and low-speed electric motor vehicles manufactured after June 30, 2010, and before January 1, 2014.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Electric motor vehicle"** means a new motor vehicle originally equipped to be propelled only by electricity and that may be legally operated on both interstate highways and turnpikes in this state and that is eligible for registration pursuant to the Oklahoma Vehicle License and Registration Act. The term does not include medium-speed electric motor vehicles, or low-speed electric motor vehicles;

(2) **"Electric motor vehicle manufacturer"** means an entity that has received a manufacturer exemption permit pursuant to the provisions of 68 O.S. § 1359.2. Adding modifications to existing electric motor vehicles, existing medium-speed electric motor vehicles or existing low-speed electric motor vehicles shall not be considered manufacturing for purposes of this section;

(3) **"Low-speed electric motor vehicle"** means a new four-wheeled electrical vehicle that is powered by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current and whose top speed is greater than twenty (20) miles per hour but not greater than twenty-five (25) miles per hour and is manufactured in compliance with the National Highway Traffic Safety Administration standards as contained in 49 C.F.R. 571.500. In order to be eligible the vehicle must be eligible for registration pursuant to the Oklahoma Vehicle License and Registration Act; and

(4) **"Medium-speed electric motor vehicle"** means any self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one (1) mile is more than thirty (30) miles per hour but not greater than thirty-five (35) miles per hour and, other than the speed requirement, is manufactured in compliance with the National Highway Traffic Safety Administration standards as

contained in 49 C.F.R. 571.500. In order to be eligible the vehicle must be eligible for registration pursuant to the Oklahoma Vehicle License and Registration Act.

(c) Computation of credit.

(1) An electric motor vehicle manufacturer is allowed a per-vehicle-manufactured credit of Two Thousand Dollars (\$2,000.00) for an electric motor vehicle;

(2) An electric motor vehicle manufacturer is allowed a per-vehicle-manufactured credit of One Thousand Dollars (\$1,000.00) for a medium-speed electric motor vehicle; and

(3) An electric motor vehicle manufacturer is allowed a per-vehicle-manufactured credit of Five Hundred Dollars (\$500.00) for a low-speed electric motor vehicle.

(d) Limitations. The credit shall not be claimed with respect to any one vehicle based upon multiple definitions as set out in this Section even if such vehicle would otherwise qualify for tax credits based upon qualification pursuant to more than one definition.

(e) Credit non-refundable, nontransferable; carryover provision. This credit may not be taken as a refund; nor may it be transferred. If the credit exceeds a taxpayer's liability, unused credits may be carried over for five (5) succeeding years.

[Source: Added at 28 Ok Reg 935, eff 6-1-11; Amended at 31 Ok Reg 2427, eff 9-12-14]

710:50-15-113. Qualified independent biomedical research institute or qualified cancer research center credit

(a) General provisions. For tax years beginning after December 31, 2004, there is allowed a credit against the tax imposed by 68 O.S. Section 2355 to any taxpayer who makes a donation to a qualified independent biomedical research institute. For tax years beginning after December 31, 2010 any taxpayer who makes a donation to a qualified cancer research institute is also eligible for the credit.

(b) Definitions.

(1) **"Qualified cancer research institute"** means an organization which is exempt from taxation pursuant to the Internal Revenue Code whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education. The organization must be either an independent research institute or a program that is part of a state university which is a member of the Oklahoma State System of Higher Education and must receive at least Four Million Dollars (\$4,000,000) in National Cancer Institute funding per year.

(2) **"Qualified independent biomedical research institute"** means an organization which is exempt from taxation under the Internal Revenue Code section 501(c)(3) whose primary focus is conducting peer-reviewed basic biomedical research. The organization shall have a board of directors, be able to accept grants in its own name, be an identifiable institute that has its own employees and administrative staff, and receive at least Fifteen Million Dollars (\$15,000,000) in National Institute of Health funding each year.

(c) Qualification. In order to qualify for the credit, taxpayers must make a donation to either a qualified independent biomedical research institute or a qualified cancer research institute

(d) Computation of credit and limitations. The credit is fifty percent (50%) of the amount donated, but may not exceed \$1,000 (\$2,000 for a married filing joint return) for each taxpayer for each type of donation. Taxpayers may not claim more than one credit for a donation to a qualified independent biomedical research institute and one credit for a donation to a qualified cancer research institute.

(e) For donations made between January 1, 2007 and December 31, 2010. If the total credit allowed results in the reduction in total Oklahoma income tax of more than Two Million Dollars (\$2,000,000.00) in any previous calendar year, the percentage of the credit for qualified donations will be adjusted. The adjusted percentage allowable will be determined by multiplying fifty percent (50%) times Two Million Dollars (\$2,000,000.00) and then dividing the result by the credits claimed in the preceding calendar year.

(f) Special limits for tax year 2011.

(1) For tax year 2011 only, no more than Fifty Thousand Dollars (\$50,000.00) in credits for donations to a qualified cancer research institute will be allowed. The qualified cancer research institute will notify donors if their donations are eligible for the tax credit. The qualified cancer research institute will also provide the donor with written acknowledgement of the donation and the amount of the credit, and will provide this information to the Oklahoma Tax Commission as well.

(2) If the total credit allowed for qualified donations to qualified independent biomedical research institutes results in the reduction in total Oklahoma income tax of more than One Million Dollars (\$1,000,000.00) in tax year 2011, the percentage of the credit for qualified donations will be adjusted for tax year 2012.

(A) The percentage of credit allowable for donations to qualified independent biomedical research institutes for tax year 2012 will be determined by multiplying fifty percent (50%) times One Million Dollars (\$1,000,000.00), then dividing the result by the amount of credit allowed for tax year 2011.

(B) Since the total credit for donations to qualified cancer research institutes is capped at Fifty Thousand Dollars (\$50,000.00) for tax year 2011, the credit for donations to qualified cancer research institutes will remain fifty percent (50%) for tax year 2012.

(g) For donations made on or after January 1, 2012. The qualified cancer research institute and the qualified biomedical research institute will provide their donors with written acknowledgement of the donation and the amount of the credit, and will provide this information to the Oklahoma Tax Commission as well. If the total tax credits authorized by this Section exceed One Million Dollars (\$1,000,000.00) in tax year 2012 or any subsequent tax year for donations to either a cancer research institute or an independent biomedical research institute, the Oklahoma Tax Commission shall permit any excess over One Million Dollars (\$1,000,000.00) but will factor such excess into the percentage adjustment formula for subsequent tax years for each type of credit. For credits based on donations to qualified independent biomedical research institutes the adjusted percentage allowable will be determined by multiplying fifty percent (50%) times One Million Dollars (\$1,000,000.00), then dividing the result by the credits allowed for donations to qualified independent biomedical research institutes claimed in the preceding tax year. For credits based on donations to qualified cancer research institutes the adjusted percentage allowable will be determined by multiplying fifty percent (50%) times One Million Dollars (\$1,000,000.00), then dividing the result

by the credits allowed for donations to qualified cancer research institutes claimed in the preceding tax year.

(h) **Credit non-refundable, nontransferable; carryover provision.** This credit may not be taken as a refund; nor may it be transferred. If the credit exceeds a taxpayer's liability, unused credits may be carried over for four (4) years.

[Source: Added at 28 Ok Reg 935, eff 6-1-11]

710:50-15-114. Credit for contributions to a scholarship-granting organization

(a) **General provisions.** An income tax credit is available for contributions to an eligible scholarship-granting organization. [68 O.S. § 2357.206]

(b) **Credit.** The credit is generally fifty percent (50%) of the total amount of contributions made during a taxable year, not to exceed One Thousand Dollars (\$1,000) for each taxpayer or Two Thousand Dollars (\$2,000) for married taxpayers filing jointly, or One Hundred Thousand Dollars (\$100,000) for any taxpayer which is a legal business entity, subject to the limitation in (e) of this Section. Tax credits which are allocated by a pass-through entity to equity owners are only limited in amount for the income tax return of a natural person based upon the limitation of the total credit amount to the entity from which the tax credits have been allocated, and not limited to One Thousand Dollars (\$1,000.00) for single individuals or limited to Two Thousand Dollars (\$2,000.00) for married persons filing a joint return.

(c) **Additional year commitment.** For a taxpayer who makes an eligible contribution and makes a written commitment to contribute the same amount for an additional year, the credit shall be seventy-five percent (75%) of the total amount of the contribution made during the taxable year. The taxpayer shall provide evidence of the written commitment to the Tax Commission when the tax return claiming the credit is filed the first year.

(d) **Registration.** An eligible scholarship-granting organization is required to register with the Tax Commission.

(e) **Limitation of credit.**

(1) If total credits claimed exceed the caps established pursuant to 68 O.S. § 2357.206(D), the credit shall be equal to the taxpayer's proportionate share of the cap for the taxable year. [See: 68 O.S. § 2357.206(H)]

(2) At least once each taxable year, the eligible scholarship-granting organization shall notify each contributor that Oklahoma law provides for a total statewide cap on the amount of income tax credits allowed annually.

(f) **Annual notification.**

(1) By January 10 each year, the scholarship-granting organization shall provide electronically to the Tax Commission:

- (A) The scholarship-granting organization's account number;
- (B) The name of each contributor and sufficient other information to accurately determine the identity of each contributor;
- (C) The date and amount of each contribution; and
- (D) Whether the taxpayer made a written commitment to contribute the same amount for two (2) additional consecutive years.

(2) By February 15 each year, the Tax Commission shall publish the percentage of the contribution which may be claimed as a credit on the Tax Commission's website. The scholarship-granting organizations shall notify contributors of that amount annually.

(g) **Ninety percent (90%) requirement.** Effective January 1, 2014, a credit will not be allowed by the Tax Commission for contributions made to an eligible

scholarship-granting organization if the organization's percentage of funds actually awarded is less than ninety percent (90%). In order to determine this amount, the total amount of funds actually awarded over the most recent twenty-four (24) months shall be divided by the total amount available to award over the most recent twenty-four (24) months.

(h) Limitations.

- (1) The credit will not reduce the tax liability of the taxpayer to less than zero (0) and any credit allowed but not used may be carried over, in order, to each of the three (3) subsequent taxable years.
- (2) The credit is not transferable.
- (3) For tax year 2016 and subsequent tax years, credits earned but not allowed due to the application of statewide caps will be considered suspended and authorized to be used in the next immediate tax year and applied to the next year's statewide cap.

[Source: Added at 29 Ok Reg 1468, eff 6-25-12; Amended at 32 Ok Reg 1354, eff 8-27-15; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 35 Ok Reg 2066, eff 9-14-18]

710:50-15-115. Credit for contributions to an educational improvement grant organization

- (a) **General provisions.** An income tax credit is available for contributions to an eligible educational improvement grant organization. [68 O.S. § 2357.206]
- (b) **Application.** An educational improvement grant organization shall submit an application to the Tax Commission. The Tax Commission shall review and approve or disapprove the application, in consultation with the State Department of Education.
- (c) **Credit.** The credit is generally fifty percent (50%) of the total amount of contributions made during a taxable year, not to exceed One Thousand Dollars (\$1,000) for each taxpayer or Two Thousand Dollars (\$2,000) for married taxpayers filing jointly or One Hundred Thousand Dollars (\$100,000) for any taxpayer which is a legal business entity, subject to the limitation in (e) of this Section. Tax credits which are allocated by a pass-through entity to equity owners are only limited in amount for the income tax return of a natural person based upon the limitation of the total credit amount to the entity from which the tax credits have been allocated, and not limited to One Thousand Dollars (\$1,000.00) for single individuals or limited to Two Thousand Dollars (\$2,000.00) for married persons filing a joint return.
- (d) **Additional year commitment.** For a taxpayer who makes an eligible contribution and makes a written commitment to contribute the same amount for an additional year, the credit shall be seventy-five percent (75%) of the total amount of the contribution made during the taxable year. The taxpayer shall provide evidence of the written commitment to the Tax Commission when the tax return claiming the credit is filed the first year.
- (e) **Limitation of credit.**
 - (1) If total credits claimed exceed the caps established pursuant to 68 O.S. § 2357.206(D), the credit shall be equal to the taxpayer's proportionate share of the cap for the taxable year. [See: 68 O.S. § 2357.206(H)]
 - (2) At least once each taxable year, the educational improvement grant organization shall notify each contributor that Oklahoma law provides for a total statewide cap on the amount of income tax credits allowed annually.
- (f) **Annual notification.**

- (1) By January 10 each year, the educational improvement grant organization shall provide electronically to the Tax Commission:
 - (A) The educational improvement grant organization's account number;
 - (B) The name of each contributor and sufficient other information to accurately determine the identity of each contributor;
 - (C) The date and amount of each contribution; and
 - (D) Whether the taxpayer made a written commitment to contribute the same amount for two (2) additional consecutive years.
- (2) By February 15 each year, the Tax Commission shall publish the percentage of the contribution which may be claimed as a credit on the Tax Commission's website. The educational improvement grant organization shall notify contributors of that amount annually.

(g) **Annual report.** In order to maintain eligibility, an educational improvement grant organization shall annually report the following information to the Tax Commission, on forms prescribed by the Tax Commission, on or before September 1 of each year:

- (1) *The name of the innovative educational program or programs and the total amount of the grant or grants made to those programs during the immediately preceding school year,*
- (2) *A description of how each grant was utilized during the immediately preceding school year and a description of any demonstrated or expected innovative educational improvements,*
- (3) *The names of the public school and school districts where innovative educational programs that received grants during the immediately preceding school year were implemented,*
- (4) *Where the organization collects information on a county-by-county basis, and*
- (5) *The total number and total amount of grants made during the immediately preceding school year for innovative educational programs at public school by each county in which the organization made grants.*

(h) **Ninety percent (90%) requirement.** Effective January 1, 2014, a credit will not be allowed by the Tax Commission for contributions made to an eligible educational improvement grant organization if the organization's percentage of funds actually awarded is less than ninety percent (90%). In order to determine this amount, the total amount of funds actually awarded over the most recent twenty-four (24) months shall be divided by the total amount available to award over the most recent twenty-four (24) months.

(i) **Limitations.**

- (1) The credit will not reduce the tax liability of the taxpayer to less than zero (0) and any credit allowed but not used may be carried over, in order, to each of the three (3) subsequent taxable years.
- (2) The credit is not transferable.
- (3) For tax year 2016 and subsequent tax years, credits earned but not allowed due to the application of statewide caps will be considered suspended and authorized to be used in the next immediate tax year and applied to the next year's statewide cap.

710:50-15-116. Credit for qualified employers and employees in the vehicle manufacturing industry

(a) **General provisions.** For tax years beginning after December 31, 2018, and ending before January 1, 2026, three (3) credits are allowed against the tax imposed by Section 2355 of Title 68 for the employment of qualified employees:

- (1) Credit for qualified employers for tuition reimbursement to qualified employees.
- (2) Credit for qualified employers for compensation paid to qualified employees.
- (3) Credit for qualified employees.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Qualified employee".**

(A) A qualified employee is any person newly employed in Oklahoma by a qualified employer on or after January 1, 2018. A qualified employee may include a person whose prior employment was not as a full-time engineer, or whose employment was not in the state of Oklahoma, even though employed by the same qualified employer.

(B) The qualified employee must have been awarded an undergraduate or graduate degree from a qualified program by an institution.

(C) Qualified employee may include a person who has been awarded an undergraduate or graduate degree from a qualified program by an institution and is employed by a professional staffing company and assigned to work in vehicle manufacturing in this state.

(D) Qualified employee may include a person who was employed in vehicle manufacturing in the state of Oklahoma prior to January 1, 2018, but not as a full-time engineer, prior to being awarded an undergraduate or graduate degree from a qualified program by an institution.

(E) Qualified employee does not include a person employed in vehicle manufacturing in this state immediately preceding employment or contracting with a qualified employer.

(F) Qualified employee does not include any person employed in vehicle manufacturing in the state of Oklahoma as a full-time engineer prior to January 1, 2018.

(2) **"Vehicle manufacturing"**, which includes vehicle manufacturing and automotive parts manufacturing, means a private or public company first placed in operation in this state after November 1, 2018, for vehicle manufacturing and November 1, 2019, for automotive parts manufacturing which is engaged in the research, development, design and manufacture of motor vehicles which may be driven on the avenues of public access or in automotive parts manufacturing. For purposes of this Section, "motor vehicle" does not include low-speed electric vehicles or motor vehicles manufactured primarily, but not exclusively, for off-road use, such as primarily for use on a golf course. For operations placed in service after November 1, 2018, and before November 2, 2019, "motor vehicle" also does not include buses or truck-tractors.

(3) "**Compensation**", "**institution**", "**qualified employer**", "**qualified program**", and "**tuition**" shall be defined as in Section 2357.404 of Title 68 of the Oklahoma Statutes.

(c) Credit for tuition reimbursement.

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes based on the amount of tuition reimbursed to a qualified employee.

(2) The credit for tuition reimbursement may only be claimed if the qualified employee has been awarded an undergraduate or graduate degree within one (1) year of starting employment with the qualified employer.

(3) The credit for tuition reimbursement is equal to fifty percent (50%) of the tuition reimbursed to a qualified employee and may be claimed for the first through fourth years of employment with the qualified employer. The credit is only allowed to be claimed in the tax year that the tuition was reimbursed to the qualified employee and may not exceed in any taxable year fifty percent (50%) of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

(4) The credit for tuition reimbursement may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for tuition reimbursement may not be claimed after the fourth year of employment of the qualified employee.

(d) Credit for compensation paid.

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for compensation paid to a qualified employee.

(2) The credit for compensation paid equals:

(A) Ten percent (10%) of the compensation paid for the first through fifth years of employment in vehicle manufacturing if the qualified employee graduated from an institution located in this state.

(B) Five percent (5%) of the compensation paid for the first through fifth years of employment in vehicle manufacturing if the qualified employee graduated from an institution located outside this state.

(3) The credit for compensation paid cannot exceed Twelve Thousand Five Hundred Dollars (\$12,500.00) for each qualified employee annually.

(4) The credit for compensation paid may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for compensation paid may not be claimed after the fifth year of employment.

(e) Credit for qualified employees.

(1) A qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes of up to Five Thousand Dollars (\$5,000.00) per year for a period of time not to exceed five (5) years.

(2) The credit authorized by this Section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

(3) Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

(f) Limitation of credit.

- (1) Effective for tax years beginning on or after January 1, 2019, no more than Three Million Dollars (\$3,000,000.00) of credits authorized by (c) and (d) of this Section may be allowed as an offset in a taxable year. The Tax Commission shall determine the percentage which may be claimed as a credit no later than September 1 of each calendar year. In the event the total tax credits authorized by (c) and (d) of this Section exceed Three Million Dollars (\$3,000,000.00) in any tax year, the Tax Commission shall permit any excess over Three Million Dollars (\$3,000,000.00), but shall factor such excess into the percentage adjustment formula for subsequent years.
- (2) Effective for tax years beginning on or after January 1, 2019, no more than Two Million Dollars (\$2,000,000.00) of credits authorized by (e) of this Section may be allowed as an offset in a taxable year. The Tax Commission shall determine the percentage which may be claimed as a credit no later than September 1 of each calendar year. In the event the total tax credits authorized by (e) of this Section exceed Two Million Dollars (\$2,000,000.00) in any tax year, the Tax Commission shall permit any excess over Two Million Dollars (\$2,000,000.00), but shall factor such excess into the percentage adjustment formula for subsequent years.

[Source: Added at 36 Ok Reg 1216, eff 8-11-19; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-15-117. Credit for qualified software or cybersecurity employee

(a) **General provisions.** For tax years beginning on or after January 1, 2020, and ending before January 1, 2030, a qualified software or cybersecurity employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68, subject to the provisions of (d) of this Section.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Qualified software or cybersecurity employee".**

(A) A qualified employee is any person newly employed in Oklahoma by a qualified employer in a qualifying industry on or after November 1, 2019.

(B) The qualified employee must have been awarded a degree in an accredited program from a degree-producing institution as defined in 68 O.S. § 2357.405(A)(1), or has been awarded a certificate or credential in an accredited program from a technology center.

(C) The qualified employee must be employed in a qualifying industry by a qualified employer who pays its qualified employees a qualifying compensation for the county in which the qualified employer has its primary Oklahoma address.

(2) **"Accredited program", "Degree-producing institution", "Qualified employer", "Qualified industry", "Qualifying compensation", and "Technology center"** shall have the same meaning as the terms are defined in Section 2357.405 of Title 68 of the Oklahoma Statutes.

(c) **Credit.**

- (1) The credit is Two Thousand Two Hundred Dollars (\$2,200.00) for a qualified software or cybersecurity employee who has been awarded a bachelor's or higher degree from an accredited program at a degree-producing institution, and One Thousand Eight Hundred Dollars (\$1,800.00) for a qualified software or cybersecurity employee who has been awarded an associate's degree from an accredited program at a degree-

producing institution or a credential or certificate from an accredited program at a technology center.

(2) The credit may be claimed for a period of time not to exceed seven (7) years.

(3) The credit authorized by this Section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

(d) **Limitation of credit.** Effective for tax years beginning on or after January 1, 2022, no more than Five Million Dollars (\$5,000,000.00) of credits may be allowed as an offset in a taxable year. The Tax Commission shall annually determine by the first day of the affected year a percentage by which the credits authorized shall be reduced so the total amount of credits used to offset tax does not exceed Five Million Dollars (\$5,000,000.00) per year.

(e) **Letter ruling.** An employer may request a letter ruling to determine whether an employer meets the definition of a "qualified employer". The requesting party must provide sufficient information to demonstrate that the employer meets the following requirements for a qualified employer:

(1) Employer is a sole proprietor, general partnership, limited partnership, limited liability company, corporation or other legally recognized business entity, or governmental entity;

(2) Employer has at least fifteen full-time employees;

(3) Employer's activities are in a "qualified industry", defined or classified in the most recent North American Industry Classification System (NAICS) manual under U.S. Sector Nos. 21, 22, 31-33, 48, 51, 52, 54, 55, 62 and 92;

(4) Employer pays its employees a qualifying compensation for the county in which the qualified employer has its primary Oklahoma address.

[Source: Added at 37 Ok Reg 2227, eff 9-11-20; Amended at 38 Ok Reg 1527, eff 9-1-21]

SUBCHAPTER 17. OKLAHOMA TAXABLE INCOME FOR CORPORATIONS

PART 1. GENERAL PROVISIONS

710:50-17-1. Corporate returns

(a) Any corporation doing business within or deriving income from sources within Oklahoma is required to file an Oklahoma Corporation Income Tax Return, whether or not a tax is due. All Oklahoma corporate income tax returns, beginning with tax year 2020 returns, must be filed electronically in the format prescribed by the Commission.

(b) Any corporation is subject to Oklahoma income taxes if it has "nexus" with Oklahoma. The purpose of this Subchapter is to provide guidelines for determining what constitutes "nexus", that is, what business activities are needed for any corporation to be subject to Oklahoma income taxes.

[Source: Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-17-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Business location" means a location which includes, but is not limited to: a repair shop, parts department, purchasing office, employment office, warehouse, meeting place for directors, sales office, permanent sample or display room,

research facility or a recreational facility for use of employees or customers. A residence of an employee or representative is not ordinarily considered a "business location" of the employer unless the facts indicate otherwise. It could be considered a business location under one or more of the following conditions:

- (A) a portion of the residence is used exclusively for the business of the employer;
- (B) the employee's phone is listed in the business pages of a telephone directory under the name of the employer;
- (C) the employee used supplies, equipment or samples furnished by the employer; or,
- (D) the space is used by the employee to interview prospective employees, hold sales meetings, or discuss business with customers.

"Representative" does not include an independent contractor. A person may be considered a representative even though he or she may not be considered an employee for other purposes such as the withholding of income tax from commissions. If a person is subject to the direct control of the corporation, he or she may not qualify as an independent contractor under Public Law 86-272. **Herff Jones Company vs. State Tax Commission**, Oregon Supreme Court, 430 P.2d 998 (Ore. 1967).

"Solicitation" must be limited to the acts which lead to the placing of an order. The term does not include those acts which follow as a natural result of the placing of an order.

710:50-17-3. What constitutes "Nexus"

(a) If a corporation has one or more of the following activities in Oklahoma, it is considered to have **"nexus"** and shall be subject to Oklahoma income taxes:

- (1) Maintenance of any business location in Oklahoma, including any kind of office.
- (2) Ownership of real estate in Oklahoma.
- (3) Ownership of a stock of goods in a public warehouse or on consignment in Oklahoma.
- (4) Ownership of a stock of goods in the hands of a distributor or other non-employee representative in Oklahoma, if used to fill orders for the owner's account.
- (5) Usual or frequent activity in Oklahoma by employee or representative soliciting orders with authority to accept them.
- (6) Usual or frequent activity in Oklahoma by employee or representative engaged in a purchasing activity or in the performance of services (including construction, installation, assembly, or repair of equipment).
- (7) Operation of mobile stores in Oklahoma (such as trucks with driver-salespersons), regardless of frequency.
- (8) Other miscellaneous activities by employees or representatives in Oklahoma such as credit investigations, collection of delinquent accounts, conducting training classes or seminars for customer personnel in the operation, repair and maintenance of its products.
- (9) Leasing of tangible property and licensing of intangible rights for use in Oklahoma.
- (10) The sale of other than tangible personal property such as real estate, services and intangibles in Oklahoma.
- (11) The performance of construction contracts or service contracts in Oklahoma.

(b) The guidelines expressed in (a) of this Section as to what activities constitute "nexus" should not be considered all-inclusive. Questions may be sent to the Oklahoma Tax Commission, Audit Services Division, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102.

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 38 Ok Reg 1527, eff 9-1-21; Amended at 23 Ok Reg 2824, eff 6-25-06]

710:50-17-4. Federal limitations on taxation of foreign corporations

(a) Under Federal law a state may not impose its income tax on a business selling tangible personal property, if the only activity of that business is the solicitation of orders by its salesman or representative which orders are sent outside the state for approval or rejection, and are filled by delivery from a point outside the state. The activity must be limited to solicitation. If there is any activity which exceeds solicitation, the immunity from taxation is lost.

(b) Immunity from income taxation by states under Federal law does not extend to:

- (1) Those businesses which sell services, real estate or intangibles in more than one state;
- (2) Domestic Corporations;
- (3) Foreign nation corporations, i.e., those not incorporated in the United States.

(c) If the only activities in Oklahoma of a corporation selling tangible personal property are those described below, the corporation is not subject to Oklahoma Income Taxes.

- (1) Usual or frequent activity in Oklahoma by employees or representatives soliciting orders for tangible personal property, which orders are sent outside this state for approval or rejection.
- (2) Solicitation activity by non-employee independent contractors, conducted through their own office or business location in Oklahoma. [See: 15 U.S.C.A. §381]

710:50-17-5. Tax rate for corporations

(a) For all taxable years beginning after December 31, 1984 the corporate tax rate is five percent (5%).

(b) For all taxable years beginning before January 1, 1985 the corporate tax rate is four percent (4%).

(c) For all taxable years beginning after December 31, 1989, the corporate tax rate is six percent (6%).

710:50-17-6. Filing requirements for corporations

(a) Every corporation doing business in Oklahoma shall file an OTC Form 512 to report taxable income or loss for each period in which a Federal Tax Return is required. Every return shall be properly prepared, showing the name of corporation, address, identification number and bearing an authorized signature. Page one of the return shall also be completed with all pertinent information entered on appropriate lines. (The returns will not process otherwise).

(b) In the case of a complete liquidation or the dissolution of a corporation, the return shall be filed on or before the 15th day of the fourth month following the month in which the corporation is completely liquidated or dissolved.

[Source: Amended at 9 Ok Reg 3031, eff 7-13-92]

710:50-17-7. Amended income tax returns for corporations

In order to assist in the processing of a corporation's amended income tax return, corporations must use OTC Form 512X for tax years prior to 2013. Beginning with tax year 2013, OTC Form 512 must be used and the appropriate box indicating that the return is an amended return must be marked. The documentation described in (1) through (4) of this subsection must be included, when applicable, or an explanation when not applicable, or the refund may be denied:

- (1) Copy of the Federal Form 1120X or 1139. If the taxpayer files a federal consolidated income tax return, Form 1120X must detail the changes by entity.
- (2) Proof of disposition by the Internal Revenue Service.
- (3) Copy of complete Revenue Agent's Report. If the taxpayer files a federal consolidated income tax return, the Revenue Agent's Report must detail the changes by entity.
- (4) Schedule of NOL carryback/carryover.

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 38 Ok Reg 1527, eff 9-1-21]

PART 3. CONSOLIDATED RETURNS

710:50-17-30. Consolidated returns

A consolidated Oklahoma Income Tax Return is required if a Federal Consolidated Return is filed, and each member of the consolidated group derives all of its income from sources within Oklahoma.

710:50-17-31. Filing a consolidated Oklahoma return

(a) In filing a Consolidated Income Tax Return for Oklahoma, the Oklahoma taxable income for each corporation is computed separately on its own factors and then combined for one total income upon which the tax is computed.

(b) A Consolidated Oklahoma Income Tax Return is generally recognized as a combined return.

(c) A corporation's election to file a separate return or consolidated return is made with the timely filing of the return. Once the election is made, it is irrevocable for all future tax years unless the Oklahoma Tax Commission releases the affiliated group of corporations from such election.

(d) When an election is made to file an Oklahoma Combined Return the following criteria must be met.

- (1) A federal consolidated returns must have been filed.
- (2) All companies doing business in Oklahoma must be included in the Oklahoma Combination.
- (3) Only those corporations included in the federal consolidation may be included in the Oklahoma combined return.
- (4) The Parent Corporation name should be used for the Oklahoma return and all corporations must be included in one filing. Returns belonging to a Oklahoma Combination will not be accepted if mailed in separately. [See: 68 O.S. §2367]

[Source: Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94]

710:50-17-32. When a consolidated return is not required

A Consolidated Oklahoma Income Tax Return is not required if two or more corporations file Federal Consolidated Returns, and one or more of such

corporations derive a portion of their income from sources without Oklahoma; except, if such group files an appropriate election to file a Consolidated Oklahoma Income Tax Return, such a grouping will be allowed.

710:50-17-33. Examples of consolidated Oklahoma income tax returns

The following are examples of situations in which the corporations may file a Consolidated Oklahoma Income Tax Return:

- (1) Corporations A, B and C, filing a Federal Consolidated Return and all of their income is derived from Oklahoma sources, would be required to file an Oklahoma Consolidated Return.
- (2) Corporations A, B and D, filing a Federal Consolidated Return and any of them derives a portion of its income from without Oklahoma are not required, but may elect to file a Consolidated Oklahoma Return. This election may be made by attaching a statement to the return, stating the facts.
- (3) Corporations A, B and E filing a Federal Consolidated Return and any of them received all of its income from sources without Oklahoma are not required, but may elect to file an Oklahoma Consolidated Return.

710:50-17-34. Computation of Oklahoma taxable income on consolidated return

(a) To arrive at Oklahoma taxable income on a Consolidated Return, the group's consolidated income, loss or deductions shall be determined in accordance with the provisions of 68 O.S. 2358 and 68 O.S. 2362. Therefore, each member of the group shall determine its Oklahoma net taxable income by whatever method is proper (direct accounting, unitary, etc.) and then, the net taxable income of each member shall be aggregated into a taxable total.

Corporation A	\$10,000.00
Corporation B	5,000.00
Corporation C	(14,000.00)
Corporation D	1,000.00
Corporation E	6,000.00
Consolidated Federal Net Income	\$8,000.00

(b) The correct procedure for filing a combined return is as follows:

- (1) Only one (1) "page 1" of Form 512 will be used as the tax computation and transmittal page for the combined group.
- (2) Immediately behind page 1 will be a summary schedule reflecting each member of the combined group's name, Federal Employer's Identification Number (EIN) and net Oklahoma taxable income or loss as computed on separate schedule A or B for each company as applicable. The net income or loss from the summary sheet will be the amount shown on line 1 page 1 of Form 512. The accrual of Oklahoma Income Tax, if any, will be computed on the combined net income as shown on the summary sheet.
- (3) Supporting schedules such as Investment/New Jobs Credit and Gas Used In Manufacturing will follow the summary sheet. There will be a separate schedule for each company in the group with identifying name and EIN number. The total credit amounts, if any, will be combined and brought

forward to the proper line on page 1 of the Form 512.

(4) Behind the supporting schedules will be a separate Schedule A or B, as applicable for each company in the group, for the Oklahoma Form 512. The amounts shown on the separate schedules A or B will be the amounts brought forward to the summary sheet. Each company's name and EIN number will be shown on each respective schedule A or B.

(5) Behind the Schedules A or B will be all other forms and schedules such as the Federal Form 1120 and supporting schedules for each company in the group.

(c) If it is the Taxpayer's intention to file a combined return but a separate Form 512 for each company is filed, the returns will be treated as separate returns by the Tax Commission.

(d) The taxpayer should state on the face of the Form 512 the following: "**This is a combined return-do not separate**".

PART 5. DETERMINATION OF TAXABLE CORPORATE INCOME

710:50-17-50. Computation of income attributable to Oklahoma

The starting point for computing Oklahoma taxable corporate income is the taxable income shown before the Net Operating Loss and Special Deduction Line of the Federal Income Tax Return. All adjustments provided for under Oklahoma Income Tax Statutes are made from the starting point of Federal taxable income. Federal taxable income is used for each separate corporation doing business in Oklahoma, whether a Consolidated Federal or a Consolidated Oklahoma Income Tax Return is filed.

710:50-17-51. Adjustments to arrive at Oklahoma taxable income for corporations

The following is a partial list and not inclusive of all the allowable and unallowable adjustments that may be made to Federal taxable income to arrive at Oklahoma taxable income for corporations: [See: 68 O.S. § 2358]

(1) **Taxes based on income.** [See: 68 O.S. § 2358(A)(5)]

(A) Taxes based on or measured by income shall not be allowed as a deduction.

(B) Type of taxes that are based on or measured by income are:

(i) State and Local Income Taxes,

(ii) Foreign Income Taxes, and

(iii) some Franchise Taxes that are based on or measured by income.

(2) **Federal income taxes.** Federal Income Taxes are not deductible.

(3) **Federal loss carryback/carryforward.** A Federal net operating loss carryover or carryback will not be utilized in determining Oklahoma taxable income. For the allowance of Oklahoma Net Operating Loss deduction refer to (4) of this Section.

(4) **Oklahoma net operating loss carryback/carryover.** An election may be made to forego the Net Operating Loss (NOL) carryback period. A written statement of the election must be part of the timely filed Oklahoma loss year return.

(A) **Oklahoma net operating loss.** [See: 68 O.S. § 2358(A)(3)]

(i) An Oklahoma Net Operating Loss (NOL) may be carried back or over in accordance with 26 U.S.C.A. § 172 until

December 31, 1992. However, no Oklahoma NOL can be carried back to years beginning before January 1, 1981 unless there is a Federal NOL carryback from the same loss year to the same carryback year.

(I) For net operating losses incurred for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2007, the loss carryback shall be for a period as allowed in the Internal Revenue Code; and

(II) For tax years beginning after December 31, 2007, and ending before January 1, 2009, the loss carryback period shall be for a period of two (2) years; and

(III) For tax years beginning after December 31, 2008, the loss carryback period shall be for a period as allowed by Section 172 of the Internal Revenue Code.

(ii) Any Oklahoma Net Operating Loss (NOL) carryback not allowed, due to no Federal loss carryback to the same year, may still be carried back to the years beginning after December 31, 1980, or carried over until utilized, without regard to a Federal loss.

(B) Oklahoma net operating loss computation for carryback to years beginning before January 1, 1981. The following shall apply to Oklahoma net operating loss before January 1, 1981:

(i) Consolidated federal filing: In the loss year, the percentage of the Oklahoma loss to all loss companies in the consolidation. (If no consolidated loss, there is no NOL allowable.)

(ii) Separate company federal filing: In the loss year, the percentage of the Oklahoma loss to Federal loss. (If no Federal loss, there is no NOL allowable.) This percentage is then applied to the Federal NOL (each loss year separately) when it is taken (absorbed) on the filed Federal Return. The Oklahoma NOL can be used in the same Oklahoma year it is used on the filed Federal Return year.

(5) Oklahoma accrued income tax. Oklahoma will allow a deduction for Oklahoma Accrued Income Tax. The Oklahoma Accrued Income Tax is computed by dividing Oklahoma Net Income by the number 21 (twenty-one) for tax years beginning after December 31, 1984, and the number 26 (twenty-six) for tax years beginning before January 1, 1985. For tax years beginning after December 31, 1989, the number 17.6667 shall be used. There is no deduction for Oklahoma Accrued Income Tax when Oklahoma Net Income is a loss. [See: 68 O.S. § 2358(A)(5)] When credits are allowed, the accrual of Oklahoma tax will not be allowed on the amount of Oklahoma taxable income that is covered by the credit, except for credits that have been acquired by transfer. The amount paid for credits that have been acquired by transfer can be used as a payment of tax for purposes of computing the deduction for Oklahoma accrued tax. Tax accrual is allowed on the amount of income for which tax is actually paid. The example in Appendix A of this Chapter shows how the accrual should be calculated. A

schedule such as the example should be attached and submitted with Form 512.

(6) Expenses allocated to nontaxable income. 68 O.S. § 2358(A)(4) provides that deductions should be allocated to assets that may produce nontaxable income.

(A) An adjustment is required when a corporation has an investment in assets which produce income which is non-unitary, or separately allocable. Such items may include, but are not limited to, investments in subsidiaries, other corporation's bonds, U.S. Obligations or other types of securities that produce income which is excluded from Oklahoma income.

(B) A ratio is used to allocate expenses between unitary business operations and all other activities that do not produce unitary income. The manner in which this adjustment is made is as follows: A fraction, or percentage, is computed by dividing the average of investment in assets, the income from which is allocable, by the average of total assets. This percentage is then applied to certain expenses claimed on the return to arrive at the amount of expenses related to non-unitary business, and the resulting amount is added back to federal taxable income.

(C) Generally, interest expense is the only expense against which the adjustment described in subparagraph (B) of this paragraph is applied. However, facts and circumstances may indicate that other expenses should be considered in this allocation. This adjustment will be considered in all cases where deemed appropriate. [See: 68 O.S. § 2358(A)(4)] [See example in Appendix E of this Chapter]

(7) Interest income.

(A) **U.S. obligations.** Interest income from U.S. obligations is excluded from Federal taxable income to arrive at Oklahoma taxable income. Interest income received from FNMA, GNMA, or the Internal Revenue Service is not income from an obligation of the U.S. government and cannot be excluded to arrive at Oklahoma taxable income.

(B) **Other interest income.**

(i) Interest income is to be directly allocated to the domiciliary situs of the taxpayer; except that interest income received from accounts receivable income shall be included in apportionable income.

(ii) There shall be added to Oklahoma taxable income, interest income on obligations of any state or political subdivision thereof which is not otherwise exempted pursuant to Federal laws or laws of this State, to the extent said interest is not included in federal taxable income or adjusted gross income.

(8) Dividends. Dividends are to be allocated to the domiciliary situs of the taxpayer. [See: 68 O.S. § 2358(A)(4)(b)]

(A) For purposes of calculating Oklahoma taxable income, foreign earnings deemed repatriated pursuant to 26 U.S.C. § 965 shall be considered dividend income and shall be allocated to the domiciliary situs of the taxpayer.

(i) To the extent such income is not included in the calculation of a taxpayer's federal taxable income due to inclusion on an IRC 965 Transition Tax Statement rather than the income tax return, the income shall be included on the Oklahoma return as an addition to net taxable income.

(ii) If a taxpayer elects to make installment payments of tax pursuant to the provisions 26 U.S.C. § 965, such election may also apply to the payment of Oklahoma income tax, attributable to the income upon which such installment payments are based.

(B) For purposes of calculating Oklahoma taxable income, global intangible low-taxed income included in federal income pursuant to 26 U.S.C. § 951A shall be considered dividend income and shall be allocated to the domiciliary situs of the taxpayer.

(9) Domestic International Sales Corporation (DISC) and Foreign Sales Corporation (FSC) Commission Expense. Expenses incurred in producing DISC and FSC Dividend income shall be allocated on the same basis as the DISC and FSC Dividend income. [See: 68 O.S. § 2358(A)(4)]

(10) Net oil and gas income. Income or loss from oil and mining production or royalties, and gains or losses from sales of such property, shall be allocated in accordance with the situs of such property. General and administrative expenses will be allocated on the basis of Oklahoma direct expense to total direct expense. [See: 68 O.S. § 2358(A)(4)(a)]

(11) Oklahoma 22% depletion. Oklahoma depletion on oil and gas may be computed at twenty-two percent (22%) of gross income derived from each Oklahoma property during the taxable year.

(A) For tax years beginning on or after January 1, 2001, and ending on or before December 31, 2011, and for tax years beginning on or after January 1, 2014, major oil companies, as defined by 52 O.S. § 288.2(4), shall be limited to fifty (50%) of net income for such property (computed without allowance for depletion).

(B) During years not specified herein, the Oklahoma depletion allowance, for all taxpayers, shall not exceed fifty (50%) of the net income of the taxpayer (computed without allowance for depletion) from the property.

(C) The percentage depletion calculated shall not be a duplication of the depletion allowed on the Federal Income Tax Return. [See: 68 O.S. § 2353(10)]

(12) Net rental income and safe harbor leasing. The following provisions apply to the treatment of net rental income and safe harbor leasing:

(A) Net Rental Income is separately allocated. [See: 68 O.S. § 2358(A)(4)]

(B) A schedule of Net Rental Income is required to be filed with the return showing gross income and all expenses (depreciation, repairs, taxes, interest, general and administrative expense, etc.).

(13) Royalties; patents; copyrights. [See: 68 O.S. § 2358(A)(5)]

(A) Income from patent or copyright royalties is apportionable.

(B) Income from which expenses have been deducted in producing such patent or copyright royalties in arriving at apportionable income (including the purchase of such patent or copyright royalties) shall be apportionable.

- (14) **Capital gains or loss - 4797 gains or loss.**
(A) Gains (losses) from the sale or other disposition of unitary assets or any other assets used in the unitary enterprise are apportionable. [See: 68 O.S. § 2358(A)(5)]
(B) Gains (losses) from sale of property, the income from which is separately allocated shall also be separately allocated.
- (15) **Partnership income or loss from corporate partners.**
(A) Partnership income or loss shall be separately allocated. [See: 68 O.S. § 2358(A)(4)]
(B) The Oklahoma distributive share of partnership income as determined under 68 O.S. § 2358 and 68 O.S. § 2362 shall be allocated to Oklahoma.
- (16) **Overhead allocation.** The Commission may adjust or allocate overhead expenses to or from a parent or subsidiary, or between divisions in order to more accurately reflect the overhead expenses. [See: 68 O.S. § 2366]
- (17) **Federal new jobs credit deduction.** For tax years beginning after December 31, 1980, the Federal New Jobs deduction is disallowed due to Oklahoma's own Investment/New Jobs Credit.
- (18) **Deductions related to directly allocated income/loss.** Deductions incurred in producing income of a nonunitary nature shall be allocated on the same basis as the income. (Examples: Liquidation of subsidiaries, worthless stock loss, bad debts due subsidiaries on sale of stock, etc.) [See: 68 O.S. § 2358(A)(4)]
- (19) **Intercompany eliminations.** There are no provisions to allow intercompany eliminations in computing the income of each company filing an Oklahoma Consolidated Return.
- (20) **Other income.** Generally, other income, unless it is separately allocable under 68 O.S. § 2358(A)(4) is apportionable. [See: 68 O.S. § 2358(A)(5)]
- (21) **Add-back of federal bonus depreciation for Oklahoma Income Tax purposes.** Generally, corporations claiming the federal bonus depreciation (as allowed under provisions of the federal *Job Creation and Workers Assistance Act of 2002*, the provisions of the federal *Economic Stimulus Act of 2008* or the federal *American Recovery and Reinvestment Act of 2009*) are required to add back a portion of the bonus depreciation and then claim it in later years for Oklahoma Income Tax purposes.
(A) Corporations filing Oklahoma Income Tax Returns will have to add back eighty percent (80%) of any bonus depreciation claimed under provisions of the federal *Job Creation and Workers Assistance Act of 2002*, the federal *Economic Stimulus Act of 2008* or the federal *American Recovery and Reinvestment Act of 2009*. Any amount added back can be claimed in later years. Twenty-five percent (25%) of the amount of bonus depreciation added back may be subtracted in the first taxable year beginning after the bonus depreciation was added back, and twenty-five percent (25%) of the bonus depreciation added back may be deducted in each of the next three succeeding taxable years.
(B) The provisions relating to the add-back of the federal bonus depreciation apply only to C-Corporations and are not applicable to corporations which have elected to be treated as Subchapter S

Corporations pursuant to 26 U.S.C. § 1361 et seq. of the Internal Revenue Code, nor to Limited Liability Companies.

(22) Add-back of applicable Section 179 expenses. For tax years beginning on or after January 1, 2009 and ending on or before December 31, 2009, any amount in excess of One Hundred Seventy-five Thousand Dollars (\$175,000.00) which has been deducted as a small business expense under Internal Revenue Code Section 179 as provided in the federal *American Recovery and Reinvestment Act of 2009* must be added back to Oklahoma taxable income.

[Source: Amended at 9 Ok Reg 3031, eff 7-13-92; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 13 Ok Reg 3105, eff 7-11-96; Amended at 14 Ok Reg 2699, eff 6-26-97; Amended at 19 Ok Reg 2433, eff 6-27-02; Amended at 20 Ok Reg 320, eff 12-10-02 (emergency); Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 22 Ok Reg 1532, eff 6-11-05; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 26 Ok Reg 2330, eff 6-25-09; Amended at 27 Ok Reg 2281, eff 7-11-10; Amended at 29 Ok Reg 1475, eff 6-25-12; Amended at 31 Ok Reg 2427, eff 9-12-14; Amended at 33 Ok Reg 1068, eff 8-25-16; Amended at 36 Ok Reg 1216, eff 8-11-19]

710:50-17-52. Payment of rents and interest to a captive Real Estate Investment Trust (REIT)

(a) **General provisions.** Taxpayers that make rent or interest payments to a captive real estate investment trust (REIT) must add back those expenses to arrive at Oklahoma taxable income. For purposes of this subsection, the constructive ownership rules of Section 318(a) of the Internal Revenue Code of 1986, as amended, as modified by Section 856(d)(5) of the Internal Revenue Code of 1986, as amended, will apply in determining the ownership of stock, assets, or net profits of any person.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Real estate investment trust" or "REIT"** is any entity as defined in Section 856 of the Internal Revenue Code of 1986, as amended, as a real estate investment trust.

(2) **"Captive real estate investment trust"** is any real estate investment trust that has shares or beneficial interests that are not regularly traded on an established securities market and in which more than 50% of the voting power or value of the beneficial interests or shares are owned or controlled, either directly or indirectly, by a single entity treated as an association taxable as a corporation under the Internal Revenue Code of 1986, as amended, and is not exempt from federal income tax pursuant to the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended. "Captive real estate investment trust" does not include real estate investment trusts that are intended to be regularly traded on an established securities market, and that satisfies the requirements of Section 856(a)(5) and (6) of the U.S. Internal Revenue Code by reason of Section 856(h)(2) of the Internal Revenue Code.

(3) **"Association taxable as a corporation"** does not include the following entities:

(A) real estate investment trusts as defined in subsection (b)(1) other than a "captive real estate investment trust";

(B) qualified real estate investment trust subsidiaries defined under Section 856(i) of the Internal Revenue Code of 1986, as amended, other than a qualified REIT subsidiary of a "captive real estate investment trust";

(C) Listed Australian Property Trusts (meaning an Australian unit trust registered as a "Managed Investment Scheme" under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or entities organized as trusts, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust;

(D) Qualified Foreign Entities, including corporations, trusts, associations or partnerships organized outside the laws of the United States and which satisfy the following criteria:

- (i) at least seventy-five percent (75%) of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in Section 856(c)(5)(B) of the Internal Revenue Code of 1986, as amended, thereby including shares or certificates of beneficial interest in any real estate investment trust, cash and cash equivalents, and U.S. Government securities,
- (ii) the entity receives a dividend-paid deduction comparable to Section 561 of the Internal Revenue Code of 1986, as amended, or is exempt from entity level tax,
- (iii) the entity is required to distribute at least eighty-five percent (85%) of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest on an annual basis,
- (iv) not more than ten percent (10%) of the voting power or value in such entity is held directly or indirectly or constructively by a single entity or individual, or the shares or beneficial interests of such entity are regularly traded on an established securities market; and
- (v) the entity is organized in a country which has a tax treaty with the United States.

[Source: Added at 26 Ok Reg 2330, eff 6-25-09]

PART 7. APPORTIONMENT AND ALLOCATION OF CORPORATE INCOME AND EXPENSE

710:50-17-70. Unitary income; unitary business

"Unitary income" means income derived from the conduct of each separate business in more than one state, all the factors or which are essential to determining the ultimate gain derived from the business enterprise as a whole, and not from its component parts which are too closely connected and necessary to each other to justify division or separate allocation. Each corporation must calculate its own Oklahoma Taxable Income/Loss separately, even when included in a Consolidated Return.

710:50-17-71. Apportionment formula factors

Income or loss derived from a unitary business enterprise shall be apportioned to Oklahoma on the basis of the average of three factors consisting of

property, payroll and sales or gross revenue. Notwithstanding the general rule on averaging of the three apportionment factors, for corporations that, on or after July 1, 1997, make an initial investment in property or expansion of their property or facilities in Oklahoma and such initial investment cost or expansion investment costs equals or exceed Two Hundred Million Dollars (\$200,000,000.00), the three factors shall be apportioned with property and payroll each comprising twenty-five percent (25%) and sales comprising fifty percent (50%). For such an initial investment or expansion investment occurring after January 1, 2000, a corporation shall qualify for use of the specially-weighted apportionment on or after the time it first incurs any amount or part of such investment cost, if the total amount thereof equals or exceeds Two Hundred Million (\$200,000,000.00) within a period not exceeding three (3) years. [See: 68 O.S. § 2358(A)(5)]

(1) **Sales factor.**

(A) **Sales factor.** The sales factor shall include only sales and does not include sales or revenue which are separately allocated. [See: 68 O.S. § 2358(A)(5)(c)]

(i) Oklahoma does not allow receipts from items other than sales to be included in the formula even though other types of income (royalties, interest, capital gains, and other income) are included in the apportioned income.

(ii) Receipts from the performance of services shall be included in the numerator of the fraction if the receipts are derived from customers within this state or if the receipts are otherwise attributable to this state's marketplace. [See 68 O.S. § 2358(A)(5)]. A "customer within Oklahoma" means

(I) a customer that is engaged in a trade or business and maintains a regular place of business in Oklahoma, or

(II) a customer that is not engaged in a trade or business whose billing address is in Oklahoma. A "billing address" means the location indicated in the books and records of the taxpayer as the address of record where the bill relating to the customer's account is mailed.

(iii) The provisions of (A), (A)(i) and (A)(ii) of this paragraph apply to the sales factor for most corporations with the exception of gross receipts being used as a basis for a financial organization or other organizations whose sales do not represent their principal activity.

(B) **Throwback of Oklahoma sales.** If taxpayer is not doing business in the destination state of the shipment, then those sales of tangible personal property are considered to have a situs in Oklahoma if the property is shipped from an office, warehouse, factory or other place of storage in Oklahoma.

(C) **Railroad/railway.** The numerator of the fraction shall not be less than the allocation of revenues to this state as shown in its Annual Report to the Oklahoma Corporation Commission. [See: 68 O.S. § 2358(A)(5)(c)(2)]

(D) **Airline, truck or bus enterprise or freight car, tank car, refrigerator car or other railroad equipment enterprise.** The numerator of the fraction shall include a portion of revenue from

interstate transportation in the proportion that interstate mileage traveled in Oklahoma bears to total interstate mileage traveled.

[See: 68 O.S. § 2358(A)(5)(c)(3)]

(E) **Oil, gasoline or gas pipeline enterprise.** The numerator of the fraction shall be either the total of traffic units of the enterprise within Oklahoma or the revenue allocated to Oklahoma based on miles moved, at the option of the taxpayer, the denominator of which shall be the total of traffic units of the enterprise or the revenue of the enterprise everywhere as appropriate to the numerator. A "traffic unit" is defined as the transportation for a distance of one mile of one barrel of oil, one gallon of gasoline or one thousand cubic feet of natural or casinghead gas, as the case may be. [See: 68 O.S. § 2358(A)(5)(c)(4)]

(F) **Telephone or telegraph or other communication enterprise.** The numerator of the fraction shall include both income attributable to interstate operations, and income from intrastate operations. The determination of gross revenues are to be as prescribed by accounting systems and procedures promulgated by the Federal Communications Commission. [See: 68 O.S. § 2358(A)(5)(c)(5)]

(2) **Property factor.**

(A) **Original costs (average).** The property factor is the average value at original cost of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period to the total average of all real and tangible personal property owned or rented and used everywhere. [See: 68 O.S. § 2358(A)(5)(a)]

(B) **Rolling stock-buses, trucks, trailers, airplanes, automobiles, and other similar equipment.** The numerator of the fraction shall include a portion of the investment in transportation and other equipment having no fixed situs, in the proportion that miles traveled in Oklahoma by such equipment bears to total miles traveled. [See: 68 O.S. § 2358(A)(5)(a)(1)]

(C) **Rental property.** Rental property is valued at eight (8) times the net annual rent expense. [See: 68 O.S. § 2358(A)(5)(a)(2)]

(D) **Property separately allocated.** Property, the income from which is separately allocated in 68 O.S. § 2358(A)(4), shall not be included in determining the property factor. [See: 68 O.S. § 2358(A)(5)(a)(1)]

(3) **Payroll factor.**

(A) **Payroll factor.** The numerator is the total compensation for services rendered in the state during the tax period, and the denominator is the total compensation for services rendered everywhere during the tax period.

(B) **Prior to 1983.** Salaries, wages and other compensation properly classified as general and administrative, are not part of the computation of the payroll factor for years before 1983.

(C) **Officers.** Officers' salaries, wages and other compensation are not part of the computation of the payroll factor, for tax years beginning after December 31, 1982. [See: 68 O.S. § 2358(A)(5)(b)]

(D) **Transportation enterprises.** The numerator of the fraction shall include a portion of such expenditure in connection with

employees operating equipment over a fixed route, such as trainmen, airline pilots, or bus drivers, in the proportion that mileage traveled in Oklahoma bears to total mileage traveled by such employees. [See: 68 O.S. § 2358(A)(5)(b)(1)]

(E) **Itinerant employees/traveling salesmen.** The numerator of the fraction shall include a portion of such expenditures in connection with itinerant employees in this state only a part of the time, in the proportion that time spent in Oklahoma bears to total time spent in furtherance of the enterprise by such employees. [See: 68 O.S. § 2358(A)(5)(b)(2)]

[Source: Amended at 15 Ok Reg 2811, eff 6-25-98; Amended at 18 Ok Reg 2810, eff 6-25-01; Amended at 27 Ok Reg 2281, eff 7-11-10]

SUBCHAPTER 19. OKLAHOMA TAXABLE INCOME FOR PARTNERSHIPS

710:50-19-1. Partnership return

(a) **General provisions.** The Oklahoma distributive share of partnership income shall be the same portion of that reported for Federal Income Tax purposes. OTC Form 514 is used to report income. [See: 68 O.S. §§2358, 2362, 2363]

(1) **Oklahoma source income or loss.** When a partnership has source income or loss then that partnership must file a return showing the income or loss applicable to Oklahoma. The partnership shall also furnish a detailed schedule stating the amount of income distributable to each partner from Oklahoma sources.

(2) **Duty to file and report; determination of shares.** All resident partners must file individual income tax returns with Oklahoma if they are required to file individual Federal Income Tax Returns. All nonresident partners that have gross income of \$1,000.00 must file an Oklahoma Return even though their net may actually be a loss. The partnership income for Oklahoma may be apportioned using the three factor formula unless its operations are from real and tangible personal property, such as rents, oil and mining production or royalties, and gains or losses from sales of such property; then the income or loss shall be allocated in accordance with the situs of such property. The partner's distributive share of Oklahoma income or loss shall be the same proportion to the partner's distributive share of income or loss shown on the Federal Partnership Return.

(3) **No credit for income taxes paid other jurisdictions.** Neither residents nor nonresidents are allowed a credit for income taxes paid to other jurisdictions on partnership income.

(4) **Composite returns.** For tax years beginning on or after January 1, 2013, Oklahoma will allow partnerships with two or more partners to file composite returns for nonresident partners as set forth in (A) through (D) of this paragraph.

(A) **Individual partners and trust partners.** Compute each nonresident individual or trust partner's share of Oklahoma distributive income and income tax as follows:

(i) Calculate the Oklahoma distributive share of each nonresident individual and trust partner's income as if all of the partnership income was earned in Oklahoma. In determining taxable income of individual partners filing a

composite return, no deductions for the standard deduction, personal exemptions, federal income tax paid, or dependents is permitted.

(ii) Using the Oklahoma individual income tax rates for the applicable tax year, compute a base tax for each partner using the highest marginal tax rate, based on the taxable income from (i) of this subparagraph.

(iii) Calculate the actual Oklahoma distributive share of income of each partner.

(iv) The base tax determined from (ii) of this subparagraph is to be prorated to determine the Oklahoma income tax of each partner. Divide each partner's actual Oklahoma distributive share as determined in (iii) of this subparagraph, by each partner's distributive income from all sources as determined by (i) of this subparagraph. Multiply this percentage times the base tax to calculate the actual Oklahoma income tax of each partner. Nothing in this section shall be construed to allow for more than one hundred percent (100%) of a nonresident partner's income to be taxed.

(B) Corporate partners, S Corporation partners and Partnership partners.

Compute each nonresident corporate, S corp or partnership partner's share of Oklahoma distributive income, using the partner's share of Oklahoma distributive income and the Oklahoma corporate income tax rates, to compute each partner's Oklahoma tax.

(C) Form. The income and tax of all partners included in the composite return must be combined on Oklahoma Tax Commission Form 514.

(D) Schedule to be provided. Oklahoma Tax Commission Form 514 PT must be enclosed with the Form 514 to show the computation of each nonresident partner's Oklahoma distributive income and Oklahoma tax. The schedule of nonresident partner's information may be provided on magnetic media, electronically, or in another format which meets Tax Commission guidelines.

(b) When electronic filing is required.

(1) **Schedule K-1.** For tax years beginning on or after December 31, 2004, partnerships with more than one hundred (100) partners are required to electronically file their Schedule K-1's with the Oklahoma Tax Commission. The format for filing electronically will be in either a spreadsheet format, such as Lotus 1-2-3 or Excel; or a database format, such as DBF or Access. A partnership is deemed to have "more than one hundred (100) partners" if, over the course of the partnership's tax year, the partnership had more than one hundred (100) partners at any time.

(2) **Oklahoma partnership income tax return.** For tax years beginning on or after January 1, 2020, all Oklahoma partnership income tax returns must be filed electronically in the format prescribed by the Commission.

(c) Waiver of electronic filing requirement for hardship. Partnerships may also obtain a waiver from the electronic filing requirement if the partnership demonstrates that a hardship would result if it were required to file electronically.

[Source: Amended at 20 Ok Reg 2165, eff 6-26-03; Amended at 21 Ok Reg 2571, eff 6-25-04; Amended at 22 Ok Reg 1532, eff 6-11-05; Amended at 24 Ok Reg 2359, eff 6-25-07; Amended at 30 Ok Reg 1855, eff 7-11-13; Amended at 37 Ok Reg 2227, eff 9-11-20]

710:50-19-2. Amended return for partnerships

If after the partnership files its income tax return, it later becomes aware of any changes to be made to income, deductions, credits, etc.; or if corrected due to an Internal Revenue Service audit; the Partnership shall file OTC Form 514 labeled "Amended" at the top of page 1. Attach a copy of the Federal Amended 1065 or a copy of the Federal Audit Changes to the Oklahoma Amended Return. Each partner shall be given a corrected K-1, reflecting Oklahoma distributable income, as adjusted.

[Source: Amended at 9 Ok Reg 3031, eff 7-13-92]

710:50-19-3. Reporting the gain on the sale, exchange, or other disposition of property for which a Section 179 expense deduction was passed through to partners

(a) The gain on the sale, exchange, or other disposition of property for which a Section 179 expense deduction was passed through to partners is reported as Supplemental Information on the Federal K-1. For Oklahoma purposes, report such gain on OTC Form 514. Additional information is also required, as follows:

- (1) A description of the property;
- (2) The date the property was acquired;
- (3) The date the property was sold;
- (4) The gross sales price;
- (5) The cost or other basis, plus expense of sale, including the partnership's basis reduction in the property due to the Section 179 expense deduction;
- (6) The depreciation allowed or allowable, excluding the Section 179 expense deduction; and,
- (7) The amount of Section 179 expense deduction, if any, passed through to each partner for the property, and the partnership's tax year(s) in which the amount was passed through.

(b) If the software used to prepare the return has already been programmed to report the gain on another line of Income, Part 2 or Part 3, of OTC Form 514, this method is also acceptable, but all information set out in subsection (a) must be provided.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

710:50-19-4. Partnerships that make an election under the Pass-Through Entity Tax Equity Act of 2019

Pursuant to the Pass-Through Entity Tax Equity Act of 2019 (68 O.S. § 2355.IP-1 et seq.), a partnership may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. The Oklahoma income, gains, losses or deductions of a partnership that is an electing pass-through entity shall not be used to calculate the Oklahoma taxable income of the partners, members or shareholders. [See: 710:50:3-49]

[Source: Added at 38 Ok Reg 1527, eff 9-1-21]

SUBCHAPTER 20. LIMITED LIABILITY COMPANIES

710:50-20-1. Limited liability companies

(a) A limited liability company (LLC) which registers with the Secretary of State shall file an income tax return in the same manner as required under the Internal Revenue Code as amended. All rulings as issued by the Internal Revenue Service shall be binding in regards to the filing of tax returns and the reporting of income. A domestic limited liability company shall be treated the same and taxed as a domestic partnership and a foreign limited liability company shall be treated the same and taxed as a foreign partnership, provided that such domestic or foreign limited liability companies are classified as partnerships for federal purposes. [See: 68 O.S. §202]

(b) Income from the organization (LLC) shall be reported to Oklahoma as provided for under 68 O.S. §2358 and on the same form as prescribed under federal regulations.

(c) Operations carried on within and without the State of Oklahoma by an LLC shall be the same as for corporations, sub S corporations, partnerships, and any other organization which are covered under Public Law 86-272. The activities set out by Subsection A of 18 O.S. §2049 shall not be considered when determining the transaction of business for Oklahoma income tax purposes. [See: 18 O.S. §2049(C)]

[Source: Added at 10 Ok Reg 3837, eff 7-12-93; Amended at 11 Ok Reg 555, eff 11-10-93 (emergency); Amended at 11 Ok Reg 3497, eff 6-26-94; Amended at 28 Ok Reg 935, eff 6-1-11]

SUBCHAPTER 21. OKLAHOMA TAXABLE INCOME FOR SUBCHAPTER S CORPORATIONS

710:50-21-1. Subchapter "S" Corporations and 512S Oklahoma returns

(a) A corporation having an election in effect under Subchapter S of the Internal Revenue Code shall not be subject to the Oklahoma income tax on the corporation. However, if any of the shareholders of such corporation are nonresidents of Oklahoma during any part of the corporation's taxable year, the corporation shall be taxed for such year on the nonresident shareholder's distributive share of income, unless the corporation files with its return for such year an agreement executed by each nonresident stockholder stating that such nonresident will file an Oklahoma Income Tax Return reporting his portion of Oklahoma taxable income.

(b) The shareholders of a Subchapter "S" Corporation shall include in their taxable income their distributive share of such corporation's Federal income, subject to the modifications as set forth in 68 O.S. §2358 and 68 O.S. §2362.

(c) A Subchapter "S" corporation that files its return without including necessary nonresident shareholder agreements, shall be taxed on such nonresident(s) shareholders distributive share of income. The method of filing the return shall be irrevocable for each tax period once the return is filed. However, if a nonresident shareholder fails to file his individual Oklahoma Income Tax Return the corporation will be assessed the tax.

710:50-21-2. Amended return for Subchapter "S" Corporations

If after the Subchapter "S" Corporation files its income tax return, it later becomes aware of any changes it must make to income, deductions, credits, etc., or if corrected due to an Internal Revenue Service audit, the Subchapter "S" shall file OTC Form 5125 labeled "Amended" at the top of page 1. Attach a copy of the Federal Amended 11205 or a copy of the Federal Audit changes to the Oklahoma

Amended Return. Each share holder shall be given a corrected K-1 reflecting Oklahoma Distributable Income as adjusted.

710:50-21-3. Reporting the gain on the sale, exchange, or other disposition of property for which a Section 179 expense deduction was passed through to shareholders

(a) The gain on the sale, exchange, or other disposition of property for which a Section 179 expense deduction was passed through to shareholders is reported as Supplemental Information on the Federal K-1. For Oklahoma purposes, report such gain on OTC Form 512S. Additional information is also required, as follows:

- (1) A description of the property;
- (2) The date the property was acquired;
- (3) The date the property was sold;
- (4) The gross sales price;
- (5) The cost or other basis, plus expense of sale, including the partnership's basis reduction in the property due to the Section 179 expense deduction;
- (6) The depreciation allowed or allowable, excluding the Section 179 expense deduction; and,
- (7) The amount of Section 179 expense deduction, if any, passed through to each shareholder for the property, and the S-Corporation's tax year(s) in which the amount was passed through.

(b) If the software used to prepare the return has already been programmed to report the gain on another line of Income, Part 2 or Part 3, of OTC Form 512S, this method is also acceptable, but all information set out in subsection (a) must be provided.

[Source: Added at 22 Ok Reg 1532, eff 6-11-05]

710:50-21-4. S Corporations that make an election under the Pass-Through Entity Tax Equity Act of 2019

Pursuant to the Pass-Through Entity Tax Equity Act of 2019 (68 O.S. S 2355.IP-1 et seq.), a Subchapter S Corporation may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. The Oklahoma income, gains, losses or deductions of a Subchapter S Corporation that is an electing pass-through entity shall not be used to calculate the Oklahoma taxable income of the partners, members or shareholders. [See: 710:50:3-49]

[Source: Added at 38 Ok Reg 1527, eff 9-1-21]

SUBCHAPTER 23. FIDUCIARY REPORTING

710:50-23-1. Fiduciaries

(a) **State income tax reporting requirements.**

- (1) The Income tax period of an estate is initially established the day following the date of death and the estate representative may elect an annual closing period for the estate to be the last day of any month not to exceed twelve months. Once an estate tax period has been established, it will remain the same throughout the period of administration up to and including the final decree and court order for distribution.
- (2) During the period of the administration of an estate, the liability for the filing of an Oklahoma Income Tax Return for the estate and the payment of any tax due, shall be that of the representative of the estate.

(3) Only that income properly paid, credited or distributed to the beneficiaries, pursuant to a court order or under the terms of the will, may be deducted from the income of the estate.

(4) The Court Order for Final Decree is deemed to distribute both income and corpus, therefore the amounts of income generated during such final period must be shown on the final Oklahoma Income Tax Return of the estate as a distribution showing also the name, address and social security number of each beneficiary, as well as the amounts and types of income so distributed to each.

(5) The representative of the estate, such as the administrator, executor or personal representative, is responsible for reporting the correct amount of income tax due for all years of the estate and must secure a certificate of clearance from the Oklahoma Tax Commission, disclaiming any further Oklahoma Income Taxes due or owing by the decedent or the estate for which the representative acts.

(6) Wills and/or Trust Instruments shall be filed with the initial filing of Trust or Estate return, so the flow of income can be determined.

(7) Returns of Trusts and Estates are due on the 15th day of the fourth month following the close of the taxable year.

(b) **Certificate of clearance.** Prior to the issuance of a certificate of clearance, all taxes due from Decedent's prior years' returns must be paid.

(c) **Resident/nonresident.**

(1) Domicile is the primary determining factor in interpretation.

(2) A residence at death creates a resident estate throughout probate. A testamentary trust of such an estate is likewise a resident until distributed.

(3) Grantor trusts follow the situs of the grantor.

(4) Intervivos trust depends upon the trust language.

(5) The residence of the executor, administrator or trustee has no bearing on the residence of the estate or trust.

(d) **Characteristics of income and deductions.** Income and deductions shall retain the same characteristics as reported to and allowed by the Internal Revenue Service (I.R.S.). Example: Personal service income reported to the I.R.S. shall be treated as personal service income to Oklahoma and not as business income or any other type of income.

(e) **Deductions on fiduciary return.** There is no deduction for state estate tax for income in respect of the decedent. There is no deduction for interest paid on payments for Federal Estate Tax, unless the election is made to deduct this interest on the Federal Fiduciary Income Tax Return. The election to deduct administration expenses and losses on the fiduciary return in lieu of the estate tax return; must follow the federal election, and a statement must be filed with the return waiving the right to deduct the expenses and losses on Oklahoma Estate Tax form 454. There is no deduction for Federal Income Tax paid in the fiduciary return.

[Source: Amended at 9 Ok Reg 3031, eff 7-13-92; Amended at 15 Ok Reg 2811, eff 6-25-98]

710:50-23-2. Amended return for fiduciaries

(a) If a fiduciary is required or elects to file a Fiduciary Amended Return, the Fiduciary shall file an OTC Form 513, write "Amended" on the face of the return and attach the following or attach an explanation if the following is not applicable:

(1) A copy of the Amended Federal Fiduciary Return, Form 1041, or Federal Form 1045.

- (2) Proof that Internal Revenue Service has accepted the claim, such as a copy of the statement of adjustment, any correspondence from Internal Revenue Service, or a copy of the deposit slip of the Federal refund.
 - (3) Supporting documents for any adjustments to Federal Taxable Income to arrive at the Oklahoma Taxable Income.
 - (4) An explanation for the filing of a Fiduciary Amended Tax Return.
- (b) If multiple years returns are filed, each year shall be filed under separate cover.

SUBCHAPTER 25. BANKRUPTCY

710:50-25-1. General provisions; bankruptcy

The Fiduciary must file OTC Form 513 for the Estate of an individual involved in bankruptcy proceedings, if a Federal Income Tax Return is required for the Bankruptcy Estate. Use OTC Form 513 as a transmittal for OTC Form 511. Complete the tax for the Bankruptcy Estate on the OTC Form 511, by using the instructions and tax rate schedules for a married person, filing separately. Enter the computed tax on OTC Form 513, line 23, and remit payment of any tax due.

SUBCHAPTER 27. BANKS AND CREDIT UNIONS

710:50-27-1. Banks and credit unions subject to "in lieu" tax

- (a) Every state banking association, national banking association and credit union organized under the laws of this State, located or doing business within the limits of the State of Oklahoma is subject to a privilege tax. The basis of the tax shall be United States taxable income as defined by 68 O.S. 2353(10) and any adjustments as determined pursuant to 68 O.S. 2358 and the adjustments under 68 O.S. 2370(D)(1) and 68 O.S. 2370(D)(2).
- (b) State and national banks and state credit unions making a Federal Subchapter "S" election, shall not pay the "in lieu" tax. Rather, the income or loss in these cases shall be reported at the shareholder level, pursuant to the provisions of 68 O.S. §§ 2363 and 2370.2.

[Source: Amended at 18 Ok Reg 2810, eff 6-25-01]

APPENDIX A. COMPUTATION OF TAX ACCRUAL WHEN TAX CREDITS ARE ALLOWABLE

[Figure 1](#)

[Source: Added at 9 Ok Reg 3031, eff 7-13-92]

APPENDIX B. COMPUTATION OF OKLAHOMA NET OPERATING LOSS SCHEDULE A [REVOKED]

[Source: Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Revoked at 17 Ok Reg 2669, eff 06-25-00]

APPENDIX C. COMPUTATION OF OKLAHOMA NET OPERATING LOSS SCHEDULE B [REVOKED]

[Source: Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Revoked at 17 Ok Reg 2669, eff 6-25-00]

APPENDIX D. OKLAHOMA NET OPERATING LOSS SCHEDULE C WORKSHEET [REVOKED]

[Source: Added at 11 Ok Reg 555, eff 11-10-93 (emergency); Added at 11 Ok Reg 3497, eff 6-26-94; Revoked at 17 Ok Reg 2669, eff 6-25-00]

APPENDIX E. COMPUTATION OF ADJUSTMENT FOR EXPENSES ALLOCATED TO NONTAXABLE INCOME

[Figure 1](#)

[Figure 2](#)

[Source: Added at 33 Ok Reg 1068, eff 8-25-16]

CHAPTER 55. MOTOR FUEL

[Authority: 68 O.S., §§ 500.10(4), 500.12, 500.13(3), 500.14(E), 500.18(1), 500.23(C), 500.24(C), 500.28(B), 500.29(D), 500.30(B), 500.31(B), 500.36(C), 500.44(E), 500.45(A)(5), 500.46, 500.56, 500.60(C), 709, 710, and 722]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:55-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250. 1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to motor fuels, special fuels, fuel importers, and fuel transporters.

710:55-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Ethanol**", means "fuel grade ethanol". Also known as ethyl-alcohol or alcohol.

"**Farm tractor**", for purposes of this Chapter, *means all tractor-type, motorized farm implements and equipment, but does not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed under the Oklahoma Vehicle License and Registration Act.* [See: 68 O.S. § 500.4(C)]

"**Fuel grade ethanol**", means ethanol that has been blended with at least 2% gasoline per the US Tax and Trade Bureau to render the product unsuitable for human consumption. This product must meet the American Society for Testing and Materials standard in effect January 1, 1995, and successor rules, as the D-4806 specification for denatured fuel grad ethanol for further blending with gasoline for use as automatic spark-ignition engine fuels.

[Source: Reserved at 12 Ok Reg 2633, eff 6-26-95; Added at 22 Ok Reg 1548, eff 6-11-05; Added at 28 Ok Reg 960, eff 6-1-11]

710:55-1-3. Additional audit procedures

An auditor for the Commission may suggest that a sample motor fuel tax audit, rather than a detailed audit, be performed. The auditor shall select the periods to sample and apply the results to the periods of the audit. The auditor shall prepare forms to be signed by the taxpayer, indicating agreement with the periods and methods used for the sample. [See: 68 O.S. §206]

[Source: Added at 12 Ok Reg 2633, eff 6-26-95]

SUBCHAPTER 3. MOTOR FUEL TAX [REVOKED]

710:55-3-1. Computation of motor fuels taxes; itemized schedule [REVOKED]

[Source: Amended at 9 Ok Reg 3023, eff 7-13-92; Amended at 12 Ok Reg 2633, eff 6-26-95; Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-2. Persons entitled to deductions for exported gasoline [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-3. Motor fuel or diesel sales to non-licensed purchaser [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-4. Export distributor's bonds [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-5. Certified report of exports [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-6. Export reports must be consistent with records of other states; comity [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-7. Seller's verified claim for deduction of excise tax on motor fuel sold to the United States Government [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-8. Agricultural exemption permit holders must demand and receive invoice [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-9. Tractors must be registered with the Tax Commission in the name of applicant or purchaser of motor fuel [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-10. Distributor's bonds [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-11. Motor fuel indemnity fund [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-12. Filling station records [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

710:55-3-13. Transporters for hire bonds [REVOKED]

[Source: Revoked at 14 Ok Reg 1083, eff 1-24-97 (emergency); Revoked at 14 Ok Reg 2346, eff 6-12-97]

SUBCHAPTER 4. MOTOR FUEL TAX

PART 1. LICENSES

710:55-4-100. General licensing requirement

(a) **Who must obtain license.** The following persons must obtain a license from the Oklahoma Tax Commission prior to engaging in business in this state:

- (1) Supplier
- (2) Terminal operator (Except licensed suppliers)
- (3) Exporter (Except licensed suppliers)
- (4) Transporter (Except licensed suppliers and bonded importers)
- (5) Occasional importer
- (6) Bonded importer
- (7) Tank wagon operator-importer (Except licensed importers who operate one or more bulk plants outside this state.)
- (8) Wholesaler or retailer

(b) **Additional license not required.** A wholesaler or retailer who possesses one of the licenses described in (a) of this Section is not required to secure an additional license for its wholesale or retail business. Other than exceptions noted in (a) of this Section, all other persons must apply for all licenses that may be required.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-101. Permissive supplier's license

A person acting as a supplier outside the State of Oklahoma, may apply for a permissive supplier's license.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-102. Bonds

(a) **Applicants required to post a bond.** Applicants for the following licenses shall be required to post a bond:

- (1) Terminal operators
- (2) Exporters
- (3) Transporters
- (4) Tank wagon operator-importers
- (5) Suppliers and permissive suppliers
- (6) Bonded importers

(b) **Single bond required from applicant for multiple licenses.** An applicant for more than one license shall be required to post only one (1) bond. The bond shall be posted in the greatest amount required for one of the licenses.

(c) **Computation of amount of bond.** Bonds required for licenses described in this Part shall be posted in amounts determined by (1) through (5) of this subsection:

- (1) **Terminal operators.** Terminal operators must post a bond in an amount not less than three (3) months estimated tax liability, but not to exceed Five Hundred Thousand Dollars (\$500,000.00). The initial bond shall be in the amount of Two Thousand Dollars (\$2,000.00).
- (2) **Exporters.** Exporters must post a bond in an amount not less than three (3) months estimated tax liability, but not to exceed One Million Dollars (\$1,000,000.00). The initial bond shall be in the amount of Two Thousand Dollars (\$2,000.00).
- (3) **Transporters.** Transporters must post a bond in an amount not less than three (3) months estimated tax liability, but not to exceed One Hundred Thousand Dollars (\$100,000.00). The initial bond shall be in the amount of Two Thousand Dollars (\$2,000.00).

(4) **Tank wagon operators-importers.** Tank wagon operators-importers must post a bond in an amount not less than three (3) months estimated tax liability, but not to exceed Fifty Thousand Dollars (\$50,000.00).

(5) **Suppliers; permissive suppliers; bonded importers.** Suppliers, permissive suppliers, and bonded importers must post a bond in an amount not less than three (3) months estimated tax liability, but not less than One Hundred Thousand Dollars (\$100,000.00), nor more than Two Million Dollars (\$2,000,000.00)

(d) **Alternative to posting bond for supplier's or bonded importer's licenses.** In lieu of posting a bond, an applicant for a supplier's or bonded importer's license, may show proof of financial responsibility. Proof of financial responsibility shall be evidenced by proof of Five Million Dollars (\$5,000,000.00) net worth. "**Net worth**" means total assets, minus total liabilities, as evidenced in a statement from an independent auditor prepared within six (6) months of the date of application.

(e) **Form of bond.** All bonds shall be in the form of a surety bond, upon a form provided by the Tax Commission, or a cash deposit or certificate of deposit.

(f) **Commission may review, rescind eligibility.** Pursuant to the authority granted by 68 O.S. § 500.23(C), the Commission may review eligibility standards, including "**net worth**", of any licensee and may take further actions, including, but not limited to, requiring further assurance of financial responsibility, increasing the amount of required bond, rescission of a permit-holder's eligibility and election to defer payment of motor fuel taxes, or other action needed to ensure remittance of the motor fuel tax.

(g) **Cancellation of license.** Rescission of a permit-holder's eligibility and cancellation of any license or permit shall be preceded by a hearing pursuant to the terms of 68 O.S. § 212.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 34 Ok Reg 2065, eff 9-11-17]

710:55-4-103. Election to be treated as an eligible purchaser

(a) **Qualification for eligible purchaser status.** Each person desiring to make an election to be treated as an eligible purchaser shall submit a request for approval. The Tax Commission will not approve an eligible purchaser request submitted by a non-vendor.

(b) **Amount of bond.** If requested by the Tax Commission the bond for an eligible purchaser shall be in an amount not less than three (3) months estimated tax liability.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 23 Ok Reg 2836, eff 6-25-06]

PART 2. REPORTS

710:55-4-106. Reports must be filed electronically

The required monthly reports must be filed electronically in Extensible Markup Language (XML) format or by Excel Imports into the Taxpayer Access Point (TAP).

[Source: Added at 34 Ok Reg 2065, eff 9-11-17]

PART 3. EXEMPTIONS AND REFUNDS

710:55-4-110. Exports by a supplier or sales to licensed exporter for immediate export

The exemption for motor fuel exported by a supplier licensed in the destination state or sold by a supplier to a licensed exporter for immediate export shall be deducted on the report of the supplier or licensed exporter.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-111. Motor fuel acquired by an unlicensed exporter and subsequently exported across state boundaries by a licensed exporter

Motor fuel acquired by an unlicensed exporter and subsequently exported across state boundaries, by, or on behalf of, a licensed exporter, shall be perfected by a refund claim by the unlicensed exporter. The refund claim must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-112. Motor fuel exported by a tank wagon within twenty-five (25) miles of the border

Motor fuel exported by a tank wagon within twenty-five (25) miles of the border of this state shall be perfected by the exporter by a refund claim. The exporter shall not apply for a refund until its claim exceeds One Thousand Dollars (\$1,000.00).

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-113. Sale of K-1 kerosene

The sale of K-1 kerosene which is exempt by statute shall be perfected by the supplier as a deduction on the monthly report.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

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, 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.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 22 Ok Reg 1548, eff 6-11-05]

710:55-4-115. Sales from a fixed retail pump

(a) If the sale is from a fixed retail pump, the ultimate vendor, having made the sale to the purchasing entity without the tax, may submit a refund claim to the Commission. Such refund claim shall be accompanied by a copy of the certificate presented to the ultimate vendor by the purchasing entity, and must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

(b) If the purchase is charged to a fleet, government fueling, or oil company credit card issued by a supplier to the purchasing entity, the supplier may elect to act as the ultimate vendor. A supplier who elects to act as an ultimate vendor may bill the purchasing entity without the tax and claim a credit against the tax liability on its monthly report. The supplier must maintain necessary records to support the claim for credit.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-116. Motor fuel for farm tractors or stationary engines

The exempt sale of motor fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes shall be perfected by a refund claim filed by the consumer. The refund claim must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid. Refund claims for agricultural use of gasoline shall be less the two and eight one-hundredth cents (\$0.0208) levied under the Motor Fuel Tax Code for gasoline used or consumed for agricultural purposes.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-117. Gasoline, diesel fuel and kerosene sold for use as fuel in aircraft engines

The exemption for gasoline, diesel fuel and kerosene sold for use as fuel in aircraft engines shall be perfected by the supplier on its monthly report. The supplier shall collect and remit from all purchases of aviation fuel eight one-hundredths of one cent (\$0.0008) per gallon. For purposes of this Section,

"aviation fuel" means all gasoline, diesel fuel and kerosene which is suitable for use as a fuel in an aircraft.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:55-4-118. Motor fuel sold within Indian country by a federally recognized Indian tribe to a member of that tribe

The exemption for motor fuel sold within Indian country by a federally recognized Indian tribe to a member of that tribe shall be perfected by a claim for refund filed by the consumer with respect to motor fuel purchased by the consumer which the tax imposed had been previously paid. Such a claim for refund must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid. Members of Indian tribes which have contracted with the State pursuant to Section 500.63 of Title 68 of the Oklahoma Statutes are not eligible for this exemption or refund.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-119. Diesel fuel used in the fuel supply tank of a motor vehicle used to operate attached equipment, in vehicles while parked off the highways, or in trucks used for transporting certain wastes

(a) The exemption for the portion of diesel fuel which is placed in the fuel supply tank of a motor vehicle and is used to operate equipment attached to the motor vehicle or consumed by the vehicle while the vehicle is parked off the highways of this state shall be perfected by a refund claim filed by the consumer. Such refund claims must be received by the Commission within three (3) years following the last day of the calendar month in which the tax was paid. The formulas set out by (1) through (11) of this Section may be used to compute the amount of the refund to be claimed for diesel fuel used in this manner:

- (1) For gasoline or fuel oil, use 1.5 gallons per 10,000 gallons pumped;
- (2) For bulk cement, use 3 gallons per hour;
- (3) For calcium crystals, use 4 gallons per hour;
- (4) For concrete, use 1.5 gallons per 5 cubic yards;
- (5) For reefers, use .75 gallons per hour;
- (6) For grain (dairy pellets), use .10 gallons per ton;
- (7) For grain (mash), use .225 gallon per ton;
- (8) For pulp, use .50 gallons per cord, or 2 cords per gallon, or 4.75 gallons per hour;
- (9) For tree-length pulp, use .0500 gallons per ton, or 20 tons per gallon, or 3.50 gallons per hour;
- (10) Use accurate mileage or hubometer records to establish miles-per-gallon versus gallons purchased;
- (11) For "idle time", use system documentation of on-board computers, if available, or in the absence of documentation, .05% ($\frac{1}{2}$ of one percent) will be allowed.

(b) The exemption for fuel used to operate trucks designed, equipped, and used exclusively for garbage, refuse, or solid waste disposal shall be thirty-five percent (35%) of the tax paid on such fuel. However, the taxpayer may claim a greater amount under this subsection if evidence satisfactory to the Tax Commission can be shown to establish an allocation of use for a tax exempt purpose in an amount greater than thirty-five percent (35%).

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 22 Ok Reg 1548, eff 6-11-05]

710:55-4-120. Diesel fuel used as heating oil, in railroad locomotives, or used for other nonhighway purposes

Diesel fuel used as heating oil, in railroad locomotives, or used for other nonhighway purposes shall be perfected by a refund claim filed by the consumer. The claim for refund must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-121. Motor fuel purchased tax paid and contaminated by a dye or subject to an unexpected loss

The exemption for motor fuel which was purchased tax paid and contaminated by a dye or subject to an unexpected loss shall be perfected by a refund to the person which suffered the contamination or loss. The claim for refund must be received by the Tax Commission within three (3) years following the last day of the calendar month in which the tax was paid.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:55-4-122. Diesel fuel to which dye has been added in conformity with requirements established by Internal Revenue Service Code

The exemption for diesel fuel as to which dye was added in a manner which conforms to federal requirements established by the Internal Revenue Code shall be perfected by a supplier, tank wagon importer, or other importer as a deduction on its monthly report.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97]

710:55-4-123. Interest on refunds

If a refund is not issued within twenty (20) days of the filing, the Commission shall pay interest from the day of the filing of a processible claim for the refund until the date on which the refund is made. The "**date of filing of the claim**" means the date the refund claim is received by the Commission. The "**date on which the refund is made**" means the date on which a refund check is issued. To be "**processable**", all information on the refund claim, including the computations, must be correct and all required documentation must be attached.

[Source: Added at 14 Ok Reg 1083, eff 1-24-97 (emergency); Added at 14 Ok Reg 2346, eff 6-12-97; Amended at 19 Ok Reg 2440, eff 6-27-02]

SUBCHAPTER 5. IMPORTERS FOR USE [REVOKED]

710:55-5-1. Computation of tax on mileage basis [REVOKED]

[Source: Revoked at 38 Ok Reg 1534, eff 9-1-21]

710:55-5-2. Application [REVOKED]

[Source: Revoked at 38 Ok Reg 1534, eff 9-1-21]

710:55-5-3. Required assessment [REVOKED]

[Source: Revoked at 38 Ok Reg 1534, eff 9-1-21]

710:55-5-4. Credit; refunds [REVOKED]

[Source: Revoked at 38 Ok Reg 1534, eff 9-1-21]

SUBCHAPTER 7. SPECIAL FUELS TAX

710:55-7-1. Who must be licensed

- (a) Every person who uses special fuel within the State of Oklahoma, within the meanings of the word use as defined in 68 O.S. §701(e), shall do so only after having first applied for and obtained from the Oklahoma Tax Commission a license covering such use.
- (b) A person may apply for a "special fuel dealer's license" or a "special fuel user's license." For definitions of "special fuel dealer" and "special fuel user" see 68 O.S. §701(h) and 68 O.S. §701(i).
- (c) Those persons exempted by law are not required to obtain a license. However, persons who carry on both exempt and non-exempt activities must obtain the appropriate license as to the non-exempted activities or uses.
- (d) Persons required to obtain a decal under 68 O.S. 723 are not required to also obtain the special fuel dealers' license.

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 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.

[Source: Amended at 13 Ok Reg 3111, eff 7-11-96]

710:55-7-3. Special fuel dealer and user; reports and remittances

Every special fuel dealer and special fuel user is required to file a monthly report with the Oklahoma Tax Commission on a form prescribed and furnished by the Tax Commission.

- (1) The report must be received by the Oklahoma Tax Commission on or before the twentieth day of the calendar month following the calendar month for which the particular report is being made.

(2) The filing of the report and payment of any tax due shall be delinquent unless received by the Oklahoma Tax Commission on or before the twentieth day following the day on which such report and payment was required to have been filed and paid.

710:55-7-4. Information required on special fuel dealer reports

(a) In addition to the information required under 68 O.S., §710(b), every special fuel dealer must show the following information in his periodic report:

(1) A separate listing of each sale of special fuel on which the special fuel tax has been collected.

(2) For each sale described in (1) of this subsection at least the following information must be shown:

(A) The date of the sale;

(B) The invoice number;

(C) The name and/or special fuel which was sold;

(D) The address of the purchaser;

(E) The quantity of such fuel sold.

(b) The information required under (a) of this Section shall not limit the authority of the Oklahoma Tax Commission to require such other information as may be deemed necessary for the proper administration of the Special Fuel Use Tax Statutes. [See: 68 O.S. §710(b)]

710:55-7-5. Credits; refunds

(a) Where, in any given tax reporting period, a Special Fuel Dealer or Special Fuel User has paid Oklahoma Special Fuel Tax on an amount of special fuel part of which was subsequently and actually consumed in motor vehicles outside the State of Oklahoma, such Dealer or User shall be allowed a "credit" in an amount equal to the special fuel tax rate per gallon times the number of gallons used outside of Oklahoma. The burden is upon the Taxpayer to claim the credit and to furnish sufficient evidence to support this claim.

(b) The credit may be carried over and applied to any month following the month in which the credit arose.

(c) Instead of carrying the credit over to succeeding months, the Taxpayer is also entitled to claim a refund. Such refund is computed on the same basis as the credit. However, the claim for refund must be made within one (1) year from the first day of the calendar month in which the special fuel was used. Upon the expiration of one (1) year, computed from the first day of the calendar month in which the special fuel was used, the right to claim the refund as to any and all of the amount still remaining, shall be deemed extinguished.

(d) If special fuel is purchased in one month but the use outside Oklahoma, giving rise to a credit or claim for refund under this section, occurs in more than one month, the allowable credit shall be apportioned to each of the months in which the use occurred, based on the actual use and consumption for the month.

710:55-7-6. Fee in lieu of special fuel tax

(a) The Oklahoma Special Fuel Tax Code levies a flat fee of Fifty Dollars (\$50.00) on each automobile, pickup truck or van not exceeding one ton in capacity and using liquefied petroleum gas or natural gas as fuel. If a vehicle is acquired or system installed after July 1, the flat fee is Twenty-five Dollars (\$25.00).

(b) The Oklahoma Special Fuel Tax Code levies a flat fee of One Hundred Dollars (\$100.00) on each passenger automobile, pickup truck or van not exceeding one ton

in capacity, using compressed natural gas or liquefied natural gas as fuel. If a vehicle is acquired or system installed after July 1, the flat fee is Fifty Dollars (\$50.00).

(c) Beginning January 1, 1993, the Oklahoma Special Fuel Tax Code levies a flat fee of One Hundred Fifty Dollars (\$150.00) on each vehicle exceeding one ton in capacity, using liquefied petroleum gas, compressed natural gas, or liquefied natural gas as fuel. If a vehicle is acquired after July 1, the flat fee is Seventy-five Dollars (\$75.00).

(d) Payment of the fee is mandatory on vehicles described in (a), (b), and (c) of this Section. Assessment of the fee is in substitution for Special Fuel Tax levied under 68 O.S. §§ 703, 705, 707.1, 707.2 and 707.3, and no tax need be paid at the time of purchase of the fuels for use in vehicles covered by this Section and upon which the required fee has been paid. Once the fee has been paid as to a particular vehicle, a decal is issued for that vehicle. Such decal is to be placed on the lower right hand corner of the front windshield of that vehicle.

(e) The decal is issued to one vehicle only and is not transferable to another vehicle, even though the equipment used to adapt the first vehicle for L.P.G. use is transferred to the second vehicle, such that the first vehicle is no longer capable of using liquefied petroleum gas.

(f) Payment of the fee for the decal is due on January 1 of each calendar year. The decal shall be effective only until December 31 of the year in which the fee is paid regardless of the day and month within that year when the fee is paid.

(g) Payment of the fee levied shall be due on the first day that L.P.G. is used in a vehicle covered by this section and thereafter on January 1 of each calendar year. A taxpayer may make application for the decal with the Oklahoma Tax Commission; the required fee is to be remitted at the time application for the decal is made.

(h) Failure to obtain a proper and current decal within thirty (30) days from the date when application for such decal should have been made shall result in a penalty of twenty percent (20%) of the fee being added to the required fee.

(i) Any vehicle subject to the Fee in Lieu of Special Fuel Tax for which the required decal has not been obtained, shall be subject to payment of the Special Fuel Tax levied on the purchase of L.P.G. for use in that vehicle. Payment of the required Fee and acquisition of the required decal, at a date subsequent to the date due, shall not result in an allowable claim for refund on any Special Fuel Taxes paid prior to the acquisition of the decal.

[Source: Amended at 10 Ok Reg 3841, eff 7-12-93; Amended at 34 Ok Reg 2065, eff 9-11-17]

CHAPTER 60. MOTOR VEHICLES

[Authority: 47 O.S., §§ 6–101(Q), 1105.5, 1109(C), 1112.2, 1135.9, 1140, 1113, 1113.2(E), 1146(A), 1149, 1151(A)(3), 1151.3(A), and 1151.4(A); 68 O.S., §§ 203, and 2110(D)]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:60-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250. 1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to the registration, licensing, transfer and operation of motor vehicles within this state.

710:60-1-2. Definitions [RESERVED]

710:60-1-3. Confidentiality of motor vehicle information

(a) **Procedure for release of vehicle and lien information.** Vehicle and lien information may be released only to qualified requestors upon completion of a Vehicle Information Request form and remittance of the statutory fee. Qualified requestors of recurring data from the motor vehicle system database must complete the "Service Contract for Purchase of Oklahoma Motor Vehicle Registration (MVR) Database" with the Tax Commission. Upon acceptance of the contract, the requested data may be provided at the appropriate processing fee established by the Commission. Requests for unique (one time) large data files from the motor vehicle system database may be made by submitting the appropriate request for information to the Oklahoma Tax Commission, Motor Vehicle Division for review. Upon approval, the requested data may be provided at the appropriate processing fee established by the Commission.

(b) **Who may obtain vehicle and lien information.** Vehicle and lien information may be released to:

- (1) The current owner;
- (2) An individual, on behalf of the current owner, with written authorization;
- (3) A licensed wrecker or towing service, for notification to owners;
- (4) A legitimate business, for purposes of:
 - (A) Verifying the accuracy of personal information submitted to the business by the individual to whom the requested information pertains; or
 - (B) Obtaining correct information for purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual to whom the requested information pertains;
- (5) A requestor who is to use the information in conjunction with a civil, criminal, administrative, or arbitral proceeding in a federal, state, or local court or agency, or before any self-regulatory body. Use may include service of process, investigation in anticipation of litigation, and the execution or enforcement of a judgment or order;
- (6) A requestor, pursuant to an order of any court;
- (7) An insurer or insurance support organization;
- (8) A licensed private investigative agency or licensed security service, for purposes permitted by 47 O.S. § 1109(A);
- (9) A governmental or law enforcement agency, or a court, for use in an official function;
- (10) Any person compiling and publishing motor vehicle statistics, provided that names and addresses of individuals shall not be disclosed;
- (11) Any motor vehicle manufacturer or an authorized representative thereof, in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls or advisories, performance monitoring of motor vehicles, motor vehicle parts and dealers, motor vehicle market research activities, including survey research, and removal of non-owner records from the original owner records of motor vehicle manufacturers; or,

(12) For use in connection with the operation of private toll transportation facilities.

(13) For furnishing the name and address of all commercial entities who have current registrations of any particular model of vehicle; provided, this exception shall not allow the release of personal information pursuant to the provisions of the Driver's Privacy Protection Act, 18 U.S.C. §§ 2721 through 2725.

(c) **Insurance information release.** Insurance information, including insurer and policy number, may be released to a law enforcement officer investigating an accident pursuant to 47 O.S. § 10-104, or to a licensed Oklahoma wrecker service, when that information is needed to establish responsibility for wrecker fees.

(d) **Penalties for the release of prohibited information.** The release of any information not specifically authorized by statute, as described in subsections (b) and (c) of this Section, is strictly prohibited, and may be subject to penalties enumerated in 47 O.S. §1109(J).

(e) **Penalties pursuant to the Driver's Privacy Protection Act.** In addition to penalties provided under state law, certain provisions of federal law, under the Driver's Privacy Protection Act, may apply.

(1) Any person who violates the Driver's Privacy Protection Act (DPPA) is subject to criminal prosecution as provided in 18 U.S.C.A. § 2721, et seq.

(2) Any person who violates the Driver's Privacy Protection Act (DPPA) is subject to civil penalties of actual damages not less than \$2,500.00; punitive damages, reasonable attorneys' fees, litigation costs, and such other relief the court determines to be appropriate.

(3) Any state agency violating the Driver's Privacy Protection Act (DPPA) is subject to a civil penalty of not more than \$5,000.00 for each day of substantial noncompliance.

(f) **Types of information released.** The form, formats, media, and sources of information provided under this Section may be available for a statutorily provided fee:

(1) Current ownership or lienholder information may be provided to qualified requestors by the Oklahoma Tax Commission and motor license agents.

(2) Computer-generated title history information may be provided by the Oklahoma Tax Commission.

(3) Archived title history information may be provided by the Oklahoma Tax Commission.

(4) Certified microfilm title history may be provided by the Oklahoma Tax Commission.

(5) Upon presentation of a completed Vehicle Information Request Form and remittance of the applicable fee, a duplicate transaction receipt may be generated and provided to the owner of record reflected on the transaction by the Oklahoma Tax Commission or a motor license agent.

(g) **Certain information release to motor license agents.** When required in the performance of their duties, motor license agents may request and receive from the Motor Vehicle Division copies of submitted documentation relating to a transaction performed at their agency at no charge. A motor license agent may not assess any fee to a taxpayer for acquiring and/or providing to the taxpayer any such documentation provided at no charge to the motor license agent by the Division. A motor license agent requesting copies of documentation from a transaction completed at another motor license agency is to be assessed the research fee

provided for by 47 O.S. § 1109(B). In that event, the actual cost assessed the agent by the Division may be passed on to the requesting taxpayer. The agent may not assess any additional fee for that record research and/or retrieval service.

(h) Motor license agent access to vehicle records. Motor license agents are prohibited from accessing and/or disclosing any vehicle ownership or lienholder information contained within the computer files or other records of the Oklahoma Tax Commission, except as required in the course of performing their designated duties. Any unwarranted access to and/or disclosure of such confidential information shall be considered a breach of state and federal statutory confidentiality restrictions, enumerated above, and shall constitute grounds for revocation of the motor license agent's appointment.

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 16 Ok Reg 2650, eff 6-25-99; Added at 18 Ok Reg 878, eff 2-23-01 (emergency); Added at 18 Ok Reg 1340, eff 5-11-01; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 20 Ok Reg 2173, eff 6-26-03; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 35 Ok Reg 2085, eff 9-14-18]

SUBCHAPTER 3. REGISTRATION AND LICENSING

PART 1. GENERAL PROVISIONS

710:60-3-10. General registration information

(a) Motor vehicles to be registered; license tag required; title. Every motor vehicle, except salvage and junked vehicles, vehicles on used car dealer's lots for sale and vehicles assigned to charitable organizations licensed through the Oklahoma Secretary of State's office, is required to be registered and a license tag displayed on the rear bumper. The type of registration required depends on the type of vehicle and, in some cases, its use. A vehicle cannot be registered without an Oklahoma title or proof that such Oklahoma title exists and is in the name of the registrant. Proof of previous year's registration must be obtained before renewing registration on any non-salvaged vehicle. A current mail-out registration notice is considered proof for either purpose.

(b) Expiration; renewal; early renewal. Registration may not be renewed before the first day of the month preceding expiration.

(c) Registration and licensing of leased vehicle. An individual leasing a vehicle may make application for any special tag or registration rate that he or she is entitled to. A copy of the lease agreement, listing the applicant as lessee, must be submitted and attached to the Oklahoma Tax Commission's copy of the paperwork.

(d) Information required from registrant. Upon every application for registration of a vehicle in this state, the vehicle owner shall provide to the registering motor license agent the following information:

- (1) The driver license number of the vehicle owner, if the owner is an individual; or
- (2) The Federal Employer Identification Number of the owner if such owner is not an individual.

(e) Proper entry of required information. It shall be the duty of the registering motor license agent to properly enter the driver license number or Federal Employer Identification Number of the vehicle owner in the Motor Vehicle computer file record at time of registration of the vehicle.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 10 Ok Reg 3843, eff 7-12-93; Amended at 17 Ok Reg 2160, eff 6-11-00; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-11. Determining number of years registered

(a) **Procedure for determining years of registration.** To determine the year of registration fee to be assessed, refer to the date the vehicle was originally sold, if possible. When the date first sold is unknown and the year of registration is not available on the Motor Vehicle computer system, the registration year will be determined by subtracting the model year of the vehicle from the registration expiration year. For example, a 2000 model being registered to expire in 2005 would be assessed the fifth (5th) year rate (2005 - 2000 = 5). An exception to this policy would be when a previously titled one year old vehicle is entering the state. (2004 model being registered to expire in 2005). In that instance, second (2nd) year registration fee should be assessed.

(b) **Limited application; procedure not applicable to excise tax.** The above procedure will be used only when the date first sold of a vehicle is unknown and unavailable.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-3-12. Staggered registration

(a) **Staggered registration procedures.** All vehicles, except manufactured homes, special mobilized machinery, and vehicles registered by installment, purchased new or brought in from another state will be registered on a staggered basis. The month of expiration in the following year will be shown on the monthly decal issued with the tag. The registration expires on the last day of the month in which the vehicle was originally purchased or brought into the state, unless otherwise requested by registrant.

(b) **Adjustment of expiration month.** The new owner of a vehicle previously registered in Oklahoma may adjust the registration expiration month upon their initial registration of the vehicle. If the vehicle's registration has expired, the new owner may adjust the expiration month at the time the ownership is transferred. If the vehicle's registration is current at the time ownership is transferred, the new owner may adjust the expiration month either at the time the ownership is transferred, or upon their subsequent initial registration renewal. The purchaser of a new vehicle or the owner of a vehicle brought in from another state may establish the registration expiration month upon initial registration. A registration may not be issued for less than three months or more than fifteen months.

(c) **Expiration month decal.** Every license plate issued in conjunction with a staggered registration shall display a monthly decal indicating the month of expiration of the registration.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-13. Non-staggered registration

(a) **Calendar year registrations.** Vehicles registered under the Installment Registration Plan (1/2 yr. tags), and Manufactured Homes are registered on a calendar year basis (December expiration).

(b) **Registration and tax may be prorated.** The following quarterly periods in which a vehicle is purchased or enters the state determines the portion of a full year registration and tax due.

(1) December 1 through March 31 - Full Year tax due

- (2) April 1 through June 30 - 3/4 Year tax due - Monthly rate times 9
- (3) July 1 through September 30 - 1/2 Year tax due - Monthly rate times 6
- (4) October 1 through November 30 - 1/4 Year tax due - Monthly rate times 3

(c) **No credit in excess of new registration fee.** In no case will credit be made on the unused portion of a registration in excess of the new registration fee.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 21 Ok Reg 1137, eff 5-13-04]

710:60-3-14. Transfer of ownership registration

Fee generally due on transfer of title; exceptions. A transfer of ownership registration fee is due when transferring any Oklahoma title with the following exceptions:

- (1) Name changes (same person only). This exemption would not apply to adding or dropping a name.
- (2) Salvage vehicles - including going into salvage
- (3) Licensed Oklahoma used dealers
- (4) Manufactured homes
- (5) Commercial trailers
- (6) Political subdivision of the state
- (7) Repossessions
- (8) Charitable organization licensed through the Oklahoma Secretary of State's Office
- (9) Unrecovered-theft vehicles

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 17 Ok Reg 2160, eff 6-11-00; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 26 Ok Reg 2344, eff 6-25-09]

710:60-3-15. Procedure for changing type of registration

(a) **Surrender of registration and tag.** When the type of registration on a vehicle is to be changed (Commercial tag in lieu of a farm tag, etc.) the applicant is to surrender all copies of registration and tag being exchanged to the motor license agent.

(b) **New registration and tag issued for new classification; adjusted fee and credits.** The agent will issue a new registration and tag, basing the registration fee applicable to the new type of tag for the portion of the registration period remaining less credit, if any, for the old tag for the portion of the registration period remaining.

(c) **No refunds available; credit limited to one exchange.** If credit allowed on the previous registration exceeds the license and registration fee due on the registration being issued, no refund will be made. Credit will be allowed on one exchange of tags only. If subsequent exchanges are made, full fee for the portion of the year remaining will be due.

(d) **Back taxes and penalties based on new classification.** If back taxes and penalties are due upon changing from one type of registration to another where the tax rate differs, back taxes and penalties shall be based on the rate in effect during the time the vehicle was not tagged, using the new type of classification.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92]

710:60-3-16. Mail-order registration renewal permitted in delinquency period [REVOKED]

710:60-3-17. Liability insurance

(a) **Insurance information.** The owner of a motor vehicle to be registered or titled in this state must provide current liability insurance information prior to the processing of his registration, unless otherwise provided. When registering a motor vehicle, the owner must certify the existence of insurance coverage for the vehicle by providing a motor license agent or other registering agency necessary information from the current owner's insurance verification to allow confirmation of coverage through the online verification system. The motor license agent shall allow submission of such proof of insurance from a licensed insurance producer or customer service representative via electronic mail to the person registering the vehicle. The information shall include the name of the insurance carrier or identification number issued by the National Association of Insurance Commissioners to the current insurance carrier authorized to do business in this state and the policy number applicable to the vehicle being registered.

(b) **Electronic insurance verification.** In cooperation with the Oklahoma Department of Public Safety and the Oklahoma Insurance Department, the Commission shall provide an online electronic liability insurance verification system and instruct motor license agents in its use. No vehicle subject to electronic liability insurance verification shall be registered in this state without current insurance coverage having been verified by that electronic system, unless an exception is warranted per guidelines established by the Commission. Whenever a motor license agent grants an exception to electronic verification, the agent shall maintain in his or her files, for a period of no less than two (2) years, a full record of the reason for that exception and make available for inspection by the Commission, or any other qualified requestor, documentation sufficient to justify that exception.

(c) **Applicable only to motor vehicles; vehicles not in use.** Only motor vehicles are subject to the liability insurance verification process described herein. Owners of vehicles not in use at the time of registration may register their vehicle upon filing a Non-Use Affidavit in a manner prescribed by the Commission.

(1) The yearly validation decal issued to the owner of a vehicle who has filed a Non-Use Affidavit in lieu of liability insurance verification will be a decal of a separate and distinct color from all other yearly decal types. It shall be the owner's responsibility to obtain insurance if such vehicle is put into service at a later time.

(2) The owner of the vehicle is not required, upon putting the vehicle back in service, to purchase another registration decal indicative of liability insurance coverage. If the owner chooses to purchase another registration decal, insurance verification will be required, as well as payment of a replacement tag/decal fee, and the insurance verification fee.

(d) **Exceptions to insurance verification requirements.** The following shall not be subject to insurance verification at time of registration.

(1) Any vehicle owned or leased by the Federal or State Government or any agency or political subdivision thereof.

(2) Any vehicle bearing the name, symbol, or logo of a business, corporation or utility on the exterior and which is in compliance with the provisions of the Compulsory Insurance Law according to records of the Corporation Commission which reflect a deposit or fleet policy.

- (3) Any vehicle authorized for operation under a permit number from the Interstate Commerce Commission or the Oklahoma Corporation Commission.
 - (4) Any licensed taxicab.
 - (5) Any vehicle held for sale by a licensed Used Car Dealer.
 - (6) Applicant for a duplicate Oklahoma title, provided registration renewal is not required.
 - (7) Applicant for title (only) to a vehicle to be later registered under the International Registration Plan.
 - (8) All-terrain vehicles, utility vehicles and off-road motorcycles.
- (e) **Exceptions to electronic insurance verification.** The following are subject to insurance verification at time of registration, but exempt from the electronic verification process:
- (1) Vehicles covered by commercial or fleet insurance policies.
 - (2) Vehicles owned by actively serving military personnel who are either Oklahoma residents stationed out of state, or out-of-state residents stationed in Oklahoma.
- (f) **Processing fee authorized.** The motor license agent is authorized to charge a fee for processing insurance verification or a Non-Use Affidavit upon registration of a motor vehicle.
- (g) **Military personnel insurance verification.** Members of the United States Armed Forces may furnish a vehicle insurance policy or bond from an out-of-state insurance company indicating compliance with the liability insurance requirements of the Oklahoma Vehicle License and Registration Act. If the service person is an out-of-state resident who is stationed in Oklahoma, the form must be from Oklahoma or from the service person's state of residence, as indicated on the U.S. Armed Forces Affidavit. If the service person is a resident of Oklahoma, the form must be either an Oklahoma form, or a form from the state in which the service person is currently stationed.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 15 Ok Reg 2821, eff 6-25-98; Revoked at 19 Ok Reg 1849, eff 6-13-02; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-18. Credit for excise tax and registration on theft of vehicle; defective vehicle

- (a) **Theft of vehicle.** If a new vehicle is stolen within 90 days of purchase, credit will be allowed on the excise tax and registration fee for a new replacement vehicle. A police report of the theft is required.
- (b) **Vehicle certified as defective.** If a new vehicle is certified by the manufacturer as defective within 6 months of purchase, credit will be allowed on the excise tax and registration fee for a new replacement vehicle. A statement from the manufacturer is required. Any manufacturer reacquiring or assisting a dealer or lienholder in reacquiring a motor vehicle registered in this state shall retitle the vehicle pursuant to the guidelines outlined in *OAC 710:60-5-62*.
- (c) **Procedure for obtaining credit.**
 - (1) Credit will be allowed for the full amount paid upon the initial registration of the original vehicle in this State. The credit amount will not be prorated for period of time the original vehicle was in use. Excise tax may be credited down to no charge. Registration fee may be credited down to a minimum charge.

- (2) Credit will not be allowed for any late penalties paid.
- (3) No refund will be given if credit from original vehicle exceeds amount due on replacement.
- (4) Both rules apply only to the original purchaser of a new vehicle. If a transfer of ownership occurs before the vehicle loss, no credit will be allowed. The policies do apply, however, to an original out-of-state purchaser who moves to Oklahoma.
- (5) Motor license agents are required to contact the Motor Vehicle Division for authorization before allowing credit on a replacement vehicle. The Division shall ensure any defective vehicle was properly titled pursuant to the guidelines outlined in *OAC 710:60-5-62*.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-3-19. License plate transfer [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-20. Display of vehicle license plates

- (a) Vehicle license plates shall be firmly affixed to the rear of the vehicle, provided however, trucks registered under the International Registration Plan shall have the plates firmly attached to the front.
- (b) Trucks with a gross vehicle weight rating exceeding 26,000 pounds may have the plates firmly attached to the front or rear.
- (c) Vehicle license plates shall be affixed and displayed in such a manner that the letters and numerals shall be read from left to right parallel to the ground.
- (d) No vehicle license plate may be displayed in an inverted or reversed position, or in such a manner that the letters and numerals are not readily identifiable.
- (e) No vehicle license plate may be displayed in this state, regardless of where such vehicle is registered, which has been covered, overlaid, or otherwise screened with any material, whether such material is clear, translucent, tinted, or opaque.

[Source: Amended at 11 Ok Reg 1353, eff 3-10-94 (emergency); Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-3-21. Lost, stolen or mutilated tags and decals

- (a) **Procedures upon the loss, theft, or damage to tag or decal.** In the event of loss, mutilation, or destruction of a license plate and/or decal, an "Affidavit for Replacement Tag and/Or Decal" (797D) must be completed by the applicant. The affidavit will not be required if issuing a new tag when renewing an annual registration or when issuing a new tag due to a vehicle class change.
- (b) **When additional fee is due.** If a new tag and/or decal is requested at the time of transfer or annual registration renewal and is not needed due to vehicle class change, an additional replacement fee is to be charged.
- (c) **Replacement fee.** In no event shall the replacement license plate and/or decal fee be more than the annual registration fee for the license plate and/or decal being replaced.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-3-22. Charitable organization vehicle registration

(a) Vehicles donated to a charitable organization licensed through the Oklahoma Secretary of State's Office are exempt from delinquent registration fees, excise tax, and penalties. The charitable organization is responsible only for a title fee, when applicable.

(b) Should ownership of a vehicle on which delinquent taxes are due be assigned to a licensed charitable organization and subsequently reassigned back to the donor, all delinquent taxes and fees again become due.

(c) Organizations entitled to a specific exemption from the Secretary of State charitable organization registration requirements pursuant to 18 OS § 552.4 may, upon confirmation of that exemption by the Motor Vehicle Division of the Oklahoma Tax Commission, receive and assign ownership of donated vehicles in the same manner as registered charitable organizations.

(d) A nonprofit charitable organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which accepts donations of used motor vehicles previously titled in Oklahoma to be subsequently transferred to another owner, upon the qualifying organization providing sufficient documentation of its tax-exempt status, may obtain from the Oklahoma Tax Commission charitable nonprofit organization license plates for demonstrating, transporting or test-driving donated vehicles, provided that no organization shall possess or use at any one time more than eight (8) such plates.

[Source: Added at 17 Ok Reg 2160, eff 6-11-00; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 31 Ok Reg 2436, eff 9-12-14; Amended at 34 Ok Reg 2079, eff 9-11-17]

710:60-3-23. Tornado registration fee credit

Credit will be allowed towards the Oklahoma registration fee of a vehicle which is a replacement for a properly registered vehicle destroyed by a tornado in 2013, or any subsequent year, for which a Presidential Major Disaster Declaration was issued. Credit will be allowed on a vehicle which is a replacement for a vehicle destroyed by tornado in calendar years 2012 and 2013 for which no Presidential Major Disaster Declaration was issued. The credit will be prorated to an amount equal to the fee for the number of months remaining on the registration for the destroyed vehicle, as of the date of loss. No excess credit may be refunded. Proof of loss of the destroyed vehicle must ordinarily be provided by the registrant, i.e., a letter or other documentation from the insurance company, identifying the vehicle and confirming its loss. If such documentation is unavailable, the Motor Vehicle Division may be contacted for consideration of an alternative or exception to the documentary requirement.

[Source: Added at 20 Ok Reg 2173, eff 6-26-03; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 31 Ok Reg 2436, eff 9-12-14; Amended at 32 Ok Reg 1363, eff 8-27-15]

710:60-3-24. Tire recycling fee collection by motor license agents

Used tire recycling fees are to be collected by the Motor Vehicle Division and motor license agents upon the initial registration or titling of a vehicle in this state, as provided by statute. In addition to the statutorily authorized audits and reviews of motor license agent operations conducted by the Tax Commission, such collections are subject to inspection by the Department of Environmental Quality.

[Source: Added at 25 Ok Reg 2063, eff 7-1-08; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-25. U.S. Armed Forces personnel registration

(a) **Eligibility for registration rate.** Vehicles and manufactured homes owned by actively serving members of the U.S. Armed Forces, including reservists and members of the National Guard, or their spouses, are eligible for a special registration rate, under the conditions outlined below:

- (1) Vehicles owned by qualifying service members, or their spouses, who are either residents of, or assigned to duty in Oklahoma.
- (2) The vehicle may not be used in any trade or business, or for any commercial purpose.
- (3) Manufactured homes owned by an out-of-state resident service member assigned to duty in Oklahoma.
- (4) Manufactured homes located out of state and owned by an Oklahoma resident service member. Manufactured homes located in Oklahoma and owned by Oklahoma service members are not eligible for the special military registration rate.
- (5) The reduced registration fee does not apply to vehicles owned by retired members of the Armed Forces.

(b) **Affidavit required.** A properly completed U.S. Armed Forces Affidavit must be presented by the applicant.

- (1) The affidavit requires the signature of the service person, or their spouse, *and* the signature of an officer for the organization to which the service person is assigned. In lieu of certification by an officer, the applicant may submit copies of written orders documenting that the service member, guardsman, or reservist is actively serving at the time of application for registration.
- (2) An Oklahoma resident stationed in another state due to an official military assignment may authorize a designated representative to register his/her vehicle(s) on their behalf. A completed U.S. Armed Forces Affidavit is required.
- (3) Oklahoma resident service members assigned to duty outside of this state due to official assignment of the U.S. Armed Forces or Oklahoma National Guard are entitled to a waiver of delinquent registration penalties for the duration of the out-of-state assignment and up to sixty (60) days following the end of that assignment. The delinquent penalty waiver section of the U.S. Armed Forces Affidavit may be utilized to certify eligibility for the referenced statutory registration penalty waiver.

(c) **Transfer of ownership.** When a vehicle currently registered at the reduced rate is sold by a service member to a purchaser who does not qualify for the rate, the purchaser must register the vehicle from the date of ownership assignment at the appropriate registration classification. If the vehicle is sold to another service person qualifying for the special rate, the purchaser may transfer title into his/her name with no additional registration fee, upon presentation of a properly completed U.S. Armed Forces Affidavit.

[Source: Added at 26 Ok Reg 2344, eff 6-25-09; Amended at 28 Ok Reg 1839, eff 6-25-11; Amended at 34 Ok Reg 2079, eff 9-11-17; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-26. Online registration renewal

(a) **Online registration renewal process.** The Commission shall design and implement a web-based online registration renewal process. Owners of eligible vehicle types may utilize the online service to renew the registration of the vehicle. Additional transaction types may be added to the online system, as appropriate.

(b) **Online email notification.** Renewing a registration via the Commission's online renewal process will automatically result in an email notification being sent out upon that registration's expiration. The online system will also provide an independent email sign-up function for taxpayers choosing to receive future email notification of their registration expiration(s). Email notification will supersede any other type of registration expiration notification. Failure to receive the email notification shall not relieve the taxpayer from their responsibility to timely renew their registration(s).

[Source: Added at 28 Ok Reg 1839, eff 6-25-11; Amended at 38 Ok Reg 1536, eff 9-1-21]

710:60-3-27. Registration renewal notification

(a) **Notification options.** Vehicle registrants may choose from the following two (2) registration expiration notification methods. Failure to receive either type of notification shall not relieve the taxpayer from their responsibility to timely renew their registration(s).

(1) **Mail notification.** Registrants may choose to receive mailed renewal notices.

(2) **Email notification.** Registrants may choose to receive an email renewal notification by either registering via the Commission online renewal website; advising the registering tag agency of their choice and providing to the agent an email address to which the notification is to be sent; or indicating the email option and providing an email address to which the notification is to be sent on the mail-in registration renewal notice.

Renewing a registration via the Commission's online renewal process will automatically result in an email notification being sent out upon that registration's expiration. Email notification will supersede any other type of registration expiration notification.

(b) **Motor license agent responsibility.** It shall be the duty of motor license agents to advise all in-person registrants of their renewal notification options and process the chosen options per Commission guidelines. When the taxpayer chooses the email reminder notification option, the agent shall obtain the taxpayer's email address to which the notification is to be sent and enter that email address into the Commission's registration system in the manner prescribed by the Commission.

[Source: Added at 28 Ok Reg 1839, eff 6-25-11; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-3-28. License plate remains with owner

(a) **General provisions.** Effective July 1, 2019, Oklahoma no longer allows a motor vehicle license plate to remain with the vehicle when the vehicle is sold, traded or transferred. The registration license plate and certificate of registration shall be issued to, and remain in the name of, the owner of the vehicle registered and the license plate shall not be transferable between motor vehicle owners.

(b) **Registration procedures.** When a vehicle is sold or transferred in the state, the following registration procedures apply:

(1) **Vehicle owner.** Any vehicle owner who sells, trades, or transfers a vehicle must remove the license plate from the vehicle and either:

(A) Retain the plate,

(B) Transfer the plate to a newly acquired vehicle of the same registration classification for which no additional registration fee is due for the remainder of the current registration period pursuant to authorization of the Oklahoma Tax Commission or a motor license agent, or

(C) Transfer the plate to a newly acquired vehicle of the same registration classification but different registration year requiring payment of additional registration fees.

(2) **Vehicle buyer.** In the event the owner of a license plate purchases, trades, exchanges or otherwise acquires a vehicle for which a license plate has been issued during the current registration period, and the license plate has not been removed by the previous owner in accordance with this Section, the new owner of the vehicle shall remove and return the license plate to the Tax Commission or a motor license agent. If the license plate has expired, the new owner may surrender the license plate to the Tax Commission or motor license agent.

(c) **Calculation of registration fee.** The registration fee due for the newly acquired vehicle to which a plate is transferred will be prorated based on the full registration months remaining on the transferred plate at the time of assignment.

(d) **Refund ineligibility.** The plate owner shall not be entitled to a refund under the following circumstances:

(1) When the registration fee for the vehicle to which the plate is transferred is less than the registration fee for that vehicle to which the license plate was last assigned, or

(2) When the owner does not have or does not acquire another vehicle to which the license plate may be transferred.

(e) **Title, registration and tax/fee payment requirements.** The new owner of a motor vehicle must within thirty (30) calendar days from the date of vehicle purchase or acquisition make application to title and register the vehicle by the transfer to, or purchase of, a license plate for the newly acquired vehicle with the Tax Commission or motor license agent and pay excise and sales taxes and applicable title and registrations fees in addition to any delinquent taxes, fees, interest and penalty associated with the plate as provided by law.

(f) **Penalty.** Delinquent registration penalty begins to apply on the thirty-first (31st) day following assignment of ownership accruing at \$1.00 per day, to a maximum penalty assessment of \$100.00 (100 days).

(g) **Vehicle operation.** A vehicle purchased with the license plate having been removed may be lawfully operated on the streets and roadways without number plates for a maximum of fifteen (15) days from the date of acquisition or purchase if a dated notarized bill of sale is carried, for possible presentation to law enforcement, in the vehicle during the fifteen (15) days. Vehicles purchased from a licensed motor vehicle or used motor vehicle dealer may be operated thirty (30) days from the date of acquisition pursuant to issuance of a temporary license tag by the licensed dealer. See 710:60-3-56.

(h) **Vehicle transferring from deceased spouse.** A surviving spouse, desiring to operate a vehicle devolving from a deceased spouse, shall present an application for certificate of title to the Tax Commission or motor license agent in his or her name within thirty (30) days of obtaining ownership. The Tax Commission or motor license agent shall then transfer the license plate to the surviving spouse.

[Source: Added at 36 Ok Reg 1227, eff 8-11-19; Amended at 38 Ok Reg 1536, eff 9-1-21]

PART 3. PENALTIES

710:60-3-30. New vehicles purchased by Oklahoma residents

(a) **General provisions.** Delinquent registration penalty begins to apply on the thirty-first (31st) day following assignment of ownership. For most vehicle types,

penalty accrues at \$1.00 per day, to a maximum penalty assessment of \$100.00 (100 days).

(b) **Manufactured homes; commercial trucks and truck tractors.** Manufactured homes, commercial trucks and commercial truck tractors, are assessed a penalty equal to the registration fee less the administrative fee, if not registered within thirty (30) days from the assignment date.

(c) **No penalty on initial registration of commercial trailers.** There is no late registration penalty on the initial registration of a commercial trailer in this state. Penalties do apply, however on the registration fee due upon transfer of ownership and on excise tax.

(d) **Due dates which fall on non-business days.** A waiver may be granted if the 30th day falls on a Saturday, Sunday or a holiday and the vehicle is registered on Monday, or on the next regular business day following a holiday.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-3-31. Used vehicles purchased out-of-state by an Oklahoma resident

If not registered within thirty (30) days of the vehicle's entry into this state, delinquent registration penalties apply in the amounts described under *OAC* 710:60-3-30(a) and (b).

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-3-32. Used vehicle brought to Oklahoma from another titling jurisdiction

(a) **Used vehicle brought in by owner moving to Oklahoma.** When the owner of a vehicle becomes employed in this state, the vehicle is deemed to be subject to tax in this state and, within thirty (30) days from the date of employment, shall be registered in this state upon the same terms and conditions that resident owners are required to register such vehicles in this state. However, the owner of a vehicle who is employed in this state and commutes daily from an adjoining state shall be exempt from the provisions in this section. The penalty for failure to register the vehicle in the manner provided shall be an amount equal to the registration fee less the administrative fee.

(b) **Out-of-state or Indian tribal documentation reflecting Oklahoma address.** When an out-of-state or federally-recognized Indian tribal title or registration is presented in application for an Oklahoma title by an owner whose name(s) is (are) reflected on that document with an Oklahoma address, proof of former residency in that other state, or membership in that tribe, will be required. No such proof will be required if the out-of-state or tribal title has been assigned to another party. When required, if out-of-state residency/tribal membership cannot be verified, delinquent registration fees and penalties will be assessed, based on the issuance date of the out-of-state or tribal documentation.

(1) Examples of out-of-state residency verification: Out-of-state driver license; Voter registration card; Tax return (property or income); Utility bills in the name of the vehicle owner.

(2) Examples of Indian Tribal membership verification: Identification card or certificate of tribal membership issued by tribe; Bureau of Indian Affairs (BIA) identification card; Letter from tribe verifying membership; Branded membership statement on the tribal title, verifying tribal membership of the

listed owner(s).

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 32 Ok Reg 1363, eff 8-27-15]

710:60-3-33. Vehicles purchased from a used car or used travel trailer dealer

Delinquent registration penalty begins to apply on the thirty-first (31st) day following assignment of ownership, in the amounts described under *OAC* 710:60-3-30(a) and (b).

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 1353, eff 3-10-94 (emergency); Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 35 Ok Reg 2085, eff 9-14-18; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-34. Transfer of ownership fee [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 35 Ok Reg 2085, eff 9-14-18; Revoked at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-35. Renewal registrations

(a) General renewal provisions; grace period; due dates; maximum amount.

All registrations expire the last day of the month shown on the registration. For the purpose of registration renewal, the following month is considered a grace month during which no penalty accrues. For most vehicle types, delinquent registration penalty begins to accrue the 1st day of the following month, in the amount described under 710:60-3-30(a).

(b) Commercial trucks and tractors above 8,000 lbs. declared laden weight.

Commercial trucks and tractors with a declared laden weight in excess of 8,000 lbs., shall become delinquent one month after their expiration date. A daily penalty accrues for one month. Thereafter, the penalty will equal 30% of the annual fee or the minimum as set forth by statute, whichever is greater.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-3-36. Manufactured homes on used dealers' lots

A manufactured home on a used dealer's lot on January 1st of any year is exempt from Ad Valorem assessment but must be titled and registered for the full year. Failure to do so before February 1st of that year results in a delinquent registration penalty assessment in the amount described under *OAC* 710:60-3-30(a).

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-3-37. Waiver of penalties

(a) Annual registration required generally. A vehicle must be registered yearly, whether in use or not. If an owner fails to do so, fees and penalties are due for the current year and one previous year.

(b) Waiver of penalty for certain armed forces personnel. Oklahoma resident armed forces personnel stationed outside of this state due to official assignment of the US armed forces or Oklahoma National Guard are exempt from the assessment of delinquent registration penalties for the duration of that assignment and for a period of sixty (60) days following that assignment. A completed Armed Forces

Affidavit (OTC Form 779), including the delinquent penalty waiver section, is required.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 28 Ok Reg 1839, eff 6-25-11; Amended at 30 Ok Reg 1861, eff 7-11-13]

PART 5. DEALERS

710:60-3-50. New dealer temporary registration

(a) **Procedure for temporary registration of new vehicle.** A new motor vehicle dealer may register a new vehicle, designated for personal use by any individual, for a period of four (4) months. No excise tax due.

(b) **Temporary license plate.** A non commercial tag and decal will be issued for four (4) months at the first year rate from the date of registration. This tag is non renewable, and a vehicle may be registered in this manner only once.

(c) **Return of temporary plate after first use.** When the vehicle is returned to the dealer by the individual using it, whether at the end of the 4 month period or during it, the dealer shall pull the tag from the vehicle and mail the tag to the Motor Vehicle Division, Audit Section. The tag is valid only for that vehicle and cannot be placed on another vehicle.

(d) **Procedure upon sale of vehicle.** When the dealer sells the vehicle, he will complete the MSO and a new application for title with the tax stamp affixed. A new original title will be issued to the assignee. First year tag and excise will be due at that time.

(e) **Sale or transfer to another dealer.** If the vehicle is sold or transferred to another dealer during the 4 month registration period, the license plate must be removed and returned to the Oklahoma Tax Commission as outlined above. No credit or refund will be allowed on these tags.

(f) **Environmental Awareness license plate.** A four (4) month Environmental Awareness license plate is available, in addition to the regular license plate fees (4 month).

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95]

710:60-3-51. Dealer's license and demo plates

(a) **Renewal; penalties.** All Dealer's License and Demo Plates are to be renewed before December 31 of each year. Any renewal application accepted after December 31 shall be assessed a daily penalty for one month (January 1 - January 31), thereafter the penalty shall be an amount equal to the renewal fee, less the administrative fee.

(b) **Environmental Awareness license plate.** New or used dealers wishing to show support for environmental awareness may apply for their dealers' number to be printed on the Environmental Awareness license plate.

(c) **Applications.** New motorized Demo plates and licenses, and non-motorized demo plates and license dealer applications will be issued by and returned to the Oklahoma Tax Commission, Dealer's License Section.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96]

710:60-3-52. New motorized dealer

- (a) **Application.** The plate application and plates are issued through the Dealer License Section of the Oklahoma Tax Commission.
- (b) **Licensing by Oklahoma Motor Vehicle Commission.** Before accepting an application for NEW dealer Demo Plate license, the applicant must be licensed for each location by the Oklahoma Motor Vehicle Commission.
- (c) **Additional plates.** If additional plates are required, an application must be completed.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-53. New and used trailer dealer license

All new and used travel trailer dealer and commercial trailer dealer licenses are issued by the Oklahoma Tax Commission, Dealer's License Section. Each of these is a separate license and allows the licensee to operate as a dealer in that specific type of trailer at that location only. All new trailer dealers must provide the Oklahoma Tax Commission with copies of sales contracts or franchise agreements with the manufacturer of each type of trailer sold. All applications and remittances should be returned to the Dealer License Section, Oklahoma Tax Commission. New and used manufactured home dealers are licensed by the Oklahoma Used Motor Vehicle and Parts Commission.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-54. Used vehicle dealer's registration policy

- (a) **Used vehicles acquired from other states.** Used vehicles from other states, acquired for resale by Oklahoma used dealers require an Oklahoma title in the dealership's name. No registration is required. Used motor vehicles acquired from other states by licensed Oklahoma motor vehicle dealers may either be titled in the dealership's name, or ownership may be reassigned by the dealership on the out-of-state title. When reassigning an out-of-state title, the motor vehicle dealer must satisfy the inspection and dealer reassignment provisions of 47 O.S. § 1105. Oklahoma dealers may reassign on another state's reassignment sheet only when ownership was assigned to the Oklahoma dealer by a dealer in that other state, on that other state's reassignment sheet. No notarization of an Oklahoma dealer's reassignment is required if the title, or reassignment sheet, being reassigned is from a non-notary state.
- (b) **Exemption from transfer registration fee; revenue stamps required.** Used vehicle dealers are exempt from the transfer registration fee when getting a transfer title in their name. However, each time a used dealer makes an assignment, a revenue stamp must be attached on the back of the Oklahoma title. Commercial trailer dealers or manufactured home dealers are not required to attach tax stamps.
- (c) **Removal of out-of-state license plates.** If a dealer obtains a vehicle with an out-of-state tag, it should be removed. Beginning July 1, 2019, dealers should remove out-of-state plates and Oklahoma license plates from any vehicles they have in inventory.
- (d) **Procedure upon sale of vehicle.** When a used dealer sells a vehicle, he or she shall advise the owners to title and register the vehicle within thirty (30) days.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 30 Ok Reg 1861, eff 7-11-13; Amended at 35 Ok Reg 2085, eff 9-14-18; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-55. Used motor vehicle dealer license plate

The application for a used motor vehicle dealer license plate and the license plate are issued through the Oklahoma Tax Commission, Dealer License Section. Before accepting an application for a used motor vehicle dealer plate, the applicant must be licensed for each location by the Oklahoma Used Motor Vehicle and Parts Commission.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-56. New and used vehicle dealer temporary license plate

(a) **Design and printing of dealer temporary license plate.** Acquisition of motor vehicle dealer temporary license plates shall be the responsibility of the licensed dealer. The temporary license plate shall be designed in a size similar to the permanent Oklahoma license plate, but of a weatherproof plastic-impregnated substance.

(b) **Design approval required.**

(1) Approval by the Oklahoma Used Motor Vehicle and Parts Commission is required for the used dealer temporary license plate design.

(2) Approval by the Oklahoma Motor Vehicle Commission is required for the new dealer temporary license plate design.

(3) Used commercial trailer and travel trailer dealers must comply with the design requirements approved by the Oklahoma Used Motor Vehicle and Parts Commission.

(4) New commercial trailer and travel trailer dealers must comply with the design requirements approved by the Oklahoma Motor Vehicle Commission.

(c) **Placement of dealer temporary license plate on vehicle.** The temporary license plate shall be placed on the vehicle at the location provided for the permanent license plate. Provided, the purchaser of a new cab and chassis truck may place the temporary license plate in the rear window.

(d) **Issuance of temporary license plate.** Upon purchase of a vehicle from a licensed Oklahoma dealer, except by another licensed dealer, a temporary license plate is to be completed by the selling dealer and placed on the vehicle at the location provided for the permanent license plate.

(e) **Time periods valid.** The temporary license plates are valid for thirty (30) days following purchase.

(f) **Information required to be shown on temporary license plate.** The temporary license plate will show:

(1) The license number issued to the dealer each year by the Oklahoma Tax Commission, Oklahoma Used Motor Vehicle and Parts Commission, or Oklahoma Motor Vehicle Commission;

(2) Date the motor vehicle, commercial trailer, or travel trailer was purchased; and

(3) The company name of the selling dealer.

(g) **Use restricted.** The temporary license plates are to be used only for the purpose outlined by statute. Dealers must use their metal dealer plates for demonstrating, transporting or other normal business on any vehicle that does not have a current Oklahoma license plate.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 10 Ok Reg 3843, eff 7-12-93; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 26 Ok Reg 2344, eff 6-25-09]

710:60-3-57. New powersports vehicle dealer

Following confirmation of dealer licensing approval by the Motor Vehicle Commission, the Dealer License Section of the Oklahoma Tax Commission will assign an appropriate powersports dealer license number upon receipt of a properly completed application.

PART 7. NONCOMMERCIAL VEHICLES

710:60-3-70. Noncommercial vehicles

Annual registration fee amounts are based on the number of years the vehicle has been registered. Registration fees for the following vehicle types are determined by this method.

(1) **Automobiles. "Automobiles"** includes noncommercial trucks and vans and nonagricultural trucks.

(2) **Travel trailers.** Travel trailers are any vehicular portable structure built on a chassis and used as a temporary dwelling for travel, recreational or vacation use. The dimensions of a travel trailer cannot exceed 40 feet in length (including hitch or coupling) or 8 feet in width.

(3) **Motorcycles.** Motorcycles are defined as those vehicles designed and constructed to travel on not more than three (3) wheels, having a saddle or a single seat for the use of the rider.

(4) **Recreational vehicles. "Recreational vehicle"** means every vehicle which is built on or permanently attached to a self-propelled motor chassis or chassis cab which becomes an integral part of the completed vehicle and is capable of being operated on the highways. In order to qualify as a recreational vehicle pursuant to this subsection such vehicle shall be permanently constructed and equipped for human habitation, having its own sleeping and kitchen facilities, including permanently affixed cooking facilities, water tanks and holding tank with permanent toilet facilities. Recreational vehicle shall not include manufactured homes or any vehicle with portable sleeping, toilet and kitchen facilities which are designed to be removed from such vehicle. Effective November 1, 2016, recreational vehicle includes park model recreational vehicles, as defined in 47 O.S. § 1102.

(5) **Moped.** A "moped" is any motor-driven cycle with a motor producing no more than two brake horsepower and which is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters, and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged. mopeds are subject to all the provisions of the Motor Vehicle License and Registration Act. No dealer's license is required to sell them. If sales tax was paid upon purchase, no excise tax should be assessed when titling.

(6) **Dirt bikes, minibikes, all-terrain vehicles (3 & 4 wheelers), and golf carts.** Dirt bikes, minibikes, all-terrain vehicles (3 & 4 wheelers), and golf carts are not street legal and are not to be titled and tagged for street or

highway use in Oklahoma. All-terrain vehicles and off-road motorcycles meeting the criteria outlined in *OAC 710:60-3-140* are subject to titling and registration, as therein specified. Golf carts owned by the Oklahoma Tourism and Recreation Department may be operated on streets and highways located within the boundaries of a state park by employees of the Department, or by employees of an independent management company on behalf of the Department.

(7) Autocycle.

(A) An autocycle means any motor vehicle with the following:

- (i) A seat or saddle for the use of each rider;
- (ii) Three wheels in contact with the ground, but excluding a tractor;
- (iii) A combustion engine with a piston or rotor displacement of one hundred fifty cubic centimeters (150 cu cm) or greater;
- (iv) For each occupant, safety belts or safety shoulder harnesses which shall be of a type and shall be installed pursuant to 49 C. F. R., Section 571.208 et seq.;
- (v) All equipment required by the provisions of Article II et seq. of Chapter 12 of Title 47 of the Oklahoma statutes, with respect to equipment on vehicles.

(B) An autocycle shall be issued an autocycle license plate. The plate is available in either a standard-size or motorcycle-size configuration. Issuance of a motorcycle-size autocycle plate does not signify designation of an autocycle as a motorcycle for any purpose.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 34 Ok Reg 2079, eff 9-11-17; Amended at 35 Ok Reg 2085, eff 9-14-18]

PART 9. COMMERCIAL VEHICLES

710:60-3-90. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-3-91. Commercial trucks and truck tractors

(a) **Basis of registration.** Commercial Trucks and Truck Tractors are registered on the basis of combined laden weight. Commercial trucks registered for 15,000 lbs. or less are registered on a combination of age and combined laden weight of the vehicle. Combined laden weight is the combined weight of a vehicle when fully equipped for use and the cargo or payload transported thereon. The registered laden weight of a wrecker or tow vehicle is the gross weight of the wrecker or tow vehicle alone, without any inclusion of weight for a vehicle towed by the wrecker or tow vehicle. The combined laden weight declared for the purposes of registration is at the discretion of the registrant, provided that in no event may the figure be less than the unladen weight of the vehicle fully equipped for use.

(b) **Minimum weight for truck tractors; minimum fee.** The minimum weight allowed on a truck tractor is 15,000 lbs., with no reduction in the annual registration fee for number of years registered.

(c) Display of commercial status; inspections. All commercial trucks and truck tractors must have the name of the commercial establishment or the words "Commercial Vehicle" permanently and prominently displayed upon the outside of the vehicle in letters not less than 2" high. The letters must be in contrast to their background in order to be legible from a distance of 50 feet when the vehicle is not in motion. Vehicles registering at 15,000 lbs. or less must also meet additional requirements.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 30 Ok Reg 1861, eff 7-11-13]

710:60-3-92. Additional display requirements

(a) Application. The additional guidelines in this Section apply to all commercial trucks registering at 15,000 lbs. and under. Commercial Trucks include pickups and other vehicles on a truck chassis. Passenger vehicles may not be registered as a commercial truck.

(b) Requirements upon initial registration or transfer of ownership. Upon an initial registration or transfer of ownership, one of the following three items must be submitted:

- (1) Sales Tax Permit Number
- (2) Federal Employer I.D. Number, or
- (3) If owner is sole proprietor, a copy of Schedule C of most recent income tax return.

(c) Procedure for change of weight classification. The weight may be raised on commercial trucks or tractors during the registration period on an additional tax receipt. The rate on a weight change will be the fee due on the new laden weight for the remaining portion of the registration, less the unused portion of the registration at the previous weight, less the administrative fee.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-3-93. Installment tag plan

(a) Application. Half year tags may be purchased on commercial trucks and tractors by any one owner whose registration fees on such vehicles exceed One Thousand Dollars (\$1,000.00) in any one year. The tags for half year registrations must be special ordered from the Motor Vehicle Division.

(b) Qualification for installment tag plan. Vehicles must be registered before January 15, of any year to qualify. A vehicle purchased during the year by an owner who wishes to register it on the installment plan must initially be registered to expire in December of that year. It may then be registered on the installment basis beginning the following year.

(c) Procedure for registration and renewal under installment tag plan. A vehicle so registered must be renewed for the last half of the year before June 30 without penalty. When the last half installment is paid, a last half tag and registration are to be issued as proof that the vehicle is properly registered for the full year. It should be remembered that the last installment is to be paid regardless of whether the vehicle is sold out-of-state, junked out, etc., as the installment purchase is designed only to relieve the owner from a large first-of-the-year lump sum payment. The last half fees must be paid before transferring title if the vehicle is to be sold before June 30. An installment fee will be collected for each half.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-3-94. Nonrenewable commercial trailer tag

Nonrenewable Commercial Trailer Tags are issued on trailers used in commercial enterprises regardless of their size or weight (other than trailer mounted special mobilized machinery and trailers used for transporting forest products). The statutory registration fee is collected, and a license plate is issued upon the initial registration and any subsequent transfer of ownership.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96]

710:60-3-95. Rental trailer tag

Except for trailer-mounted special mobilized machinery and trailers used for transporting forest products, Rental Trailer Tags are issued on rental trailers, regardless of size or weight. The registration fee prescribed by statute is collected, and a license plate issued, upon initial registration and upon any subsequent transfers of ownership.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 15 Ok Reg 2821, eff 6-25-98]

710:60-3-96. Trailer toter

A trailer toter is a vehicle specifically adapted and used for pulling manufactured homes. The trailer toter is registered as a commercial vehicle for the unladen weight of the toter. The weight of a trailer is not included in the registration of the toter. The manufactured home is taxed in its own right either by registration or assessment.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-3-97. Other commercial vehicles

(a) **Ambulances and hearses.** Ambulances and hearses are registered as commercial vehicles pursuant to 47 O.S. §1133.1 when used commercially and properly identified as a commercial vehicle as provided by 47 O.S. §1102.

(b) **Definition and treatment of funeral hearse. "Funeral Hearse"** is a vehicle having a platform in place of seats modified to carry the remains of a deceased person or persons. They may be registered as commercial vehicles if they meet all requirements.

(c) **Forest products vehicles.** For each motor vehicle used primarily for the purpose of transporting unfinished and unprocessed forest products, logs, ties, stave bolts and posts, originating and produced in this state from the point of production or harvesting to the point at which they shall first undergo any processing, preparation for processing, conversion or transformation from their raw or natural state, an annual license fee shall be collected plus an insurance verification fee for each power unit.

(1) Such license plates shall be permanent in nature and shall be designed in such manner as to remain with the vehicle for the duration of the vehicle's life span or until the title is transferred or the vehicle is no longer used for the purposes specified in this Subsection.

(2) For purposes of this Subsection, the term "**motor vehicle**" means a truck or truck-tractor or the combination of a truck or truck-tractor pulling a

trailer or semitrailer. When a truck or truck-tractor pulling a trailer or semitrailer is licensed pursuant to the provisions of this Subsection, a separate license plate shall be issued for each truck or truck-tractor and for each trailer or semitrailer for the fee prescribed in this Subsection.

(3) Before a person shall be allowed to license a vehicle pursuant to the provisions of this Subsection, the person shall sign an affidavit (OTC Form 754-2) attesting to the fact that he is familiar with the purposes for which vehicles may be used and that he will not use such vehicle for any other purpose. Any person who signs such an affidavit when such person does not believe that the information in the affidavit is true or knows it is not true, upon conviction, shall be guilty of perjury and shall be punished as provided for by law. A violation of the provisions of this Subsection shall also be grounds for revocation of driver's license.

(4) The penalty on forest power plates shall be charged, as provided in 710:60-3-35(a). Excise tax on forest power vehicles is based upon the TDP of the power unit or trailer.

(d) Wrecker/towing service registration and license plate. A distinctive license plate is issued to all wrecker/towing vehicles operated by licensed wrecker/towing services, with the exception of apportioned wrecker/towing vehicles, which display apportioned plates. Wrecker/towing services are licensed annually by the Oklahoma Department of Public Safety. A copy of the current Department of Public Safety individual vehicle permit, listing the vehicle identification number of the vehicle being registered, is required to be presented at the time of each original and renewal registration. The registered laden weight of a wrecker or tow vehicle is the gross weight of the wrecker or tow vehicle alone, without any inclusion of weight for a vehicle towed by the wrecker or tow vehicle. Standard commercial vehicle registration fees apply.

(e) Cotton module transporter truck and license plate. A motor vehicle used for the purpose of transporting cotton modules from the point of production to the first point of delivery or cotton gin, shall be registered as a cotton module transporter, at the statutorily designated registration fee. A distinctive license plate shall be issued. Any person registering a cotton module transporter must also complete and submit a "Declaration of Gross Vehicle Weight for a Cotton Module Transporter" (OTC Form 786 CMT). If a laden weight of 55,000 pounds or more is indicated, the owner must verify compliance with federal heavy highway vehicle use tax guidelines.

(f) Construction machinery registration and license plate. Construction machinery is defined as machines or devices drawn as trailers which are designed and used for construction, tree trimming and waste maintenance projects, which derive no revenue from the transportation of persons or property, whose use of the highway is only incidental and which are not mounted or affixed to another vehicle; provided, construction machinery shall not include implements of husbandry as defined in Section 47 OS § 1-125. Construction machinery is issued a distinctive license plate, but is otherwise registered in the same manner as nonexpiring commercial trailers. Motor vehicle excise tax of 3 ¼% still applies.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 10 Ok Reg 3843, eff 7-12-93; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 17 Ok Reg 2160, eff 6-11-00; Amended at 30 Ok Reg 1861, eff 7-11-13; Amended at 31 Ok Reg 2436, eff 9-12-14]

710:60-3-98. Prorated vehicles [REVOKED]

710:60-3-99. Surface transportation assistance act guidelines

(a) **History of the act.** The Surface Transportation Assistance Act of 1982 provides that a state shall not register vehicles subject to the Federal Vehicle Use Tax without first having presented proof that such tax has been paid.

(b) **Imposition of the tax.**

(1) **When tax is due.** The tax is imposed on the first use of any taxable highway motor vehicle on a public highway in the United States. The taxable year is July 1 through June 30 and the tax is due by the last day of the month following the month of the first taxable use.

(2) **Vehicles subject to tax.** Any commercial motor vehicle having a gross weight of 55,000 pounds or more including the weight of any trailer or semitrailer used in combination therewith. Principally the tax covers trucks and truck-tractors used in combination with trailers and semitrailers. Very few single trucks weigh as much as 55,000 pounds gross weight.

(3) **Definition of taxable gross weight.** The empty weight of a commercial motor vehicle plus empty weight of any trailer or semitrailer customarily used in combination therewith plus the weight of maximum load customarily carried.

(c) **Tax exemptions and suspension.**

(1) The tax is suspended on vehicles to be used less than a specified minimum number of miles during the taxable year of July 1 through June 30. Owners of vehicles in this category must file Form 2290 and Schedule 1.

(2) Proof of payment is not required with the issuance of Temporary permits such as 72-hour permits, 30, 60, or 90 day registrations. It is required when raising weight to 55,000 lbs. or more on an Additional Tax Receipt when the previous registered weight was less than 55,000 lbs.

(3) Proof of payment is not required for the registration of Special Mobilized Machinery.

(d) **Proof of payment for state registration purposes.**

(1) Effective October 1, 1985, a state must refuse to register a heavy commercial motor vehicle with a gross weight of 55,000 pounds or more until the owner presents proof that the heavy vehicle tax has been paid to the Internal Revenue Service. The tax is paid by filing Form 2290 which includes a Schedule 1 (Schedule of Taxable Highway Motor Vehicles). Form 2290 is furnished by the Internal Revenue Service.

(2) Proof of Payment is the original or photocopy of the receipted Schedule 1 (Form 2290) returned to the owner by the IRS as a receipt for payment of the tax. If the receipted original or photocopy of Schedule 1 is not available, the owners file copy of Form 2290 with Schedule 1 attached, as filed with the IRS, along with a photocopy of the front and back of the cancelled check covering the payment to the IRS is acceptable.

(3) Schedule 1 provides space for the listing of the Vehicle Identification Number (VIN) for 21 taxable vehicles, or the VIN for 9 vehicles for which the tax is suspended as covered in Part II of Schedule 1 of Form 2290.

(4) If a fleet is larger than 21 taxable vehicles, or, 9 vehicles for which the tax is suspended, and the name of the taxpayer on Schedule 1 of Form 2290 is the same as the registrant, the Schedule 1 may be accepted as proof

without a separate listing of vehicle identification numbers provided the number of vehicles being registered is equal to or less than the number of vehicles shown on the Schedule 1.

(5) A vehicle may be registered without proof of payment of the tax if the person registering the vehicle presents the Manufacturer's Certificate or Certificate of Title indicating the vehicle was purchased within 60 days of the date the application is received for registration.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 26 Ok Reg 2344, eff 6-25-09]

710:60-3-100. Registration renewal penalty chart for commercial trucks/tractors in excess of 8,000 lbs. laden weight [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Revoked at 13 Ok Reg 3113, eff 7-11-96]

710:60-3-101. Loss from accident

When a licensed truck tractor suffers a total loss due to accident or fire, the owner may take the unused registration credit on such vehicle as a credit against the registration of a replacement vehicle in the same year. The weight may not be lowered on the replacement vehicle but may be raised by paying the appropriate amount necessary. If the replacement vehicle is new, a new tag will be issued. A copy of the insurance loss papers must be attached to the new registration issued when such credit is taken, along with the registration certificate of the totaled vehicle.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92]

710:60-3-102. Non-expiring commercial truck registration

(a) Companies with over one hundred (100) commercial trucks may, upon their request, obtain non-expiring truck plates and permanent registrations. The registration must be renewed annually, although no registration decal is issued. A current permanent registration must be carried in each vehicle.

(b) All non-expiring trucks owned by a company will have the same expiration month. The expiration month will be established by the company upon initial application. Newly acquired vehicles may be issued non-expiring plates during the year, being charged the applicable number of months, so the registration expiration coincides with the rest of the company fleet.

(c) Replacement (lost, stolen or mutilated) non-expiring license plates are issued in the same manner as replacement standard plates.

[Source: Added at 17 Ok Reg 2160, eff 6-11-00; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01]

PART 11. OTHER VEHICLES

710:60-3-111. Miscellaneous vehicles; definitions

(a) **Farm trucks. "Farm truck"** means pickup, truck, or truck tractor used primarily for agricultural purposes. For purposes of farm truck registration eligibility **"pickup"** means a small, light truck with an open back or box used for hauling and designed primarily for the carrying of property, rather than people and **"truck"** means a motor vehicle designed or converted primarily for carrying or hauling farm commodities, property, livestock, or equipment, rather than people. To qualify for farm truck registration, the applicant must

provide either a copy of Schedule F (or comparable form) of the previous year's federal income tax return, or an agricultural exemption permit (SMX number) assigned by the Oklahoma Tax Commission. The permit must be in the name of the vehicle owner, with the following exceptions: An agriculture exemption permit may be utilized by any family member or employee of the permit holder, who uses his/her vehicle primarily for agricultural purposes on behalf of the permit holder to qualify for farm truck registration. If the permit holder is not reflected as a vehicle owner on the title record, a statement from the permit holder that the vehicle is utilized primarily for agricultural purposes on the permit holder's behalf is to be submitted. Any person registering a farm truck, other than a pickup, must also complete and submit a "Declaration of Gross Vehicle Weight for Vehicle Registered with a Farm Tag". If a laden weight of 55,000 pounds or more is listed, the owner must provide I.R.S. Form 2290 and a Schedule 1.

(b) **Farm trailers.** Farm trailers are not required to be registered. An optional farm trailer tag is available. This is an optional registration only transaction and no certificate of title may be issued. If a serial number is stamped on the trailer, it will be used for the vehicle identification number (VIN) on the registration record. Otherwise, the driver license number of the owner will be utilized. The registration will expire one year from date of issuance. As registration is optional, no delinquent registration fees or penalties are to be assessed. Upon initial issuance of a farm trailer tag, the applicant will be required to complete a Registration Application form, affirming their ownership of the trailer and providing copies of available acquisition documentation.

(c) **Buses.** Buses transporting passengers in a commercial capacity are classified as either intercity or intracity. Intercity buses operate between cities. Intracity buses operate within a city. Registration fees for such vehicles are based on seating capacity. With the exception of intercity buses registered under the International Registration Plan, buses in these classifications are registered by the Oklahoma Tax Commission.

(d) **Private school buses.** Private school buses are those privately owned buses used exclusively to transport school children.

(e) **Taxicabs.** Taxicabs are motor vehicles for hire, designed to carry ten (10) persons or less, operated upon any street or highway, or on call or demand, accepting or soliciting passengers indiscriminately for transportation for hire between such points along streets or highways as may be directed by the passenger or passengers so being transported. In order to register as a taxicab, the owner shall be required to validate proper taxicab operating authority. Validation shall normally constitute presentation of a photocopy of the license issued by the applicable municipality in which the taxicab operates, or a photocopy of the For-Hire Motor Carrier License issued by the Oklahoma Corporation Commission.

(f) **Rental vehicles.** Rental vehicles are vehicles acquired by rental companies not to be rented for more than ninety (90) days at a time. Rental passenger vehicles and light trucks (pickups, vans, sport utility vehicles) are entitled to special registration fees as set forth by statute. Larger trucks utilized in a rental capacity are to be registered commercially.

(g) **Private trailers.** Private trailers are not required to be registered. An optional private trailer registration and license plate is available to owners of noncommercial boat and utility type trailers not being utilized in a commercial capacity. This is an optional registration only transaction and no certificate of title may be issued. If a serial number is stamped on the trailer, it will be used for the vehicle identification number (VIN) on the registration record. Otherwise, the

driver license number of the owner will be utilized. The registration will expire one year from date of issuance. As registration is optional, no delinquent registration fees or penalties are to be assessed. Upon initial issuance of a private trailer tag, the applicant will be required to complete a Registration Application form, affirming their ownership of the trailer and providing copies of available acquisition documentation.

(h) **Mini-truck. "Mini-truck"** means a foreign-manufactured import or domestic-manufactured vehicle powered by an internal combustion engine with a piston or rotor displacement of one thousand cubic centimeters (1,000 cu cm) or less, which is sixty-seven (67) inches or less in width, with an unladen dry weight of three thousand four hundred (3,400) pounds or less, traveling on four or more tires, having a top speed of approximately fifty-five (55) miles per hour, equipped with a bed or compartment for hauling, and having an enclosed passenger cab. Any vehicle meeting that description is required to be titled and registered, as of November 1, 2008. Excise tax is not assessed on mini-trucks purchased prior to November 1, 2008.

(i) **Registration and titling guidelines.** Mini-trucks may be registered in the same manner and under the same classification guidelines as any other light truck. Mini-trucks are subject to the same titling and lien filing guidelines as other light trucks, with the exception of required documentation at time of initial titling. Those general titling documentary guidelines are as follows:

(A) **New mini-trucks purchased on or after November 1, 2008.** A properly assigned Manufacturer's Statement of Origin (MSO) and dealer's invoice (to establish purchase price) is required to apply for an Oklahoma title.

(B) **All other mini-trucks.** A properly assigned certificate of title or Manufacturer's Statement of Origin (MSO) is to be submitted, if available. If not available, the Commission may accept a notarized bill of sale, or other similar ownership instrument, as an alternative.

(j) **Amphibious vehicles.** Amphibious vehicles are vehicles designed, manufactured and capable of operating on the roadways and waterways of this state. Such vehicles are to be issued two (2) certificates of title, both vehicle and vessel, and are to be concurrently registered as both vehicle and vessel. Vehicle excise tax and sales tax are to be assessed. Both titles are to be assigned and provided to any subsequent owner.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 17 Ok Reg 2160, eff 6-11-00; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 28 Ok Reg 1839, eff 6-25-11; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-112. Tax exempt license plates

(a) **Classifications.** Tax exempt license plates are divided into two categories:

(1) **Nonrenewable.** Nonrenewable license plates are issued to political subdivisions of the State and other entities as provided by statute. Nonrenewable plates are issued at no cost to State agencies, the Oklahoma Highway Patrol, the Oklahoma Military Department, and volunteer fire departments organized under Title 18 of the Oklahoma Statutes. Nonrenewable plates are issued at an initial fee set forth by statute to vehicles owned and operated by Counties, Cities, Schools and the Civil Air Patrol. Each of these groups is issued a distinctive plate with a distinctive prefix. Yearly validation decals are not issued with these types of exempt

plates as they are nonrenewable and nontransferable (unless transferring to same type of exempt entity).

(2) **Renewable.** All other tax exempt organizations are issued renewable license plates. These plates are designated by an "E" prefix and must be renewed annually, for a fee set forth by statute, plus an insurance verification fee.

(b) **Display of exempt organization.** All tax exempt organizations, with the exception of political subdivisions of the State (State, County, City and School) and organizations which are prohibited from such displays, must have the name or symbol of the tax exempt or nonprofit organization prominently displayed on both sides of the vehicle in letters not less than 2 inches high and 2 inches wide and of such shape and color as to be readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is not in motion.

(c) **Display not required when prohibited by law.** The Statute provides for a waiver of the sign requirement if such a display is prohibited by federal or state law or by state agency rules and regulations.

(d) **Affidavit of tax exempt registration.** An "Affidavit for Tax Exempt Registration" (OTC Form 701-29) must be completed by the vehicle registrant. On the affidavit, the registrant must indicate, by marking the specific statutory vehicle registration exemption applicable to their organization and confirm that the exempt vehicle either meets the sign requirements, or that the sign requirement is inapplicable because of a federal or state law or regulation. If the latter situation is indicated, a photocopy of the applicable federal or state law or state agency rule and regulation must be submitted. Tax exempt organizations statutorily exempted from the sign requirement are not required to complete the signage verification portion of the affidavit.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 10 Ok Reg 3843, eff 7-12-93; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 17 Ok Reg 2160, eff 6-11-00; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 34 Ok Reg 2079, eff 9-11-17]

710:60-3-113. Former military vehicle registration

(a) **Definition. "Former military vehicle"**, when used in this Section, means a vehicle which has been, and is no longer, used by the armed forces of a national government, and which displays official markings so indicating.

(b) **Use of vehicle.** A former military vehicle which is used only for exhibition, club activities, and parades may be registered at a reduced annual registration rate, so long as it is not utilized for regular transportation.

(c) **Application and renewal.** Former military vehicle registration may be issued upon initial submission of a properly completed affidavit form (OTC Form 740), along with insurance verification and the fee prescribed by statute.

(d) **Identifying mark.** The unique identifying mark, similar to the mark assigned that vehicle by the armed forces branch in which the vehicle was used, will be designated as the registration mark for the vehicle. If no such mark exists, or if the registration mark number conflicts with any existing license plate format, OTC shall designate the mark to be utilized.

(e) **Proof of registration.** A former military vehicle which is not used for regular transportation is not required to display a license plate, but must carry proof of the annual registration in the vehicle at all times.

(f) **Change in use of the vehicle.** If the former military vehicle is to be used for any other purpose than exhibition, club activities, or parades, a regular license plate

must be obtained, at the appropriate rate.

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-3-114. Fractionation tanks (frac tanks) not eligible for registration

- (a) "**Frac tank**" means any portable or stationary, high-volume holding vessel designed and constructed for use in separating, storing, or temporarily holding materials used in or resulting from fracturing techniques used in oil and gas exploration. [17 O.S. § 54 et. seq]
- (b) Mobile frac tanks do not qualify for special mobilized machinery registration.
- (c) Nonrenewable commercial trailer license plates are issued to frac tanks, under the same conditions, and at the same rates applicable to commercial trailers.

[Source: Added at 21 Ok Reg 1137, eff 5-13-04; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-3-115. Low-speed and medium-speed electrical vehicles

- (a) **Low-speed electrical vehicle.** Low-speed electrical vehicle means any four-wheeled electrical vehicle that is powered by an electrical motor that draws current from rechargeable storage batteries or other sources of electrical current and whose top speed is greater than twenty (20) miles per hour, but not greater than twenty-five (25) miles per hour, and is manufactured in compliance with the National Highway Traffic Safety Administration standards for low-speed vehicles in 49 C.F.R. 571.500. Such vehicles may be titled and registered at the option of the owner, with the registrant paying excise tax, rather than sales tax.
- (b) **Medium-speed electrical vehicle.** Medium-speed electrical vehicle means any self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one (1) mile is more than thirty (30) miles per hour but not greater than thirty-five (35) miles per hour and is manufactured in compliance with the National Highway Traffic Safety Administration standards for low-speed vehicles in 49 C.F.R. 571.500. Titling and registration is mandatory for such vehicles, effective June 2, 2008.
- (c) **Registration fee and excise tax assessment.** Low-speed and medium-speed electrical vehicles are eligible for any motor vehicle registration classification for which the vehicle type (i.e. passenger; truck) and owner qualify. Registration fees applicable to the registration classification and standard vehicle excise tax rates apply, unless the owner qualifies for a special rate or exemption. The sale of low-speed or medium-speed electrical vehicles on which Oklahoma motor vehicle excise tax is paid is not subject to the assessment of motor vehicle sales tax.
- (d) **Titling documentation.** In general, standard vehicle titling documentary requirements apply to low-speed and medium-speed electrical vehicles. However, when issuing an original title to a low-speed or medium-speed electrical vehicle that has never been titled previously, the Commission may accept a notarized bill of sale, or other similar ownership instrument, as an alternative to a properly assigned certificate of title or Manufacturer's Statement of Origin (MSO).

[Source: Added at 26 Ok Reg 2344, eff 6-25-09; Amended at 35 Ok Reg 2085, eff 9-14-18]

PART 13. MANUFACTURED HOMES

710:60-3-130. Manufactured homes

- (a) **Definition.** "**Manufactured home**" means a residential dwelling built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and rules promulgated

pursuant thereto and the rules promulgated by the Oklahoma Used Motor Vehicle and Parts Commission pursuant to 47 O.S. § 582. Effective November 1, 2016, manufactured home shall not mean a park model recreational vehicle as defined in 47 O.S. § 1102.

(b) **Initial title and registration.** In most instances, manufactured homes purchased new or brought in from another state are initially titled and registered at motor license agencies. Thereafter, they are placed on county ad valorem tax rolls and will be issued registration renewal decals by the County Treasurer.

(c) **License plate and decal required.** A manufactured home license plate and registration decal are required on all manufactured homes registered in this state.

(d) **Fees may be prorated for remainder of current year.** For those manufactured homes purchased new or coming in from another state, license plates and corresponding registration decals shall be issued upon payment of the applicable registration fee for the balance of the year.

(e) **Issuance of license and decal for currently registered manufactured homes; proof of payment of ad valorem tax.** For those manufactured homes already located and registered in this state on December 1, 1988, a license plate and registration decal shall be issued upon proof of current ad valorem taxes paid. Proof of payment must be in the form of a Manufactured Home Tag Certification Form or Manufactured Home Certificate. When presented with proof of payment, a license plate and corresponding decal will be issued for a total fee as set forth by statute.

(f) **Basis used for registration fee and excise tax.** Both the registration fee and the excise tax assessment are based upon the selling price of the manufactured home. The selling price will be recorded as both the Factory Delivered Price (FDP) and the Total Delivered Price (TDP) when issuing an original Oklahoma title.

(g) **Excise tax on manufactured homes.** The excise tax on new manufactured homes is levied on one-half of the retail selling price. The excise tax on a used manufactured home will be applied to sixty-five percent (65%) of one-half the resale price. The excise tax rate is levied by the Oklahoma Statutes. Sales tax is not assessed on manufactured homes.

(h) **Sale of manufactured home; transfer of title; change of basis.** If the manufactured home is sold, the title must be transferred to the new owner, who will have the title issued in his/her name. The FDP should be changed to reflect the purchase price. However, the TDP listed on the title will not be changed.

(i) **Proof of payment of ad valorem tax required upon transfer.** Proof of current paid ad valorem taxes must be obtained before transferring ownership of a manufactured home.

(j) **Manner of proof.** Acceptable proof of paid ad valorem taxes will be a Form 936 Manufactured Home Certificate or other receipt issued by a county treasurer which lists the manufactured home being transferred and clearly designates that taxes for the current calendar year have been paid in full.

(k) **When other basis used in determining tax.** Should the manufactured home be repossessed or brought in used from out-of-state, the suggested selling price as listed in the automotive reference material prescribed by the Oklahoma Tax Commission will be used as a base price for the registration and collection of excise tax.

(l) **Late registration; penalties.** The penalty for late registration of manufactured homes, which are those not registered within the 30 day period from the date of purchase or the date the manufactured home was brought into this state, shall be an amount equal to the registration fee, less the administrative fee, as set forth by statute.

(m) **Park model recreational vehicle.** A park model recreational vehicle formerly registered as a manufactured home may make application for a change in registration classification by completing an affidavit confirming the unit meets the statutory definition criteria outlined in 47 O.S. § 1102 and submitting to the Oklahoma Tax Commission for review.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 34 Ok Reg 2079, eff 9-11-17; Amended at 35 Ok Reg 2085, eff 9-14-18; Amended at 38 Ok Reg 1536, eff 9-1-21]

710:60-3-131. Manufactured homes generally subject to ad valorem assessment

Since January 1, 1985, all existing manufactured homes have been subject to assessment for real property or personal property ad valorem taxes by the county assessor except for:

- (1) Nonresident serviceman's manufactured home.
- (2) Manufactured home brought into this State.
- (3) New manufactured homes.
- (4) Manufactured homes on a dealers lot.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92]

710:60-3-132. Specific examples and applications

The following is applicable to manufactured homes by categories:

- (1) **Transfer of a new manufactured home from a dealer to owner.** Owner applies for a certificate of title, pays excise tax and registration fee, and receives license plate and registration decal.
- (2) **Transfer of a used manufactured home which has been registered in this state.** The new owner obtains a Certificate of Title upon payment of the excise tax and title fee and furnishing proof of current ad valorem taxes paid.
- (3) **Manufactured homes brought into this State.** The owner obtains a Certificate of Title upon registration and pays the excise tax if due. If the nonresident owner registered his home in his former state of residence at least sixty (60) days before moving into this State, no excise tax is due.
- (4) **Manufactured home of serviceman.** If the owner of the home is an actively serving nonresident serviceman stationed in Oklahoma, or an Oklahoma resident stationed out-of-state due to official assignment, the manufactured home is to be registered annually, at the special military personnel rate. A U.S. Armed Forces Affidavit must be submitted.
- (5) **Manufactured homes on a used manufactured home dealer's lot.** Manufactured homes on a used dealer's lot on January 1st will be exempt from ad valorem assessment but must be registered for the full year. A title must be issued in the dealer's name. If the manufactured home is not registered before February 1st, penalty is charged according to 710:60-3-36.
- (6) **Repossessed manufactured homes.** The reposessor may title the manufactured home upon furnishing proof of payment from the county treasurer of all current taxes on the manufactured home.
- (7) **Transfer of a manufactured home as real property.** A manufactured home which is assessed as part of the property on which it is located and sold with the property is not subject to payment of excise tax by the purchaser. Proof that the manufactured home has been included in the

property assessment is required before transferring.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-133. Cancellation of manufactured home title

Owners of manufactured homes that have been permanently affixed to real estate may make application to cancel the Oklahoma certificate of title. Only the owner of record on the Oklahoma title, out of state title, or assigned MSO, may make application through the Tax Commission or any Motor License Agent.

(1) Owners of new manufactured homes, or previously titled manufactured homes entering from another state, may make application to cancel the Oklahoma manufactured home title before it is issued, by submitting the MSO or out-of-state title for cancellation. The Oklahoma title will be placed on 'CN' (cancel) hold.

(2) Other than as described in (1) of this Section, an Oklahoma certificate of title for the manufactured home in the name of the applicant must be submitted. If a record owner seeks to cancel a manufactured home certificate of title, but is unable to produce the title certificate, a printout generated from the Commission computer file, verifying record ownership, will suffice in lieu of a title. The printout is to be attached to the Application for Title Cancellation.

(3) Proof of ownership must be submitted to the county assessor's office where the home is located, along with a completed Application for Title Cancellation. The county assessor's office will ensure the title owner and landowner are one and the same, and validate the cancellation application.

(4) An application fee set forth by statute must be remitted with the cancellation application.

(5) The Tax Commission or Motor License Agent must verify that no active lien appears on the record. If an active lien is reflected, a Cancellation Denial Notice will be given to the owner and the lienholder. The owner will be given a "Notice to Owner of the Existence of an Active Lien upon Application to Cancel Oklahoma Certificate of Title" and the application fee will be returned. The lienholder will be given a "Notice to Lienholder of Application to Cancel Oklahoma Certificate of Title". The Oklahoma title will not be cancelled until all liens are released.

(6) A copy of the "Application for Cancellation Form" and the "Notice to County Assessor Form" will be forwarded to the county assessor of the county in which the property is located by the Motor License Agent after receiving the completed cancellation application documentation, approved by the county assessor's office, and payment of the applicable cancellation fee.

[Source: Added at 20 Ok Reg 2173, eff 6-26-03; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-3-134. Reinstatement of cancelled manufactured home title

Owner of a manufactured home upon which the certificate of title has previously been cancelled due to attachment to real estate may apply to the Oklahoma Tax Commission or a motor license agent for reinstatement and issuance of a new original certificate of title.

(1) The reinstatement application is to be completed by the owner of record. There are two (2) documentary requirements on the application for reinstatement:

(A) The homeowner must attest ownership of the manufactured home and the nonexistence of any security interest or lien of record in the manufactured home; and

(B) The homeowner shall provide a title opinion by a licensed attorney, declaring that the owner of the manufactured home has a marketable title to the real property upon which the manufactured home is located and that no documents filed of record in the county clerk's office concerning the real property contain a mortgage, recorded financial statement, judgment, or lien of record. The opinion must be signed by the issuing attorney, on his/her letterhead and be executed, or updated, within thirty (30) days of the application date.

(2) A properly completed application for reinstatement may be submitted to the Oklahoma Tax Commission or a motor license agent. Reinstatement applications submitted to a motor license agent shall be forwarded to the Oklahoma Tax Commission for approval.

(3) Upon approval by the Tax Commission, a new original certificate of title shall be issued and registration fees collected for the balance of the calendar year.

(4) Reinstatement of a manufactured home certificate of title does not absolve the owner of any Ad Valorem tax obligation to the county where the manufactured home was or is located.

[Source: Added at 25 Ok Reg 2063, eff 7-1-08; Amended at 27 Ok Reg 2293, eff 7-11-10]

PART 14. ALL-TERRAIN VEHICLES, OFF-ROAD MOTORCYCLES AND UTILITY VEHICLES

710:60-3-140. All-terrain vehicles, off-road motorcycles and utility vehicles

(a) **Title and registration requirement.** All-terrain vehicles (ATV's) and off-road motorcycles (ORM's) purchased, or on which ownership is transferred, on or after July 1, 2005 are required to be titled and registered, unless statutorily exempted. Utility vehicles purchased, or on which ownership is transferred, on or after July 1, 2008 are required to be titled and registered, unless statutorily exempted.

(b) **Definitions.** The following terms when used in this Part, shall have the following meaning unless the context clearly indicates otherwise:

(1) **All-Terrain Vehicles (ATV).** A vehicle manufactured and used exclusively for off-highway use, traveling on four or more non-highway tires, and being fifty (50) inches or less in width.

(2) **Off-Road Motorcycles (ORM).** A motorcycle manufactured for and used exclusively off roads, highways, and any other paved surfaces. Small street or sidewalk mini-motorcycles or scooters are not included in this category.

(3) **Utility Vehicle.** A vehicle powered by an internal combustion engine, manufactured and used exclusively for off-highway use, equipped with seating for two or more people and a steering wheel, traveling on four or more wheels.

[Source: Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 32 Ok Reg 1363, eff 8-27-15]

710:60-3-141. Titling of all-terrain vehicles, off-road motorcycles and utility vehicles

(a) **General.** Only standard type titles, as referenced under 710:60-5-2, will be issued to ATV's, ORM's or utility vehicles.

(b) **Information or processes not required.** The following do not apply to ATV's, ORM's or utility vehicles:

- (1) Salvage, Rebuilt and Junk title issuance or procedures
- (2) Odometer disclosure requirements
- (3) Out-of-state vehicle V.I.N. / Odometer inspection & Declaration of Damage or Theft
- (4) Liability insurance verification
- (5) Submission by owner of driver license number or federal employer's identification number
- (6) Payment of tire recycling fee at time of initial registration.
- (7) Transfer of ownership registration fee.

(c) **Titling documents required on new ATV's or ORM's purchased on or after July 1, 2005 and utility vehicles purchased on or after July 1, 2008.**

- (1) A properly assigned Manufacturer's Statement of Origin (MSO), or other acceptable ownership document as determined by the Oklahoma Tax Commission.
- (2) Completed Application for Oklahoma Title (701-6).
- (3) A dealer invoice or other acceptable purchase price documentation, as determined by the Oklahoma Tax Commission.

(d) **Titling documents required on used or new ATV's or ORM's purchased prior to July 1, 2005 and utility vehicles purchased prior to July 1, 2008.**

- (1) Assigned title/MSO; or
- (2) A completed Application for Oklahoma Title (701-6) and a bill of sale listing the purchase price, or a completed Declaration of Vehicle Purchase Price (OTC Form 722-1). In this application, the bill of sale is not required to be notarized.

(e) **Exemptions from titling.** Holders of agricultural exemption permits issued pursuant to 68 O.S. § 1358.1 were exempt from ATV and ORM titling requirements before July 1, 2008. Until that date, such permit holders could transfer ownership of ATV's or ORM's by bills of sale. As set forth by statute, holders of agricultural exemption permits issued pursuant to 68 O.S. § 1358.1 are no longer exempt from titling and registration requirements on ATV's or ORM's that are purchased, or change ownership, on or after July 1, 2008. Permit holders remain exempt from the assessment of excise tax on such transactions.

(f) **Chain of title ownership not required.** Due to ATV's and ORM's owned by agricultural permit holders being exempt from titling and registration requirements until July 1, 2008, breaks in the title document chain of ownership may occur. As a result, there is no requirement that an assigned Oklahoma title be presented to transfer ownership of an ATV or ORM, provided documentation outlined in (d) above is submitted, even when an Oklahoma title record for a previous owner exists.

(g) **Excise tax assessment and exemptions.**

- (1) **Assessment.** As set forth by statute, excise tax is to be assessed on new and used ATV's and ORM's purchased on or after July 1, 2005 and new and used utility vehicles purchased on or after July 1, 2008. Excise tax will be assessed on the actual purchase price presented by the purchaser, excluding credit for any trade in, either from a bill of sale or a Declaration of Vehicle Purchase Price (OTC form 722-1). The minimum excise tax amount is set by statute. Failure to obtain title and pay the corresponding levy of excise

tax within thirty (30) days of acquiring ownership will result in the assessment of a delinquent excise tax penalty in the amount of \$1.00 per day, accruing until paid or until equal to the tax amount due.

(2) **Exemptions.** Standard vehicle excise tax exemptions, outlined in *OAC* 710:60-7-3(b), apply to ATV's ORM's and utility vehicles. In addition, agricultural permit holders are exempt from excise tax, when titling their ATV, ORM or utility vehicle, upon presentation of a valid agricultural permit.

(h) **Lien filing.** Lien filing procedures on ATV's, ORM's and utility vehicles are generally identical to vehicle lien filings referred to in Subchapter 5 Part 11 of the Oklahoma Tax Commission Rules Title 710, Chapter 60. Liens on ATV's, ORM's or utility vehicles may be filed with only the previously outlined ownership documentation. Until July 1, 2008, any lien/security interest in an ATV or ORM that was perfected before July 1, 2005, and that has not been terminated shall remain perfected, and shall take priority over subsequently perfected lien/security interest in the same ATV even if a certificate of title has been issued on the same ATV on or after July 1, 2005 with a lien recorded.

[Source: Added at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 29 Ok Reg 532, eff 5-11-12]

710:60-3-142. Registration of all-terrain vehicles, off-road motorcycles and utility vehicles

(a) **General.** A registration fee as set forth by statute is assessed upon issuance of every original or transfer title to an ATV, ORM or utility vehicle. Upon payment of the registration fee, an ATV, ORM or utility vehicle registration decal will be issued to be affixed in clear view to the front of the ATV, ORM or utility vehicle, or to the front fork of the ORM. Renewal of the registration by the same owner is not required. The registration fee is assessed again only upon any transfer of ownership.

(b) **Exception to registration.** Holders of agricultural exemption permits issued pursuant to 68 O.S. § 1358.1 are exempt from ATV and ORM titling requirements until July 1, 2008. As set forth by statute, holders of agricultural exemption permits issued pursuant to 68 O.S. § 1358.1 are no longer exempt from titling and registration requirements on ATV's or ORM's that are purchased, or change ownership, on or after July 1, 2008.

(c) **Optional Registration.** The following owners shall have the option of purchasing a nonrecurring registration.

(1) Until July 1, 2008, as outlined above, owners that possess valid agricultural permits issued pursuant to 68 O.S. § 1358.1

(2) Owners of ATV's and ORM's, purchased prior to July 1, 2005.

(d) **Registration penalties.** A delinquent registration penalty of \$1.00 per day, to a maximum of \$100.00 (100 days), begins to accrue on the thirty-first (31st) day following ownership assignment of ATV's and ORM's purchased on or after July 1, 2005 and utility vehicles purchased on or after July 1, 2008.

[Source: Added at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 27 Ok Reg 2293, eff 7-11-10]

PART 15. SPECIAL LICENSE PLATES

710:60-3-150. Special license plates

- (a) **General provisions.** Applications for ordering all types of personalized and special license plates, authorized by statute, may be obtained from the Oklahoma Tax Commission or from any motor license agency.
- (b) **Leased vehicles.** An eligible individual leasing a vehicle may make application for any special tag or registration rate. A copy of the lease agreement, listing the applicant as lessor, must be submitted and attached to the Oklahoma Tax Commission copies of the paperwork.
- (c) **No conflict policy.** No special license plate can be issued which conflicts with the regular plate numbering system.
- (d) **Non-offensive content policy.** No special license plate will be issued if the proposed message may be deemed offensive to the general public, in the context of display of the message on a state-issued license plate, under the guidelines in 710:60-3-151(c).
- (e) **Fees.** Special license plate fees are set by statute and, with certain statutory exceptions, are collected in addition to annual registration fees required by the Oklahoma Vehicle License and Registration Act. If a special license plate or decal is mailed, a mailing fee for a metal plate or decal will also be collected.
- (f) **Renewal.** Renewal decals may be obtained from either a motor license agent or the Oklahoma Tax Commission for all special license plates except Physically Disabled, Hearing Impaired/Deaf, Amateur Radio, Vintage and Municipal Official plates which may be renewed only through the Commission. Special license plates are issued on a staggered expiration system, except for amateur radio plates and vintage decals.
- (g) **Discontinuance of a special license plate.** As set forth by statute, certain types of special license plates have minimum issuance requirements and provisions for the discontinuance of plate types that do not meet those requirements.
- (h) **Authorization of new special license plates.** The Oklahoma Tax Commission is authorized to design and issue new special license plate types to any person that applies to the Commission for the creation of a special license plate and meets the conditions and minimum standards outlined by statute.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-3-151. Personalized license plates

- (a) **No conflict policy.** No personalized license plate that conflicts with the system of numbering for non-personalized plates set out in 47 O.S. § 1113 will be issued.
- (b) **Fees.** Remittance must accompany the application for the plate and is in addition to the annual license fee.
- (c) **Non-offensive content policy.** The Commission shall review personalized license plate applications that are not automatically rejected when compared to a database of prohibited or previously issued personalized plates. The Commission shall deny a request if an objective, reasonable person would find that the proposed combination of letters and/or numbers listed on the application falls into at least one of the following categories:
- (1) carries a sexual connotation;
 - (2) expresses contempt, ridicule or superiority based on race, gender, politics, ethnic heritage, or religion;
 - (3) is vulgar, derogatory, profane or obscene;
 - (4) refers to bodily functions, bodily fluids, or intimate body parts;

- (5) refers to alcohol, drugs or drug paraphernalia, illegal activities or gangs;
- or
- (6) would otherwise be inappropriate for display on a state-issued license plate.

(d) **Other criteria.** The criteria in this paragraph are not exhaustive. Dictionaries and compilation of offensive words, terms or letter/number combinations, in any language, gathered from the experience of Oklahoma and other states may also be used as a guide.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-3-152. Motorcycle personalized license plates

No personalized motorcycle license plate that conflicts with the system of numbering for non-personalized plates set out in 47 O.S. § 1113 will be issued. Remittance must accompany the application (OTC Form 746) and is in addition to the annual license fee.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-3-153. Amateur radio operators [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-154. National guard special tag numbers [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-155. Survivor of Pearl Harbor plates [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-156. Purple Heart plates [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-157. Vintage decal issued for display of Vintage license plates [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-158. Missing in action license plates [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-159. Killed in action (KIA) license plates [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-160. Antique or classic vehicles

(a) **Qualification; application; fees; renewal.** These motor vehicles are at least twenty-five (25) years old and travel on the highways of the state primarily incidental to historical or exhibition purposes only. Persons registering antique or classic vehicles may elect to register the vehicle either annually or for a ten (10) year period. The motor license agent registering the antique or classic vehicle for a ten (10) year period shall receive one hundred percent (100%) of the compensatory registration fees the motor license agent would have received had the antique or classic vehicle been registered on an annual basis for the ten (10) year period. Insurance verification, or a properly completed affidavit of non-use, is required at time of application.

(b) **Limited purpose use of vehicle.** If a vehicle is being driven for any other purpose besides historical or exhibition purposes, the antique or classic tag must be removed and a regular tag issued at the regular rate.

(c) **Procedure upon sale to non-qualifying purchaser.** If an antique or classic vehicle is sold to an individual who will be driving it for other than historical or exhibition purposes, the purchaser must obtain a regular license plate and pay for the remaining portion of the registration period at the applicable rate.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 25 Ok Reg 2063, eff 7-1-08]

710:60-3-161. University or college supporter license plates [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-162. Disabled American Veteran (DAV) plates and rate

(a) **Qualification.** Those veterans with at least 50% service connected disability, as certified by the United States Department of Veterans Affairs or a branch of the United States Armed Forces, have the option of receiving their regular plate or a special plate designated "D.A.V." at a reduced rate. Those veterans not desiring the "D.A.V." plate may continue to purchase the regular tag for two (2) vehicles with a rated carrying capacity of one (1) ton or less at any tag agency. An insurance verification fee will also be charged.

(b) **Application; fees; renewal.** To receive the special "D.A.V." plate, the DAV Card or current authorization letter, a photocopy of the current registration, Security Verification Card, and a check which includes mailing fees and insurance for each tag ordered, must be submitted to the Oklahoma Tax Commission. After the initial issuance from the Oklahoma Tax Commission, the plate can be renewed at any tag office.

(c) **Procedure upon sale to non-qualifying purchaser.** When a vehicle is sold by a D.A.V. party to a purchaser not qualified for the reduced rate, the purchaser must pay for the remaining portion of the registration period at the applicable rate. When a vehicle is sold which has been registered at the reduced rate and issued a metal DAV plate, the purchaser will be issued a regular metal plate and charged the applicable rate.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-163. Disabled American Veteran (DAV) surviving spouse rate [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-164. Ex-prisoner of war (POW) plates

(a) **Qualification.** An Ex-POW tag may be issued to those persons certified by the Oklahoma Department of Veterans Affairs, for no more than two (2) vehicles of one (1) ton or less. Application forms may be obtained from the Oklahoma Department of Veterans Affairs (ODVA). Completed applications and insurance verification, with payment, are to be sent to the ODVA for certification. Certified applications will then be sent to the Special Plate Section for issuance of plates. The plate will be mailed to the applicant.

(b) **Renewal.** Renewal of Ex-POW tags may be made at the local motor license agency.

(c) **Procedure upon sale to non-qualifying purchaser.** If a vehicle is sold by an ex-POW party to a purchaser not qualified for the reduced rate, the purchaser must register the vehicle from the date of purchase and obtain a regular license plate.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 35 Ok Reg 2085, eff 9-14-18; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-165. Ex-prisoner of war (POW) surviving spouse

The surviving spouse of any deceased prisoner of war, if not since remarried, shall be entitled to one (1) tag for a vehicle of one (1) ton or less upon re-certification by the Oklahoma Department of Veterans Affairs.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 15 Ok Reg 2821, eff 6-25-98]

710:60-3-166. United States Armed Forces plates [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-166.1. United States Air Force Association license plate [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-166.2. Veterans of Foreign Wars license plates [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-166.3. Desert Storm license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-167. Military personnel [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-167.1. Military Reserve Unit license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-168. Indian tribal license plates

(a) **State of Oklahoma Indian tribal government license plates.** Vehicles titled in the name of a federally recognized Indian tribe only and used exclusively for the furtherance of its tribal functions, may be issued State of Oklahoma Indian tribal government license plates, or tribal compact license plates, pursuant to (c) of this Section. Initial applications for State of Oklahoma tribal license plates are made directly to the Oklahoma Tax Commission. Application for registration renewal of such plates may be made to the Oklahoma Tax Commission, or a motor license agent. Insurance verification, or a properly completed affidavit of non-use, is required at time of application.

(b) **Procedure upon sale to a non-qualifying purchaser.** When ownership of a vehicle is transferred from a tribe to a new owner not qualifying for the reduced rate, the purchaser must register the vehicle from the date of sale at the applicable fee and obtain the appropriate replacement license plate.

(c) **Indian tribal compact license plates.** Pursuant to a signed compact between a tribe and the State of Oklahoma, special tribal license plates may be designed and offered for issuance to tribal members, or the tribal government, at Oklahoma motor license agencies. Associated taxes and fees will be assessed and distributed pursuant to the provisions of the applicable compact.

(1) **Tribal membership of individual required.** Proof of membership in the tribe must be presented at time of registration by an individual member. The tribal member must be reflected on the Oklahoma certificate of title as an owner of the vehicle.

(2) **Tribal government registration.** Motor vehicles owned and operated by the tribe for governmental purposes are eligible for Indian tribal compact plates. The tribal government must be reflected as owner on the Oklahoma certificate of title. The registration fee applicable to Indian tribal license plates pursuant to the provisions of 47 O.S. § 1135.1(B)(4) will be assessed.

(3) **Procedure upon sale by an individual member to a non-tribal purchaser.** When a vehicle registered to an individual tribal member is transferred to a non-tribal member, the purchaser must obtain a replacement license plate when transferring ownership into his or her name.

(4) **Procedure upon sale by tribal government.** When a vehicle registered to the tribal government is transferred from the tribe to a new owner not qualifying for the reduced tribal government rate, the purchaser must register the vehicle from the date of sale at the applicable fee and obtain the appropriate replacement license plate. The tribe may retain the special tag for transferal to the replacement vehicle. The tag cannot be transferred to another tribe.

(5) **Registration information provided to tribe.** Tribal member registration information will be provided by the Commission to the tribe, pursuant to the compact provisions.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-169. Physically disabled registration rate

(a) **General provisions; fee.** Those persons qualified through the Department of Public Safety as being physically disabled may register a vehicle that is specially equipped due to the disability of the owner or of a family member related within the second degree of consanguinity, for a reduced fee plus an insurance verification fee. An Affidavit for Physically Disabled Registration Rate must be completed by the owner and accompany the request for the reduced rate.

(b) **Procedure upon sale to non-qualifying purchaser.** When a vehicle is sold by a disabled party to a purchaser not qualifying for the reduced rate, the purchaser must pay for the remaining portion of the registration period at the applicable rate.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 15 Ok Reg 2821, eff 6-25-98; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-3-170. Physically disabled persons

(a) **Free plate available to qualifying persons.** A special tag displaying a stylized human figure may be ordered at no charge. For an additional fee, an eligible applicant may apply for a duplicate license plate for display on the front of applicant's vehicle. The applicant must have a Disabled Parking Permit from the Department of Public Safety to qualify for this plate. Special parking privileges may be extended to a physically disabled person who displays a five-year placard, a temporary placard, or a physically disabled license plate, on a motor vehicle, operated by or under the direction and for the use of the physically disabled person, pursuant to statute.

(1) **Procedure for obtaining certification from Department of Public Safety.** To receive the Disabled Parking Permit, an application may be obtained from the Department of Public Safety. The application must be completed by a physician licensed to practice medicine.

(2) **Procedure for ordering license plate.** To order the tag, a completed Application for Handicapped Plate must be submitted to the Oklahoma Tax Commission.

(3) **Renewal.** The handicapped plate will be renewed by the Oklahoma Tax Commission upon proof of current registration.

(b) **Special registration rate may apply.** If a vehicle is modified as a direct result of the physical disability of the owner, or of a relative of the owner within the second degree of consanguinity, a special registration may be available. The disabled individual must qualify for a Department of Public Safety Disabled Parking Permit. The vehicle modification must be permanent, and of a nature that could not be considered standard equipment, or normal, optional, vehicle equipment. Examples of qualifying modifications are hand controls, raised foot pedals, or wheelchair lifts. Vehicle modification eligibility determinations will be made by the Oklahoma Tax Commission.

(c) **Procedure for obtaining special rate.** An applicant for the special rate must complete an affidavit describing the modification made to the vehicle and listing the applicable Department of Public Safety insignia number, recipient's name, and recipient's relationship to the vehicle owner.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-3-171. In-transit license plates

In-transit license plates are issued for qualifying vehicles engaged in the business of transporting and delivering vehicles. Manufactured home transporters are required to have a motor carrier number (MC#) issued by the Federal Motor Carrier Safety Administration (FMCSA) or insurance on file with the Oklahoma Corporation Commission (O.C.C.) before an in-transit plate can be issued. If the applicant does not have a motor carrier number (MC#), the Verification of Insurance on file must be verified with the Oklahoma Corporation Commission. In-transit plates expire on December 31st of each year. The application and license are issued through the Oklahoma Tax Commission Motor Vehicle Division.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 25 Ok Reg 2063, eff 7-1-08]

710:60-3-172. Environmental awareness license plates [REVOKED]

[Source: Added at 10 Ok Reg 3843, eff 7-12-93; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-173. Iwo Jima license plates [REVOKED]

[Source: Added at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-174. D-Day Survivor License plate [REVOKED]

[Source: Added at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-175. Military Decoration license plates [REVOKED]

[Source: Added at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-175.1. Congressional Medal of Honor license plate

(a) **Qualification.** Recipients of a Congressional Medal of Honor are eligible for a special license plate, which may be displayed on vehicles with a rated carrying capacity of one (1) ton or less. To qualify, the applicant must submit acceptable documentation of the award and the required fee. If the applicant does not have any documents which show that a Congressional Medal of Honor was awarded, the applicant may obtain certification from the Oklahoma Department of Veterans Affairs.

(b) **Fees; renewal.** To renew the Congressional Medal of Honor license plate, the applicant must pay an annual fee prescribed by statute, in lieu of all other registration fees.

[Source: Added at 14 Ok Reg 2706, eff 6-26-97]

710:60-3-176. Vietnam Veteran license plate [REVOKED]

[Source: Added at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-177. Round and Square Dance license plates [REVOKED]

[Source: Added at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-177.1. Balloonist license plates [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-178. Military Multi-decoration license plates [REVOKED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-179. Firefighter license plates [REVOKED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-180. World War II Veteran license plates [REVOKED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-181. Korean War Veteran license plates [REVOKED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-182. Wildlife Conservation license plates [REVOKED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-183. Municipal Official license plates [REVOKED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-183.1. Police officer license plates [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-184. Gold Star license plates

(a) **Qualification.** The designated parties meeting the qualification requirements outlined below are eligible for Gold Star license plates. (47 O.S. § 1135.2)

(1) **Parents.** The parent of a veteran killed in action is eligible to display a Gold Star license plate for no more than two (2) vehicles with a rated carrying capacity of one (1) ton or less. The parent must submit proof of eligibility, consisting of a Gold Star Parent membership card or a birth certificate confirming applicant's relationship with the veteran and one of the items listed in (A) or (B) of this paragraph, along with insurance verification, a completed application, and any fees prescribed by statute, to the Oklahoma Tax Commission:

(A) A certification letter from the Oklahoma Department of Veterans Affairs, stating that the veteran was killed in action.

(B) A deceased Veterans DD form 214.

(2) **Surviving spouse or child.** The surviving spouse or child of an honorably discharged veteran who died as a direct result of the performance of active duties or as a result of a service-connected injury, illness or disease is eligible to display a Gold Star license plate on any vehicle with a rated carrying capacity of one (1) ton or less. The surviving spouse or child must submit proof of eligibility, consisting of a birth certificate or other proof of relationship to the veteran and one of the items listed in (A) through (C) of this paragraph, along with insurance verification, a completed application, and any fees prescribed by statute, to the Oklahoma Tax Commission:

- (A) DD Form 1300, Report of Casualty,
- (B) Death Certificate, DD Form 214 and a statement veteran's death was due to or a consequence of a service-connected disability, or
- (C) A letter from the Oklahoma Department of Veteran Affairs confirming qualifying circumstances of the veteran's death.

(b) **Renewal.** Renewal of a Gold Star license plate may be made at the local motor license agency or at the Oklahoma Tax Commission. To renew a Gold Star license plate, the applicant must pay the annual fee prescribed by statute. [47 O.S. § 1135.2(C)]

(c) **Procedure upon sale to non-qualifying purchaser.** If a vehicle displaying a Gold Star license plate is sold to a purchaser not qualified for the reduced rate, the purchaser must register the vehicle from the date of purchase and obtain a regular license plate.

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-3-185. Child abuse prevention license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-185.1. Crime victims awareness license plates [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-185.2. Oklahoma Safe Kids Association license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-186. National Association for the Advancement of Colored People (NAACP) license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-187. National Rifle Association (NRA) license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-188. Red Cross Volunteer license plate [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-188.1. Emergency medical technician license plate [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-189. United States Olympic Committee license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-190. Oklahoma History license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-191. Oklahoma Military Academy Alumni license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-192. Masonic Fraternity license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Amended at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-192.1. Order of the Eastern Star license plates [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-192.2. Shriner's hospitals for children license plates [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-192.3. Knights of Columbus license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-193. Historic Route 66 license (Mother Road) license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-194. Heart of the Heartland license plates [REVOKED]

[Source: Added at 13 Ok Reg 3113, eff 7-11-96; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-194.1. Oklahoma City Bombing Victims and Survivors license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-195. Fight breast cancer license plates [REVOKED]

[Source: Added at 14 Ok Reg 2706, eff 6-26-97; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-196. Civil Air Patrol license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-197. Quiet Birdmen license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-198. Jaycees license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

710:60-3-199. Ninety-Nines license plates [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

PART 17. SPECIAL PERMITS

710:60-3-200. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-3-201. 72-hour permit

The 72-hour permit provides full registration to certain commercial vehicles which are not otherwise registered in Oklahoma. Effective October 1, 2011, the Oklahoma Corporation Commission assumed complete issuance responsibility for such permits.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 29 Ok Reg 532, eff 5-11-12]

710:60-3-202. Special mobilized machinery

(a) **Description.** Special Mobilized Machinery (SMM) are special purpose machines or devices which derive no revenue from the transportation of persons or property, whose use of the highways is only incidental and whose useful revenue producing service is performed at destinations in an area away from the traveled surface of an established open highway. SMM may be either truck or trailer mounted. Unless stated specifically otherwise, the following provisions apply to both configurations.

(b) **Truck mounted SMM - excise tax assessment.** Truck mounted SMM may register either as SMM, or at any other registration classification for which the vehicle type, vehicle use and vehicle owner qualify. Standard excise tax applies to truck mounted SMM registered as such. Vehicle sales tax is not assessed.

(c) **Trailer mounted SMM - excise tax assessment.** Trailer mounted SMM may register only as SMM, as such equipment does not qualify under any other registration classification. An expiring commercial trailer license plate is to be issued, at the applicable SMM registration rate. Standard excise tax applies. Vehicle sales tax is not assessed.

(d) **Qualification certificate and fee.** Special Mobilized Machinery is required to have a qualification certificate (authority) before any registration or permit can be issued. The qualification certificate may be obtained through the Commission, or

any motor license agency. The qualification certificate remains valid for as long as ownership of the SMM does not change. If this qualification certificate is lost, or should ownership of the SMM change, a new certificate must be obtained.

(e) **Motor license agent to issue title and registration.** Agents are authorized to title and register SMM, using the qualification certificate number assigned by the agent or the Oklahoma Tax Commission.

(f) **Registration fee; expiration; penalties.** The fee for a full year registration is set forth by statute. All Special Mobilized Machinery registrations expire in December. On February 2, the registration fee doubles.

(g) **Reciprocity for out-of-state vehicles.** Special Mobilized Machinery properly registered in another state may pass through this state under that out-of-state registration provided the unit is not put into service within this state. Special Mobilized Machinery entering from another state and placed into service in the State of Oklahoma must be registered for the remainder of the year

(h) **Temporary operation.** SMM registered in another state and utilized for temporary service in this state may operate by temporary permit for not more than thirty (30) days in any calendar year. Absent a change of ownership, if an out-of-state registered SMM unit to which a temporary permit has been issued is operated in excess of thirty (30) days in Oklahoma in any calendar year, the unit must be titled and registered for the remainder of the year.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 30 Ok Reg 1861, eff 7-11-13; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-3-203. Driveaway-towing or temporary license receipt

(a) **Description and use.** Driveaway-towing or temporary license receipts are issued for trucks, truck-tractors, trailers and motor buses, owned by nonresidents, which are properly registered in their home state for the current year and are operating in Oklahoma on a temporary basis not to exceed 90 days. The owner's name, description of the vehicle and weight available from the out-of-state registration should be shown on the certificate issued. This permit is restricted to nonresidents from those states who afford a like privilege to Oklahoma residents.

(b) **Farm trucks used during grain harvest or in hauling road materials for rural roads.** Permits may be issued by the Oklahoma Tax Commission or Oklahoma Corporation Commission to Oklahoma owned trucks on which the farm registration has been paid for the current year and which are being used during grain harvest or for hauling shale or road material for rural roads. Such permits may be issued only by the Oklahoma Corporation Commission to those vehicles currently registered in another state.

(c) **Towed vehicles.** A towing permit is issued on this form to a person towing a vehicle intended to be resold into this state or through this state. A permit fee shall be charged for each, the vehicle towing and the vehicle being towed. Each vehicle must be currently registered in its home state.

(d) **Receipt must show days valid; dates of issuance, and expiration.** The number of days issued must be shown as well as the issue date and expiration date.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-3-204. Harvest permits

Vehicles involved in harvesting are subject to the temporary license requirements described in OAC 710:60-3-203.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-3-205. Vehicles used to support motion picture, television, and video production activities

Vehicles entering this state for the express purpose of transporting the resources and equipment necessary to support production activities of the motion picture, television and video film industries operating within this state, provided that they are properly registered under the laws of another state or not registered with Oklahoma pursuant to the provisions of the International Registration Plan, are not subject to any registration requirements as set forth by statute.

[Source: Added at 13 Ok Reg 3113, eff 7-11-96]

PART 19. ENFORCEMENT [REVOKED]

710:60-3-210. Sale of vehicles seized for improper registration and/or license plates [REVOKED]

[Source: Revoked at 23 Ok Reg 2837, eff 6-25-06]

710:60-3-211. Order of sale from administrative hearing [REVOKED]

[Source: Revoked at 23 Ok Reg 2837, eff 6-25-06]

710:60-3-212. Notice of sale to lienholders [REVOKED]

[Source: Revoked at 23 Ok Reg 2837, eff 6-25-06]

710:60-3-213. Return of sale to be filed [REVOKED]

[Source: Revoked at 23 Ok Reg 2837, eff 6-25-06]

SUBCHAPTER 4. REGISTRATION PURSUANT TO THE INTERNATIONAL REGISTRATION PLAN [TRANSFERRED]

Editor's Note: Effective 7-1-04, "rules promulgated by the Tax Commission related to the administration of the International Registration Plan authorized by Section 1120 of Title 47 of the Oklahoma Statutes, the International Fuel Tax Agreement authorized by Section 607 of Title 68 of the Oklahoma Statutes, or the enforcement of Section 1115.1 of Title 47 of the Oklahoma Statutes [were] transferred to and [became] a part of the administrative rules of the Corporation Commission." The Office of Administrative Rules was directed to "provide adequate notice in the Oklahoma Register of the transfer of rules, and . . . place the transferred rules under the Administrative Code section of the Corporation Commission" [Senate Bill 141 (2004), Section 2(E)]. An Editor's Notice was published in the July 1, 2004 issue of the Register [21 Ok Reg 2927], announcing the transfer of these rules from the Tax Commission's Title 710 to the Corporation's Commission Title 165. The rules in this Subchapter (710:60-4-1 through 710:60-4-20) are now located in the Corporation Commission's Title 165, Chapter 30, Subchapter 19 (165:30-19-1 through 165:30-19-20). For additional information relating to this transfer, see Senate Bill 141 (2004).

710:60-4-1. Purpose [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Transferred to 165:30-19-1 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-2. Definitions [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 19 Ok Reg 752, eff 1-29-02 (emergency); Amended at 19 Ok Reg 1216, eff 5-11-02; Transferred to 165:30-19-2 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-3. Registration [TRANSFERRED]

[Source: Amended at 14 Ok Reg 2706, eff 6-26-97; Amended at 20 Ok Reg 753, eff 3-7-03 (emergency); Amended at 20 Ok Reg 2587, eff 7-11-03; Transferred to 165:30-19-3 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-4. Proof of ownership [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 21 Ok Reg 1142, eff 5-13-04; Transferred to 165:30-19-4 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-5. Established place of business [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 19 Ok Reg 752, eff 1-29-02 (emergency); Amended at 19 Ok Reg 1216, eff 5-11-02; Amended at 20 Ok Reg 2950, eff 10-1-03; Transferred to 165:30-19-5 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-6. Registration as an owner-operator [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 20 Ok Reg 753, eff 3-7-03 (emergency); Amended at 20 Ok Reg 2587, eff 7-11-03; Amended at 21 Ok Reg 1142, eff 5-13-04; Transferred to 165:30-19-6 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-7. Operational records [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Transferred to 165:30-19-7 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-8. Maintenance and availability of operational records [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Transferred to 165:30-19-8 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-9. Failure to pay additional fee assessments [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Transferred to 165:30-19-9 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-10. Renewal applications [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 20 Ok Reg 2587, eff 7-11-03; Transferred to 165:30-19-10 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-11. Enforcement [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2763, eff 4-28-95 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 20 Ok Reg 2587, eff 7-11-03; Transferred to 165:30-19-11 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-12. Supplemental application [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Transferred to 165:30-19-12 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-13. Amended mileage/adding states [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 20 Ok Reg 2587, eff 7-11-03; Transferred to 165:30-19-13 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-14. Audits [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Transferred to 165:30-19-14 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-15. Mileage [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 19 Ok Reg 428, eff 10-18-01 (emergency); Amended at 19 Ok Reg 1218, eff 5-11-02; Amended at 20 Ok Reg 2591, eff 7-11-03; Transferred to 165:30-19-15 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-16. Application disapproval [TRANSFERRED]

[Source: Added at 12 Ok Reg 597, eff 12-5-94 (emergency); Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 21 Ok Reg 1142, eff 5-13-04; Transferred to 165:30-19-16 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-17. Temporary operating authority [TRANSFERRED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 19 Ok Reg 428, eff 10-18-01 (emergency); Amended at 19 Ok Reg 1218, eff 5-11-02; Amended at 21 Ok Reg 1142, eff 5-13-04; Transferred to 165:30-19-17 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-18. Compliance confirmation [TRANSFERRED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 16 Ok Reg 2652, eff 6-25-99; Transferred to 165:30-19-18 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-19. [TRANSFERRED]

[Source: Reserved at 12 Ok Reg 2931, eff 7-14-95; Transferred to 165:30-19-19 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

710:60-4-20. Incorporation by reference [TRANSFERRED]

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 21 Ok Reg 1142, eff 5-13-04; Transferred to 165:30-19-20 by SB 141 (2004), eff 7-1-04 (See Editor's Notice published at 21 Ok Reg 2927)]

SUBCHAPTER 5. MOTOR VEHICLE TITLES

PART 1. GENERAL PROVISIONS

710:60-5-1. Certificate of title required

Except for vehicles proportionally registered with the Oklahoma Corporation Commission and properly titled in another state, or vehicle types that are exempted from titling requirements, the owner of every vehicle registered in this state shall possess an Oklahoma certificate of title as proof of their ownership of such vehicle.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 34 Ok Reg 2079, eff 9-11-17]

710:60-5-2. Types of certificates

(a) **Title certificate color designation.** Oklahoma utilizes several different colors in designating vehicle types. The title types and corresponding certificate colors are as follows:

- (1) Standard Title (Green)
- (2) Salvage Title (Red)
- (3) Rebuilt Title (Orange)
- (4) Junked Title (Blue)
- (5) Classic Title (Green)
- (6) Remanufactured Title (No color designation at this time)
- (7) Unrecovered Theft Title (Purple)
- (8) Rebodyed Vehicle Title (Yellow)

(b) **Title suffix designation.** On certificates of title issued prior to March 16, 2015, letter suffixes were utilized to designate the sequence of Oklahoma certificates of title issued to a specific vehicle. The original Oklahoma title issued had no suffix following the designated title number. All subsequent Oklahoma titles, regardless of type, issued to that vehicle were designated by a letter suffix. The letter "a" was assigned as a suffix to the first Oklahoma title issued following the original title, "b" to the next title issued, etc. Effective March 16, 2015, every title certificate issued will reflect a unique title number. Only the most recent Oklahoma certificate of title issued is considered valid.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-5-3. General registration prerequisite for issuance of title

An Oklahoma Title will not be issued without a current Oklahoma registration except for purposes of recording a lien on a title or on an apportioned vehicle. A duplicate title may be issued without current Oklahoma registration to a former resident who has relocated to another state and the title is being mailed to an out-of-state address designated by the requestor.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-5-4. Multiple owners

(a) When multiple owners are listed on vehicle ownership documentation, whether a title document or ownership assignment document, and there is no distinction as to whether ownership is to be joined by '**and**', '**and/or**', or '**or**', the resulting Oklahoma title is to be issued reflecting ownership joined by '**and**'.

(b) When transferring ownership from a title document which lists multiple (former) owners, the following assignment guidelines apply:

- (1) When ownership is joined by '**or**' or '**and/or**', any one of the owners may assign ownership.
- (2) When ownership is joined by '**and**', all owners are required to assign ownership.

(c) When multiple owners are listed, followed by "**WROS**" (With Rights of Survivorship), the rules under (a) and (b) above apply.

(d) When ownership is listed as two names, followed by "**TOD**" (Transfer Upon Death), the first name listed will be considered the primary (unconditional) owner and the second name listed as the secondary (conditional) owner. The secondary

owner may obtain ownership only in the event of the primary person's death (upon presentation of the death certificate). The secondary owner has no other ownership claim to the vehicle. As long as the primary owner remains alive, he/she can assign ownership of the vehicle at any time, with no signature or documentary approval of the secondary owner required.

(e) Effective November 1, 2016, the transfer-upon-death provisions provided for in 47 O.S. § 1107.5 may be utilized as an alternative to placing the TOD designation on a title. [See: OAC 710:60-5-77]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 34 Ok Reg 2079, eff 9-11-17]

710:60-5-5. Branding of out-of-state titles

Any special brand or notation listed on the out-of-state title of a vehicle making application for an original Oklahoma title must be carried forward to the Oklahoma certificate, unless the age of the vehicle excludes it from the title branding requirements.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92]

710:60-5-6. Undeliverable Oklahoma title

Any owner of a vehicle who purchased a title, but never received the title through the U.S. Postal Services, may complete a statement of facts and receive a replacement title free of charge. The statement should be completed no earlier than twenty (20) days and no later than ninety (90) days from the date of the title issuance.

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 26 Ok Reg 2344, eff 6-25-09]

710:60-5-7. Vehicle title records research

Vehicle title records research will be conducted upon receipt of a qualified request and will be subject to the conditions and fees outlined in 47 O.S. § 1109, with the following exceptions:

- (1) When researching an error on the most recent title transaction completed in this state at the request of the title-holder or a Motor License Agent, the research will be conducted at no charge and the requestor advised of the source of the error. If the error is attributable to a Motor License Agent, a corrected title will be issued at no charge to the title-holder. If the error resulted from information or documentation submitted by, or on behalf of, the owner, the requestor will be so advised. Should the owner take the necessary corrective actions and apply for a new title, applicable titling fees will apply. If any requesting party wishes to receive copies of some or all of the researched documentation, normal research fees will apply.
- (2) Title research will be conducted for, and document copies provided at no charge, to Motor License Agents requesting research directly related to errors or omissions, or both, claimed against the motor license agency.

[Source: Added at 22 Ok Reg 1549, eff 6-11-05]

710:60-5-8. Oklahoma assigned identification number

An Oklahoma assigned identification number, when required for an assembled or rebodied vehicle, or upon written request from an authorized state or federal court or law enforcement agency, or when otherwise deemed necessary by

the Commission, shall be assigned by the Motor Vehicle Division of the Commission. Once assigned, the Oklahoma assigned number is considered the valid vehicle identification number (VIN) for that vehicle and is to be affixed to the vehicle in a manner and location determined by the Commission.

[Source: Added at 29 Ok Reg 532, eff 5-11-12]

PART 3. APPLICATION FOR CERTIFICATES OF TITLE

710:60-5-30. Applications for certificates of title

An application for Oklahoma Certificate of Title for a Vehicle (OTC Form 701-6) must be completed as part of the supporting documentation for all original Oklahoma titles issued. Following are instructions for completing the application.

(1) **Model, year and make.** Enter the model and model year as indicated by the manufacturer, as well as the make of the vehicle.

(2) **Body type.** List the basic vehicle body type. Do not use trade or model names designated by the manufacturer. Following are examples of basic vehicle types:

(A) Automobile: 2Dr. Coupe; 4Dr. Sedan; 2Dr. Convertible;

Funeral Coach

(B) Truck: Pickup; Truck; Truck-Tractor

(C) Travel Trailer

(D) Manufactured Home

(E) Motor Home

(F) Motorcycle

(G) Bus

(H) Straight Trailer or Semitrailer: Show as Straight Trailer or Semitrailer. A straight trailer is constructed so that no part of its weight rests upon the towing vehicle. A semitrailer is constructed so that a portion of its weight and load rests upon or is supported by another vehicle. . In Model No. list Flat-bed or Semi.

(I) Pole Trailer: Show as Pole Trailer. This type of trailer is used for hauling pipes or poles and is a frame only, having no bed.

(J) Sport Utility

(K) Van

(3) **Model.** Basic information is to be entered here that will insure proper and accurate identification of the vehicle. All automobiles have a model name and number. (Do not confuse the model number with the serial number.) The following information should be entered for each type of vehicle.

(A) Automobile: Model, name and number. Example: 2007 Chevrolet, 4Dr., Sport Utility.

(B) Manufactured Home: Model, name (if any), length, and width. Example: 1984 Hicks Manufactured Home, 14' x 60'.

(C) Travel Trailer: Model, name, length and width. Example: 1984 Nomad Travel trailer 8' x 40'.

(D) Motorcycle: Model, name, number and number of cylinders.

(E) Bus: Model, and number of passenger seats. Example: 1970 GM Omnibus PD-4101 39 psgr.

(F) Truck: Brief description of body, model number, manufacturer's rated capacity (if known) and number of rear axles.

(G) Truck-Pickup: Model name, number and manufacturer's rated capacity (if known). Example: 1985 Ford Styleside F100 1/2T.

(H) Truck-Tractor: Model number and number of rear axles.

(I) Trailer-Large Trailers: Brief description of body, length and number of axles. Example: Grain, 35FT., 2A

(J) Small Trailers: Brief description of body length and number of wheels. Example: Tractor, 12FT, 4 (Wheels Rental, 6FT,4W)

(4) **Identification number.** The vehicle identification number, or serial number if not a vehicle, is to be listed. Alternatives must be approved by the Oklahoma Tax Commission, Motor Vehicle Division.

(5) **"Actual sales price (value)" defined.** The "actual sales price", commonly referred to as "purchase price", means the actual sales price of a vehicle excluding any discounts or credits given for a trade-in. The actual sales price must be within twenty percent (20%) of the average retail price value of the vehicle, as listed in the automotive reference material prescribed by the Oklahoma Tax Commission. [See: 710:60-5-50]

(6) **Signature.** The owner or a properly designated agent must sign the application for title.

(7) **New vehicles sold by Oklahoma dealers.** When the application is completed by the selling dealer, an authorized employee of the dealership is to sign the statement and enter the actual sales price of the vehicle.

(8) **Declaration of damage or theft.**

(A) **Required for all vehicles not over ten model years old.**

Owners of vehicles 10 model years old or less, with the exception of new vehicles or vehicles on out-of-state titles that are already branded (salvage, rebuilt, etc.) being registered for the first time in Oklahoma must complete this portion of the Application for Title.

(B) **Declaration to be executed by owner.** The owner must first answer, to the best of his or her knowledge, the first two (2) questions listed on the Declaration. If the answer is no to both, question three (3) need not be completed. If the answer to either or both questions one (1) and two (2) is yes, the owner must then complete question three (3), by entering the applicable damage percentage.

(C) **Recovered theft brand.** Should the owner indicate that the vehicle had been stolen, but the cost of repairing it to a roadworthy condition amounted to less than sixty percent (60%) of its fair market value at the time of loss, the Oklahoma Certificate of Title is to be branded "Recovered Theft".

(D) **No brand when damage unrelated to theft and repair less than sixty percent (60%) of value.** Should the owner indicate that the vehicle had been damaged by collision or other occurrence but the cost of repairing it to a roadworthy condition amounted to less than sixty percent (60%) of its fair market value, the Oklahoma Certificate of Title will not be branded.

(E) **Salvage title when damage is greater than sixty percent (60%) of value.** Should the owner indicate that the vehicle had been damaged and the cost of repairing it to a roadworthy condition amounted to more than sixty percent (60%) of its fair market value at the time of loss, the vehicle is to be treated as if it were entering Oklahoma with a salvage title. This applies regardless of whether

the damage was due to theft, collision or other occurrence.

(F) **Flood damage disclosure.** In addition to the above, the owner of any vehicle that has suffered flood and/or water damage is to complete the Flood Damage Disclosure section. Should the owner indicate the vehicle meets the listed statutory criteria for a flood damaged vehicle, the Oklahoma title will be issued with the brand "Flood Damaged".

(9) Vehicle inspection.

(A) **Inspection required.** All previously registered vehicles entering Oklahoma from another state, with the exception of vehicles intending to prorate, must be physically inspected before an original Oklahoma certificate of title may be issued. The vehicle identification number (VIN) and odometer reading from the vehicle will be entered in this portion of the application. The VIN found on the vehicle will be compared to the number listed on the out-of-state documentation to ensure they match.

(B) **Persons authorized to perform inspection; non-release of title.** Except as noted herein, inspections are to be performed by motor license agents or authorized Oklahoma Tax Commission personnel only. If the vehicle is unavailable for inspection, a hold is to be placed on the Oklahoma title. The applicant will be informed that the title will not be released until the VIN inspection has been completed. The Oklahoma Tax Commission may allow the inspection to be performed at a location out-of-state by another state's department of motor vehicles or state law enforcement agency. For vehicles offered for sale at salvage pools, salvage disposal sales, or classic or antique vehicle auctions, and on which the VIN does not match the number recorded on the ownership records, the required inspection may be conducted at the location, or place of business, of such sale or auction by any state, county, or city law enforcement officer.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 4691, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 19 Ok Reg 431, eff 11-13-01 (emergency); Amended at 19 Ok Reg 864, eff 3-4-02 (emergency); Amended at 19 Ok Reg 2441, eff 6-27-02; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 24 Ok Reg 2375, eff 6-25-07]

PART 5. CERTIFICATES OF TITLE

710:60-5-50. Incorporation by reference

(a) **Reference to automotive reference material.** When reference is made to "book value" or "sales value", it shall mean, unless the context clearly indicates otherwise, the automotive reference material prescribed by the Oklahoma Tax Commission for use in determining the average retail price value for purposes of registering and titling motor vehicles in this state, set out in the contract between the Commission and N.A.D.A. Official Use Car Guide Company, Inc. and delineated in the terms of P.O. Y052341, issued January 16, 2002.

(b) **Incorporation.** The following publications are, unless otherwise specifically provided, incorporated by reference in their entirety:

- (1) N.A.D.A. Official Used Car Guide;
- (2) N.A.D.A. Official Older Used Car Guide;
- (3) N.A.D.A./ATD Official Commercial Truck Guide;

(4) N.A.D.A. Motorcycle/Snowmobile/ATV/Personal Watercraft Appraisal Guide; and,

(5) N.A.D.A. Recreation Vehicle Appraisal Guide.

(c) **Inclusion of citations and definitions.** When a provision of the prescribed automotive reference material is incorporated by reference, all citations and definitions contained therein are also incorporated by reference.

(d) **Inconsistencies or duplication.** In the case of any inconsistency or duplication between the requirements of those provisions incorporated by reference in this Section, and the rules set out in this Chapter, the provisions incorporated by reference shall prevail, except where the rules in this Subchapter are more particular. The provisions incorporated by reference are subject to any limitations provided by Oklahoma law.

(e) **Effective dates.** The provisions of this Section shall be operative beginning February 1, 2002.

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92; Added at 18 Ok Reg 878, eff 2-23-01 (emergency); Added at 18 Ok Reg 1340, eff 5-11-01; Amended at 19 Ok Reg 431, eff 11-13-01 (emergency); Amended at 19 Ok Reg 864, eff 3-4-02 (emergency); Amended at 19 Ok Reg 2441, eff 6-27-02]

710:60-5-51. Original certificate of title

(a) **Completed application required.** An application for Oklahoma Certificate of Title must be completed and forwarded to the Commission upon application for an original Oklahoma title.

(b) **Manufacturer's statement of origin.** A Manufacturer's Statement of Origin (MSO) must accompany the title to a vehicle which has never been titled or registered. If no MSO has yet been provided to the owner at time of initial title application, an original Oklahoma title may be placed on document hold upon presentation of ownership documentation acceptable to the Commission, such as a completed contract of sale from the selling dealership.

(c) **Out-of-state titles; negotiable titles; memorandum titles.** When issuing an original title from an out-of-state title to the individual whose name appears on the face, all information must be correctly transcribed from the out-of-state title. When presented with any document other than a negotiable out-of-state title, the Oklahoma title will be placed on document hold and not be released until the negotiable out-of-state title is surrendered. When the Oklahoma title is to be placed on document hold, the applicant is to be asked whether the vehicle is subject to any lien and, if so, is to complete an affidavit outlining the lienholder information. When an out-of-state title is submitted reflecting a secured party, the lien will be carried forward to the Oklahoma record, as outlined in OAC 710:60-5-113. If the negotiable out-of-state title is being held by the secured party, the owner of the vehicle shall file an affidavit with the Commission or the motor license agent stating that title to the vehicle is being held by a secured party and has not been issued pursuant to the laws of the state where titled, and that there is an existing lien or encumbrance on the vehicle. The current name and address of the secured party or lienholder shall also be stated in the affidavit. The form of the affidavit shall be prescribed by the Oklahoma Tax Commission. In most instances, negotiable titles are those containing ownership assignment sections. Lack of assignments ordinarily indicates the title is non-negotiable.

(d) **Assigned or reassigned out-of-state titles.** An out-of-state title which has been properly assigned or reassigned is acceptable ownership documentation to qualify for issuance of an original Oklahoma title. Notarization is required on any assignment completed in a state that requires such notarization.

(e) **Title issued only to assignee.** Under no circumstances shall an Oklahoma Certificate of Title be issued to an individual(s) or entity other than to whom the assignment is made.

(f) **Actual sales price.** The actual sales price, commonly referred to as "purchase price", is required for any vehicle on which an Oklahoma title is to be issued and excise tax and/or sales tax collected. The documentation described in this subsection is required to establish the actual sales price:

(1) For new vehicles, a purchase contract or bill of sale from the selling dealer will be required.

(2) For used vehicles, a purchase contract or bill of sale will be required. If neither of these documents is available, a "Declaration of Vehicle Purchase Price" must be completed by the purchaser. The vehicle purchase price indicated by the purchase contract, bill of sale or Declaration of Vehicle Purchase Price is the amount to be utilized for purposes of calculation of motor vehicle excise and sales taxes even under circumstances when a different amount has been entered in the vehicle assignment portion of the certificate of title.

(3) A purchase contract or bill of sale offered only to establish the actual sales price pursuant to this subsection, and not to convey ownership, need not be notarized.

(g) **IRP registration title hold.** When an applicant for an original Oklahoma title does not complete a registration transaction at that time, due to a declaration of intent to subsequently register the vehicle under the International Registration Plan (IRP), the Oklahoma title will be placed on hold until that registration transaction is completed and confirmed.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 10 Ok Reg 3843, eff 7-12-93; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 35 Ok Reg 2085, eff 9-14-18; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-5-52. Insurance loss

An insurance company, obtaining a title in its name to a vehicle on which it has paid a loss and which was currently registered at the time of loss, is not required to pay any registration fees, sales taxes, or excise taxes upon the submission of a police report or insurance adjuster's report and a declaration by the insurer that the vehicle is held for sale to a dealer.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-5-53. Salvage titles

(a) **Salvage vehicle defined.** A salvage vehicle is a vehicle ten (10) model years and newer which has been damaged by collision or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value at the time of loss.

(b) **Determining classification as a salvage vehicle.** To determine the 10 year model age limit for this purpose, subtract 9 from the current latest manufacturer's model on sale. July 1 is the generally accepted date that new model vehicles go on sale. For example, prior to July 1, 2006, the latest manufacturer's model on sale were 2006 models. Therefore, during the one (1) year period ending June 30, 2006 (7/1/05 through 6/30/06), a ten year old vehicle would have been a 1997 (2006-9) model. During that period, 1996 and older models were exempt from the salvage requirements. Beginning July 1, 2006, 2007 model vehicles officially (per this

guideline) went on sale, resulting in 1997 models becoming exempt from the salvage requirements. This formula for determining the age of a model year will apply to all such determinations regarding salvage and rebuilt vehicles.

(c) **Change of classification.** Vehicles over 10 model years old may go in to, or come out of, salvage at any time. No inspection is required to bring such vehicles out of salvage.

(d) **Out-of-state salvage titles.** Vehicles over 10 model years old entering Oklahoma with an out-of-state salvage title may receive either a salvage title or standard (green) title with a salvage date listed.

(e) **Notification by insurance companies.** An insurance company paying a loss on a vehicle where the cost of repairing the vehicle for safe operation on the highway exceeds 60% of its market value, or pays a claim for a flood-damaged vehicle as defined in 47 O.S. § 1105, is required to notify the vehicle owner to surrender the title to the Oklahoma Tax Commission or a motor license agent so that it may be replaced by a salvage title. The Motor Vehicle Division will also be notified by the insurance company. The notice shall include the estimated total damage percentage determination of the actual cash value made by the insurance company to repair the vehicle for safe operation on the highway.

(f) **Transfer title to insurance company on payment of total loss due to theft; removal of salvage notation.** The ownership of any unrecovered vehicle which has been declared a total loss by an insurer because of theft shall be transferred to the insurer by an unrecovered-theft vehicle title; provided, the ownership of any such vehicle which has been declared a total loss by an insurer licensed by the Oklahoma Insurance Department and maintaining a multi-state motor vehicle salvage processing center in this state shall be transferred to the insurer by a salvage or an unrecovered-theft title without the requirement of a visual inspection of the vehicle identification number by the insurer. Should a vehicle for which the Oklahoma certificate of title has been placed on serial inspection hold be stolen and a total loss paid to the owner by an insurer pursuant to the process outlined in this paragraph, an unrecovered theft salvage transfer title may be issued in the name of the insurer, but placed on serial inspection hold pending recovery of the vehicle and confirmation of the vehicle identification number. Upon recovery of the vehicle, the ownership shall be transferred by an original title, salvage title, or junked title, as may be appropriate based upon an estimate of the amount of loss submitted by the insurer.

(g) **License plate not affected by salvage classification; current registration generally required.** The license plate from a vehicle entering salvage status need not be surrendered. However, registration must be current on a vehicle entering salvage status, unless it is being titled by a salvage dealer.

(h) **Flood damaged brand.** A salvage or rebuilt vehicle which was damaged by flooding, or a vehicle which was submerged at a level to or above the dashboard of the vehicle and on which an amount of loss was paid by the insurer, shall have the notation "Flood Damaged" listed on the face of the Oklahoma title.

(i) **Multi-state motor vehicle salvage processing centers.** Insurance companies licensed by the Oklahoma Insurance Department and which maintain a multi-state motor vehicle salvage processing center in this state may be issued an Oklahoma original salvage title on an unrecovered stolen vehicle without a visual inspection of the vehicle identification number (VIN) or odometer. For a vehicle to qualify, the following conditions must be met:

- (1) The vehicle has been stolen and not yet recovered;

- (2) An out-of-state title, assigned to the qualifying insurance company, must be submitted. An Oklahoma title may not be issued if an existing Oklahoma title record is on file reflecting a VIN inspection "hold"; and,
- (3) One of the following documents, verifying the theft of the vehicle, must be submitted:
 - (A) Stolen vehicle report;
 - (B) Insurer's proof of loss; or,
 - (C) A statement from the insurer verifying that the vehicle was stolen and has not yet been recovered.

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 20 Ok Reg 2173, eff 6-26-03; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 31 Ok Reg 2436, eff 9-12-14]

710:60-5-54. Rebuilt titles

- (a) A salvage vehicle ten (10) model years old or newer, that has been repaired to a roadworthy condition must undergo a rebuilt vehicle inspection by a Motor License Agent before it may be put into use.
- (b) The vehicle owner must complete a "Rebuilt Vehicle Inspection Request" (OTC Form 788-B) and submit it to the Motor License Agent.
- (c) If an assigned serial number is needed, the owner must contact the Oklahoma Tax Commission Motor Vehicle Division, Title Section.
- (d) The assigned serial number must be permanently affixed to the vehicle before the rebuilt inspection is performed.
- (e) The Motor License Agent will designate the date, time and location of the inspection within ten (10) working days of receipt of the request.
- (f) If the inspection location is not the place of business of the rebuilder, the Motor License Agent shall issue an "Authorization for Travel and Inspection" (OTC Form 788-C), authorizing the applicant to operate the vehicle en route to and from the location for the inspection. This form does not relieve the operator of the vehicle from the Oklahoma Financial Responsibility laws, nor does it allow the operation of the vehicle without a current safety inspection.
- (g) The inspection is to be performed by the Motor License Agent or by persons employed by the Motor License Agent.
- (h) All vehicle damage shall be repaired before the examination is conducted.
- (i) The rebuilt vehicle inspection shall consist of all the following:
 - (1) Comparison of the vehicle identification number (VIN) with the number recorded on the ownership records.
 - (2) Inspection of the vehicle identification number and the VIN plate to detect possible alteration or other fraud.
 - (3) Interpretation of the vehicle identification number recorded on the ownership documents to assure that it accurately describes the motor vehicle in question. Motor License Agents are to use the VIN analysis system (VINA) incorporated into the Motor Vehicle Computer System, to verify that the VIN accurately describes the motor vehicle.
 - (4) Inspection of the odometer of the vehicle to detect rollback or alteration.
- (j) The owner of the vehicle shall present to the Motor License Agent:
 - (1) The salvage title;
 - (2) Receipts for all parts placed on the vehicle. The Agent shall validate the parts used and return the receipts to the owner; and,
 - (3) Proof of current liability insurance. An "Affidavit of Non-Use In Lieu of Liability Insurance" (OTC Form 797) is not acceptable.

(k) The Motor License Agent or employee will entirely complete a "Rebuilt Vehicle Inspection" (OTC Form 788-A). The entire inspection is to be completed, even if the vehicle fails one or more portions of it. If a vehicle fails a rebuilt inspection, the Motor License Agent shall contact the Motor Vehicle Division, Title Corrections, to ensure placement of a "stop flag" on the vehicle record.

(l) If a vehicle fails a rebuilt inspection:

(1) An Oklahoma rebuilt title will not be issued unless written authorization for issuance of a rebuilt title is obtained from an Oklahoma law enforcement agency.

(2) The original (top) copy of the OTC Form 788-A is given to the vehicle owner.

(m) If a vehicle which has previously failed a rebuilt inspection is issued written authorization for issuance of a rebuilt title by an Oklahoma law enforcement agency, the owner must:

(1) Return to the same Motor License Agency that performed the rebuilt inspection;

(2) Submit the original (top) copy of the OTC Form 788-A; and

(3) Submit the letter from the Oklahoma law enforcement agency authorizing the rebuilt title issuance.

(n) The Motor License Agent must contact the Motor Vehicle Division, Title Section, for authorization to issue the rebuilt title and for removal of the "stop flag" from the vehicle record.

(o) If a vehicle passes the inspection, the original (top) copy of the OTC Form 788-A is to be attached as supporting documentation to the rebuilt title receipt submitted in the Motor License Agent's semi-monthly report.

(p) The second (bottom) copy of the OTC Form 788-A is retained by the Motor License Agent regardless of whether the vehicle passes or fails the inspection.

(q) The rebuilt inspection fee is paid only at the time the rebuilt title is issued. If the owner refuses to title and register the vehicle when the inspection is completed and passed at the inspecting agency, the Motor License Agent is not to release the original (top) copy of OTC Form 788-A to the owner.

(r) The Motor License Agent may not be held liable for any damage to the vehicle occurring during the performance of the inspection, however the Motor License Agent may be held liable for any damage to the vehicle caused by negligent acts or omissions in the performance of the inspection.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 17 Ok Reg 2160, eff 6-11-00; Amended at 19 Ok Reg 1849, eff 6-13-02]

710:60-5-55. Junked titles

(a) **Junked title defined.** A junked vehicle is any vehicle which is incapable of operation or use on the highway, has no resale value except as a source of parts or scrap and has an eighty percent (80%) loss in fair market value.

(b) **Out-of-state junked titles; junked title permanent classification.** Any vehicle which is a junked vehicle or is specified as a junked vehicle or the equivalent thereof on a certificate of title from another state is to receive an Oklahoma Junked Title. Once a Junked Title is issued on a vehicle, it will remain as such permanently.

(c) **Procedure for cancellation of title for junked vehicle.** The owner of any vehicle which is incapable of operation or use on the public roads and has no resale value except as parts, scrap or junk, may deliver the certificate of title to the Oklahoma Tax Commission, accompanied by an Affidavit for Cancellation of

Oklahoma Title (OTC Form 701-8). Upon verification that any perfected lien against the vehicle has been released and the registration is current, the certificate of title shall be cancelled. There is no charge to the vehicle owner for this cancellation. If unable to cancel the title, an explanation will be returned to the submitting owner.

(d) Subsequent transfer of ownership of vehicle for which title has been cancelled. Once a title is cancelled, no subsequent title or registration may be issued. Any subsequent transfers of ownership will be done so on a certificate of ownership (OTC Form 766). The format of this certificate is prescribed by the Oklahoma Tax Commission and furnished to all motor license agencies. Any form which contains all the information listed on the Oklahoma Tax Commission form will be acceptable.

(e) Inspection for absence of vehicle identification number. If there is no public VIN on the vehicle, it shall be inspected by a law enforcement officer to verify the absence of the number and the corresponding statement shall be signed by the officer on the certificate of ownership.

(f) Transfer of ownership for vehicles over ten model years old, or vehicles being sold to a scrap metal dealer, for which title is lost, cancelled or not available. Any vehicle over ten model years old which is not roadworthy and not capable of repair for operation or use on the roads and highways, or a vehicle which is being sold to a scrap metal dealer pursuant to 2 O.S. § 11-92, and on which the certificate of title has been lost, cancelled or otherwise not available, shall also transfer ownership by use of the certificate of ownership. The scrap metal dealer shall not provide payment for the vehicle until the certificate of ownership has been submitted to the Oklahoma Tax Commission or a motor license agent, and the vehicle is determined not to be stolen. Use of this transfer of ownership form will result in cancellation of the Oklahoma title, if it has not already been done. Unless being sold to a scrap metal dealer as referenced above, if the vehicle is ten (10) model years or newer, a certificate of ownership may not be utilized unless the title has previously been cancelled.

(g) Procedure for transfers by use of certificate of ownership. This certificate of ownership will be a three part form. The buyer and seller shall each retain a copy and within thirty (30) days of the transaction, the seller shall submit one copy to the Oklahoma Tax Commission or a motor license agent with the applicable fee. All requests for ownership transfer via certificate of ownership must be reviewed and approved by the Commission before processing. The Commission shall review the documentation and vehicle record to ensure the owner of record has submitted a properly completed certificate on an eligible vehicle. The record will be checked against NCIC files for the presence of a stolen vehicle record. If a stolen vehicle report is on file, the appropriate law enforcement agency will be contacted and the transaction will remain on hold, pending that agency's response. If an active lien is on file and the transaction is approved, the lienholder will be notified of the certificate of ownership transfer. If the transaction is not approved, an explanation will be returned to the submitting buyer and seller.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 34 Ok Reg 2079, eff 9-11-17; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-5-56. Classic titles

A Classic title will be issued to any motor vehicle which is twenty-five (25) model years old or older, with the exception of a junked vehicle.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92]

710:60-5-57. Duplicate certificate of title

(a) **Procedure for obtaining a duplicate certificate of title.** An Application for Duplicate Certificate of Title of Vehicle (form 701-7) is to be used when a vehicle owner has lost the title to a vehicle. Only the record owner may make such application. The applicant shall produce proper identification at the time of application.

(b) **Minimum information required for issuance of duplicate certificate of title.** In some instances, the applicant may not have all the information necessary to complete the application. Upon identification, the applicant is to sign the application, enter his name, address, ID number and current tag number, or, if not currently registered, the last tag number, decal and month of expiration. (Without this basic information no application can be accepted.)

(c) **Changes in duplicate certificate of title limited to address correction.** No information, other than the address, may be changed when issuing a duplicate title.

(d) **Current registration required.** Registration must be current in Oklahoma before a duplicate title may be issued. A duplicate title may be issued without current Oklahoma registration to a former resident who has relocated to another state and the title is being mailed to an out-of-state address designated by the requestor.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-5-58. Rental vehicle titles

Vehicles acquired by rental companies not to be rented for more than 90 days at a time, may be registered and titled by the rental agency exempt from excise tax and sales tax. An Oklahoma title branded "Rental Vehicle" will be issued. If the vehicle is sold less than one (1) year from date of issuance of the title, the rental agency must pay the excise tax plus a 20% penalty on such excise tax before transferring the vehicle, unless the vehicle is being transferred to the manufacturer or its financing company, to a franchised dealer of the same line/make of the vehicle to be transferred, or to anyone, if the vehicle is in a salvage condition (salvage or junk title).

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-5-59. Remanufactured vehicle titles

Remanufactured vehicle titles are issued for vehicles assembled by licensed vehicle remanufacturers, utilizing a new body along with original, reconditioned, or remanufactured parts, but which are not salvage, rebuilt, or junked vehicles.

[Source: Added at 18 Ok Reg 878, eff 2-23-01 (emergency); Added at 18 Ok Reg 1340, eff 5-11-01]

710:60-5-60. Vehicles purchased by foreign buyers pursuant to the Automotive Dismantlers and Part Recycler Act

The licensed seller of a vehicle sold to a foreign buyer under the provisions of the Automotive Dismantlers and Parts Recycler Act shall stamp the title with: "**EXPORT ONLY. NONTRANSFERABLE IN THE UNITED STATES.**" The seller shall notify the Tax Commission, on a form prescribed by the Commission, of the title number, the vehicle identification number, and the foreign buyer's bid identification number. The Tax Commission will cancel the Oklahoma title, preserving the vehicle identification number in the Commission computer files for

a period of not less than five (5) years.

710:60-5-61. Unrecovered-theft title

An unrecovered-theft title may be issued to an insurance company that has paid a total loss on an unrecovered stolen vehicle. Provided, the ownership of any such vehicle which has been declared a total loss by an insurer licensed by the Oklahoma Insurance Department and maintaining a multi-state motor vehicle salvage processing center in this state shall be transferred to the insurer by a salvage or an unrecovered-theft title without the requirement of a visual inspection of the vehicle identification number by the insurer.

(1) **Documentation required.** The requesting insurance company must provide at least one of the following three (3) documents at time of application for an unrecovered-theft title:

- (A) Stolen vehicle report;
- (B) Insurer's proof of loss; or
- (C) Statement from insurer confirming unrecovered theft.

(2) **Subsequent recovery of vehicle.** When/if an unrecovered-theft titled vehicle is subsequently recovered, the appropriate title type (i.e. standard, salvage or junk) is to be issued, based on the amount of damage, if any. A letterhead statement from the insurance company, declaring the percentage of damage, is required to support the type of new title issued. Regardless of type, the new title will be branded "recovered-theft".

(3) **Subsequent owner unable to obtain insurance company damage declaration.** Should the subsequent owner/possessor of the recovered, unrecovered-theft titled vehicle claim the recovering insurance company has refused to provide the damage declaration outlined under paragraph (2) of this subsection and it is their contention the vehicle has suffered less than a total loss, the owner/possessor may:

- (A) Obtain from the Motor Vehicle Division a prepared letter of instruction, outlining the Oklahoma statutory damage declaration obligation of a recovering insurance company. The owner/possessor is to send that letter via certified mail, return receipt requested, to the recovering insurance company, along with a request for their compliance. A damage declaration from the recovering insurance company received in response to such correspondence will be processed as outlined in paragraph (2) of this subsection.
- (B) Should the recovering insurance company respond with a written refusal of the request to provide a damage declaration, or no response is returned by the recovering insurance company within thirty (30) days of delivery of the request, as evidenced by the certified mail return receipt, the owner/possessor may establish the level of damage to the vehicle by providing a formal, written cost estimate to repair the vehicle to a roadworthy condition from a certified mechanic &/or body shop (business - not individual), or certified appraiser (i.e. insurance damage appraiser), that is not affiliated with the prospective owner/possessor. Upon review and approval by the Commission, such damage estimate will be utilized to make the appropriate title type determination. Regardless of type, the new title will be branded "recovered-theft".

710:60-5-62. Lemon law buyback title brand

Any manufacturer reacquiring or assisting a dealer or lienholder in reacquiring a motor vehicle registered in this state shall, prior to any sale, lease or transfer of the vehicle in this state, or prior to exporting the vehicle to another state, shall retitle the vehicle in the name of the manufacturer and the certificate of title shall be branded with the notation "Lemon Law Buyback". Any branding of a title as a "Lemon Law Buyback" shall remain permanently on the title.

[Source: Added at 27 Ok Reg 2293, eff 7-11-10; Amended at 37 Ok Reg 2233, eff 9-11-20]

710:60-5-63. Drug manufacture vehicle brand

Any law enforcement agency in this state that seizes a vehicle in which a controlled dangerous substance has been manufactured and such vehicle is subsequently forfeited pursuant to Section 2-503 of Title 63 of the Oklahoma Statutes may request that the Oklahoma Tax Commission brand the certificate of title with the notation "Drug Manufacture Vehicle". A written request from the state law enforcement agency with proper jurisdiction over the forfeited vehicle must be submitted to the Commission.

[Source: Added at 28 Ok Reg 1839, eff 6-25-11]

710:60-5-64. Rebodyed titles

(a) **Rebodyed vehicle defined.** A "rebodyed vehicle" is a vehicle which has been assembled using a new body or new major component which is of the identical type as the original vehicle and is licensed by the manufacturer of the original vehicle and other original, new or reconditioned parts. For purposes of this definition, "**new body or new major component**" means a new body, cab, frame, front end clip or rear end clip. A rebodied vehicle may not be a salvage, rebuilt, or junked vehicle as defined by paragraph 1, 2, or 5 of subsection A of Section 1105 of Title 47. A rebodied vehicle is assigned a new identification number by the Tax Commission.

(b) **Title color and notations.** Rebodyed vehicle certificates of title are of a distinctive color and will display the year, make and model of the originally manufactured vehicle which has been rebodied. The face of the title certificate will reflect "REBODIED", as well as the notation "This vehicle has been assembled with new major components licensed by the original manufacturer".

(c) **Subsequent change of title type.** If a rebodied titled vehicle goes into salvage, rebuilt or junked title status, that new title type and color will take precedence over the rebodied title type. Regardless of subsequent title type(s), a rebodied brand notation will remain on the record.

(d) **Application for rebodied title.** Applicants for a rebodied certificate of title must complete an Affidavit of Rebodyed Vehicle (OTC Form 761B), providing all information and documentation as described thereon, including appropriate ownership documentation for the components referenced on the affidavit. All rebodied title applications are to be submitted to the Motor Vehicle Division for review and approval. Following review, the Division will return the affidavit and documentation to the applicant with either titling instructions, or an explanation of denial.

(1) **Original vehicle titling requirement.** The original (base) vehicle - i.e. the vehicle which is being reconstructed and will reflect as the year, make and model on the rebodied certificate of title - must be titled in Oklahoma in the name of the applicant before application for a rebodied title may be

made for the finished vehicle. This base vehicle titling requirement applies to all applicants, including those possessing an Oklahoma used vehicle dealer license.

(2) **Assignment and verification of vehicle identification number.** The Division will designate the new vehicle identification number (VIN) which is to be affixed to the vehicle. The Division will assign either an Oklahoma assigned number, or designate the identification number of a new, licensed, major component of the vehicle as the identification number to be utilized for the rebodied vehicle. The identification number assigned by the Division will be considered the valid vehicle identification number (VIN) for that vehicle and is to be affixed to the vehicle in the manner and location determined by the Division. The rebodied vehicle must be inspected by a motor license agent to confirm the assigned vehicle identification number (VIN), before a rebodied title will be issued. A rebodied title may not be placed on serial inspection hold.

(3) **Active liens.** If an active lien is reflected on any serial or vehicle identification number (VIN) of a component used to build a rebodied vehicle, the following will apply:

(A) The applicant must provide either a proper lien release(s), or written acknowledgement from the active lienholder(s) of their knowledge of the application for a rebodied vehicle which will display a newly assigned VIN and their understanding that any other liens reflected on other components of the rebodied vehicle will also be reflected on the vehicle record, listed in order of original perfection date.

(B) Upon receipt of the lienholder acknowledgement, the Motor Vehicle Division will issue a revised lien entry form, reflecting the newly assigned vehicle identification number and will forward copies of the entry forms and written notification of the new vehicle identification number (VIN) to any lienholder of record in the Division's files.

(4) **Recognition of model year designation.** For purposes of tax/fee assessment and odometer disclosure requirements, a rebodied vehicle is to be considered as a vehicle of the model year that is reflected on the rebodied certificate of title.

[Source: Amended at 29 Ok Reg 532, eff 5-11-12]

710:60-5-65. Insurance fraud forfeiture sale

Requests for issuance of an Oklahoma title resulting from an insurance fraud forfeiture sale pursuant to the provisions of 36 O.S. § 365 must be reviewed by the Oklahoma Tax Commission to ensure compliance with the conditions therein.

[Source: Added at 30 Ok Reg 1861, eff 7-11-13]

710:60-5-66. Stolen vehicle notification

Pending title transactions will be checked against a national stolen vehicle database, such as NCIC or NICB, for the presence of a stolen vehicle record. If a stolen vehicle report is on file, the appropriate law enforcement agency will be contacted and the title transaction placed on hold, pending that agency's response. If no response is received within the time period established by the Commission, the title transaction hold will be released.

[Source: Added at 32 Ok Reg 1363, eff 8-27-15]

PART 7. TRANSFER OF TITLE

710:60-5-70. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-5-71. General provisions; assignments; liens; registration; notice of transfer

(a) **Transfer of title.** In most instances, an Oklahoma transfer title is issued upon receipt of a properly assigned and notarized Oklahoma title and proof of liability insurance. Assignments of Oklahoma certificates of title to, or by, out-of-state dealers located in non-notary states are not required to be notarized. No notarization is required on an assignment of ownership to an insurer resulting from the settlement of a total loss claim. Other instances where a transfer title may be issued are covered in the following subsections.

(b) **Use of assignment space provided on title document.** The first assignment space on an Oklahoma title is to be used by the owner on the face of the title to assign ownership. The subsequent reassignment spaces may be used by appropriately licensed Oklahoma dealers only. Retail implement dealers may reassign ownership on Oklahoma certificates of title for all-terrain vehicles, utility vehicles and off-road motorcycles. Should an assigned Oklahoma certificate of title be presented in application for an Oklahoma title and that certificate reflects a previous ownership assignment that was never completed via issuance of an Oklahoma title, the Motor Vehicle Division may approve a certificate of title to be issued directly to the most recent assignee; provided both assignments are properly completed and all taxes, fees and delinquent penalties due in regard to the previous assignment are collected, in addition to those due on the most recent assignment.

(c) **Liens transfer.** Any active liens indicated on the face of an assigned Oklahoma title will be carried forward to the transfer title being issued unless a lien release is presented.

(d) **Current registration required; exceptions.** Registration must be current on a vehicle before a transfer title may be issued, unless the vehicle is in a salvage or junked status. Licensed used motor vehicle dealers are exempt from this requirement when transferring to other licensed dealers, provided the vehicle was currently registered, or in the registration expiration grace month, when it was assigned to the first dealer. Salvage dealers are exempt from registration requirements when obtaining salvage or junked titles.

(e) **Actual sales price documentation.** The actual sales price is required for any vehicle on which an Oklahoma title is to be issued and excise tax and/or sales tax collected. The actual sales price is commonly referred to as the "purchase price". One of the following documents is required to establish the actual sales price:

- (1) A purchase contract;
- (2) A bill of sale;
- (3) A "Declaration of Vehicle Purchase Price"; or
- (4) Oklahoma title certificate, with a purchase price entry listing where indicated;
- (5) A purchase contract or bill of sale offered only to establish purchase price pursuant to this subsection, and not to convey ownership, need not be notarized.

(f) **Notice of Transfer of Ownership of a Vehicle.** The seller or buyer of a motor vehicle may file a Notice of Transfer of Ownership of a Vehicle to record the assignment of ownership in the Oklahoma Tax Commission Motor Vehicle Division computer system. The filing of Notices of Transfer is optional. The filing of the Notice of Transfer does not constitute a transfer of ownership and does not alleviate the buyer/new owner of the responsibility of properly and timely transferring title and paying all applicable taxes and fees. To be acceptable, notices must be submitted containing all required information. Incomplete forms will not be filed. There are two (2) acceptable types of notice:

(1) Seller or buyers may submit a **Notice of Transfer of Ownership of a Vehicle** and the appropriate statutory filing fee to the Oklahoma Tax Commission or a motor license agent.

(2) Effective January 2006, a removable tear-off tab, **Oklahoma Certificate of Title Tear-Off Notice of Transfer Tab**, was incorporated on Oklahoma vehicle title certificates. This tab, properly completed, is to be accepted and processed in the same manner as the Notice of Transfer of Ownership of a Vehicle Form.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 30 Ok Reg 1861, eff 7-11-13; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-5-72. Motor Vehicle Tax Stamp

(a) **Tax stamps required on assignment of vehicle.** A motor vehicle tax stamp is required to be affixed by the selling new or used licensed dealer upon assignment of ownership in the following situations:

(1) **New Vehicles:** All vehicles except buses and commercial trailers. This includes boats, motors, and manufactured homes.

(2) **Used Vehicles:** All vehicles except manufactured homes and commercial trailers.

(b) **Tax stamps required on dealer to dealer transfers.** The tax stamp is required in the above situations on all assignments, including to other dealers, except commercial trailers and manufactured homes.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94]

710:60-5-73. Odometer disclosure

(a) **Federal Truth in Mileage Act.** Effective on all transfers of ownership of motor vehicles (see exceptions below) dated on or after April 29, 1989, specific odometer disclosure information is required. All transfers must contain the following:

(1) Odometer reading at time of transfer (no tenths of mile).

(2) The date of transfer.

(3) The seller's printed name (must be individual - no company name), signature and address.

(4) The buyer's printed name (must be individual - no company name), signature and address.

(5) Vehicle information including make, model year, body type and VIN.

(6) The seller shall also certify to the best of his/her knowledge whether the odometer reading:

(A) Reflects the actual mileage.

(B) Does not reflect the actual mileage.

(C) Is in excess of the mechanical limits of the odometer.

(b) **Exemptions.** Vehicles and situations which are exempt from the odometer disclosure requirements are:

- (1) Vehicles which are not self-propelled, such as trailers.
- (2) Transfers of new vehicles from dealer to dealer on the MSO.
- (3) Vehicles which are ten (10) years old or older. To make this determination, subtract ten (10) from the current calendar year.
- (4) Vehicles with a gross vehicle weight rating over 16,000 lbs. Any truck over 2 tons is exempt.
- (5) Vehicles purchased in another country.
- (6) Transfers resulting from involuntary divestitures, such as court orders and repossessions.
- (7) Transfers to record a name change (same individual), only.
- (8) Transfers between a revocable trust and a trustee of that trust.
- (9) All-terrain vehicles and off-road motorcycles.
- (10) Low-speed electrical vehicles.
- (11) Medium-speed electric vehicles.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 15 Ok Reg 4314, eff 9-16-98 (emergency); Amended at 16 Ok Reg 2650, eff 6-25-99; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 26 Ok Reg 2344, eff 6-25-09]

710:60-5-74. Odometer brands

(a) **Types of odometer brands.** There are four (4) brands utilized on the face of a title to characterize the odometer reading. They are as follows:

- (1) Actual
- (2) Not Actual
- (3) Exceeds mechanical limits, and
- (4) Odometer discrepancy

(b) **Use of odometer brands.** The odometer discrepancy is to be used if the mileage figure verified in the odometer disclosure statement is less than the mileage depicted on the title to be transferred. When utilized, this brand will be in addition to whatever brand results from the odometer disclosure statement (actual, not actual, exceeds mechanical limits). For example, if the buyer and seller indicate on the odometer disclosure statement that the mileage listed on it is the actual mileage of the vehicle, even though the figure listed on the disclosure statement is less than that depicted on the assigned title, the brand of "Actual" will be listed on the face of the new title. However, in that situation, it is the responsibility of the motor license agent to also encode the additional brand of "Odometer Discrepancy." The resulting title would have both odometer brands, "Actual" and "Odometer Discrepancy" listed on it.

(c) **Vehicle inspection considered disclosure.** The inspection required in Title 47 O.S. § 1105(L) shall be considered a disclosure statement for the purpose of employing the "Odometer Discrepancy" brand on vehicles less than ten (10) model years old. If the inspected mileage is less than that depicted on the face of the surrendered out-of-state title, the brand "Odometer Discrepancy" is to be listed on the face of the Oklahoma title issued.

(d) **Odometer brands on vehicles entering from another state.** When a motor vehicle enters from another state and the surrendered title reflects an odometer brand of Not Actual; Exceeds Mechanical Limits; or Odometer Discrepancy, such brand is to be carried forward to the Oklahoma title record. When a vehicle enters from another state with no change of ownership and an odometer brand of Actual,

no odometer brand is to be carried to the Oklahoma title record, unless the Odometer Discrepancy provisions described in subsection (c) apply.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 32 Ok Reg 1363, eff 8-27-15]

710:60-5-75. General odometer disclosure information

(a) Eventually, virtually all certificates of title issued in the United States will contain the required odometer disclosure statements. However, separate statements will remain in use for quite some time, as older style titles will remain in circulation.

(b) All Oklahoma certificates of title, with the exception of boat or motor and junked titles, issued on or after January 1, 1990, contain the odometer disclosure statements as part of the assignment on the reverse side of the certificate.

(c) A separate odometer disclosure statement, properly completed and signed by both buyer and seller, may be used to correct an error made on the odometer statements on the title itself upon approval by the Oklahoma Tax Commission.

(d) On titles containing odometer disclosure statements, only the seller's name must be witnessed by the notary public.

(e) **Odometer figure entry on motor vehicles entering from another state.** When a motor vehicle enters from another state reflecting an ownership change, the mileage from the accompanying odometer disclosure is to be entered to the Oklahoma title record. When a motor vehicle enters from another state with no change of ownership, the odometer reading from the inspection performed pursuant to 47 O.S. § 1105 is to be entered to the Oklahoma title record.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 32 Ok Reg 1363, eff 8-27-15]

710:60-5-76. Transfer of title upon divorce

When a motor vehicle has been awarded in a divorce action, the applicant must present a filed stamped copy of the decree. The decree must identify the vehicle by a Vehicle Identification Number (VIN).

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 38 Ok Reg 1536, eff 9-1-21]

710:60-5-77. Transfer of title upon death

(a) **Intestacy; transfer to surviving spouse.** When a person dies intestate leaving a vehicle, that vehicle becomes the property of the surviving spouse, if any. If the decedent held title to more than one (1) vehicle, the surviving spouse may choose one (1) vehicle. If there are additional vehicles, or there is no surviving spouse, the vehicles may be distributed by the law of descent, upon submission of a properly completed **No Administrator Affidavit** (OTC Form 798) and the death certificate of the deceased vehicle owner. (See: 84 O.S. § 232),

(b) **Testate.** When a decedent has left a Last Will and Testament, the will must be probated before any action may be taken regarding disposition of any vehicle owned by the deceased, unless the value of the estate is not more than \$50,000.00. Upon probate of the will, letters testamentary are ordinarily issued by the court, naming the individual or individuals responsible for administering the estate. The named administrator(s) may assign vehicle ownership on behalf of the deceased owner.

(1) When transferring a title where the assignment has been completed by the administrator or executor of an estate, a certified copy of the letters

testamentary, naming that individual as executor or administrator for the deceased's estate, is required to be submitted by the title applicant as supporting documentation for the title transaction.

(2) If not a qualifying family excise tax exempt transfer pursuant to 68 O.S. §2103(C), excise tax is exempt only if a copy of the probated will is provided, naming the applicant as the recipient of that specific vehicle.

(c) **Estate valued at no more than \$50,000.00.** When a decedent has left a will, but the value of the estate does not exceed Fifty Thousand Dollars (\$50,000.00), ownership of any vehicle(s) bequeathed in the decedent's will may be transferred to the successor of interest by completing a Small Estate Affidavit. (See: 58 O.S. § 393). In addition to the Affidavit, the following must be submitted:

(1) A copy of the decedent's death certificate.

(2) A copy of the decedent's unprobated will, naming the applicant as beneficiary of the vehicle.

(3) Either the title certificate in the decedent's name, or evidence from the Tax Commission vehicle title files that such a title record exists.

(d) **Transfer-on-death notice.** Effective November 1, 2016, the title of a motor vehicle that is not subject to any lien or other encumbrance may be transferred by filing with the Tax Commission a transfer-on-death (TOD) notice, signed by the transferor and designating the transferee. Such notice shall transfer ownership of the vehicle to the transferee upon the death of the transferor.

(1) The notice shall include:

(A) The vehicle identification number of the vehicle;

(B) The number of the license plate issued to the vehicle, if any;

(C) The full name and address of the transferor;

(D) The full name and address of the transferee; and

(E) The signature of the transferor. The signature or consent of or notice to the transferee shall not be required for any purpose during the lifetime of the transferor.

(2) The completed notice may be submitted to the Tax Commission by the transferor/owner at any time, to be recorded in the vehicle record file. The transferee designation may be revoked or changed at any time prior to the death of the transferor by filing an amended notice with the Commission. The transferee may disclaim any ownership interested in the vehicle by filing an amended notice with the Commission.

(3) Transfer-on-death notice is subject to the following limitations:

(A) TOD notices may be filed on motor vehicles only.

(B) Only the record owner(s), per the motor vehicle title files of the Oklahoma Tax Commission, may file a TOD notice.

(C) Ownership of a vehicle on which a TOD notice is to be filed must be in the name of an individual or individuals.

(D) If current ownership reflects multiple individuals joined by "and", all must sign the TOD filing notice. If joined by "or", any single owner may sign the TOD filing notice.

(E) If current ownership reflects multiple individuals, regardless of whether joined by "and" or "or", all must be deceased before a transfer of ownership to the TOD transferee may be completed.

(F) Ownership on a transfer title issued to the TOD transferee is to be entered exactly as designated by the transferor on the TOD notice filing. Any desired change by the transferee must be accomplished on a separate and subsequent title transaction

completed by the transferee.

(G) Excise tax is not to be assessed when issuing title to a TOD transferee.

(H) Filing of a TOD notice will supersede any TOD notation reflected on a previously issued title certificate.

(4) Unless revoked by the transferor or transferee, once a TOD is filed to the motor vehicle record, it will remain in effect until the resulting transfer of ownership to the transferee is completed, or until another event precipitating cancellation of the transfer-on-death filing occurs. Presentation of deceased transferor's Last Will and Testament reflecting other disposition of the vehicle does not cancel the TOD notice filing. TOD notice cancelling events include:

(A) Transfer of ownership of the vehicle by the transferor owner.

(B) Transfer of ownership of the vehicle by court order, sheriff's sale, or possessory lien action.

(C) Transfer of ownership of the vehicle by issuance of a repossession title

(D) Subsequent filing of a TOD notice by the owner/transferor, which will replace any previously filed notice.

(E) Presence of active lien on the vehicle record at time transferee files an affidavit to accept title to the vehicle following death of transferor.

(F) Cancellation of the Oklahoma title resulting from notice of subsequent titling of vehicle in another state.

(G) Death of transferee prior to transferor. In the event transferee's death follows transferor's, but before a transfer of vehicle ownership to the transferee has been completed, transferee's ownership interest in the vehicle belongs to the transferee's estate.

(5) To accept the certificate of title of a motor vehicle pursuant to a properly filed transfer-on-death notice, the designated transferee shall execute an affidavit verifying the death of the transferor owner and submit the affidavit, along with a copy of the death certificate of the owner and appropriate transfer fees, to the Tax Commission. Following review of the documentation and confirmation no active liens are present on the vehicle file, a transfer title will be issued to the transferee.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 34 Ok Reg 2079, eff 9-11-17]

710:60-5-78. Procedures for handling assignment errors

Should an error be made in the assignment of a title or MSO, the following guidelines are to be adhered to:

(1) **Misspelled name.** Correction of minor misspelling in assignee's name will be allowed by printing correct spelling directly above, beside or below the error, depending on available space. The original spelling is not to be marked out or obliterated to the extent it is not legible. Doing so will void that document.

(2) **Error in address.** Corrections in assignee's address may also be made in the above manner.

(3) **Signature on wrong line.** If a seller and/or notary sign on wrong line, a correction may be made by drawing an arrow from the signature to the

proper line. Evidence of erasure or liquid correction fluid anywhere on an MSO/title voids that document.

(4) **Deletions or additions.** A name may **not** be deleted from an assignment. Only the seller may add a name to an assignment.

(5) **Change of date of assignment.** Changes in assignment date will be allowed by affidavit only in the following circumstances:

(A) Date obviously incorrect (wrong year, assignment date prior to title issuance date, etc.

(B) Change in date does not affect taxes and/or penalties due and does not conflict with perfected lien date.

(6) **Procedure for voiding initial assignment and reissuing another assignment.** If a seller wishes to void the first assignment and reassign to different individual in the next available assignment block because the first assignment was made on the wrong MSO/title, a notarized affidavit of fact will be required from the seller along with a photocopy of the properly assigned MSO/title to individual in the first assignment.

(7) **Procedure for voiding an assignment where transaction is not completed.** If a seller wishes to void an assignment due to the transaction not being completed and delivery of the vehicle never taking place, an affidavit of fact must be prepared by him explaining the circumstances. If the vehicle was ever physically delivered to the purchaser, the transaction was complete for the purposes of ownership transfer and all taxes and fees are due, regardless of what transpired thereafter. If the vehicle was never delivered to the purchaser, as declared by the seller in the affidavit of fact, then that assignment may be voided by drawing one large "X" across the assignment. The voided assignment is not to be marked out or obliterated to the extent it is not legible. The MSO/title must then be properly reassigned in the next assignment block.

(8) **Procedure for licensed Oklahoma dealer voided transactions.** When physical delivery of a vehicle has been made by a licensed motor vehicle dealer pursuant to and upon the terms of an Oklahoma Motor Vehicle Commission and/or Oklahoma Used Motor Vehicle and Parts Commission approved Motor Vehicle Delivery Agreement Form which states that the terms of the transaction are dependent upon approval of financing, but the transaction is never completed and no assignment of the corresponding MSO or title ever occurs as a result of failure to secure said financing, the transaction shall be considered cancelled and no taxes or fees related to that cancelled ownership transfer transaction shall be due.

(9) **Effect of voiding title.** When an assignment is voided according to the listed guidelines, an Oklahoma title must be brought up in the next assignee's name, even if that entity would not ordinarily be required to do so (such as a dealer). This is to ensure that the circumstances involved are valid and approved under Oklahoma Tax Commission policy and to prevent the situation from becoming even more complicated due to the passage of time and inclusion of additional assignees.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 28 Ok Reg 1839, eff 6-25-11]

710:60-5-79. Transfer of ownership by third party

A title that has been assigned by a person other than the owner reflected on the face of the title must be accompanied by some form of authorization for the

assignment. Such authorization may be a power of attorney or court order.

(1) **Transfer by power of attorney.** When transferring a title where assignment has been made by power of attorney, the power of attorney (POA) must be presented with the assigned title.

(A) Unless otherwise noted below, an original copy, or a certified copy of the original must be surrendered. Faxes or photocopies are unacceptable.

(B) The POA must be notarized, if from a notary state

(C) If a general POA (not restricted to a specific vehicle or transaction), the original, or a certified copy of the original, must be presented to the motor license agent. The motor license agent may make a photocopy of the original for submission to OTC and return the original to applicant.

(D) If a specific POA (restricted to a specific vehicle or transaction), the original, or a certified copy of the original, must be surrendered to the motor license agent.

(E) A POA may not be utilized if the grantor is deceased.

(2) **Transfer by court order.** When transferring a title pursuant to a court order, a certified copy of the court order authorizing the transfer must be surrendered.

[Source: Added at 34 Ok Reg 2079, eff 9-11-17]

PART 9. AFFIDAVITS FOR USE IN TITLES

710:60-5-90. Affidavits for use in titles [REVOKED]

[Source: Added at 8 Ok Reg 3325, eff 7-8-91 (emergency); Added at 9 Ok Reg 1329, eff 2-28-92 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Revoked at 12 Ok Reg 2931, eff 7-14-95]

710:60-5-91. Affidavit of assembly and ownership

(a) **When Affidavit of Assembly and Ownership is required.** An Affidavit of Assembly and Ownership is required:

(1) When major components from two or more vehicles or motorcycles are being incorporated into a single unit.

(2) In applying for an Oklahoma title for a kit car that comes with a Manufacturer's Statement of Origin and an invoice.

(3) When a combination of new components with original (notarized) Manufacturer's Statements of Origin and used components with bills of sale, invoices or receipts are used to make one vehicle or motorcycle.

(b) **Documentation required.** Documentation required to support application for Oklahoma title using an Affidavit of Assembly and Ownership includes:

(1) **A completed Affidavit of Assembly and Ownership.** The applicant must complete the Affidavit of Assembly and Ownership and supporting documentation. Title or notarized bills of sale for all major components included on the affidavit must be submitted, listing the vehicle identification number (VIN) of the vehicle from which the part was removed.

(2) **A completed Application for Oklahoma Certificate of Title.** The applicant must complete the Application for Oklahoma Certificate of Title, as follows:

(A) The **year** to be listed on the certificate of title will be the year of the body or cab of the vehicle which is reconstructed.

- (B) The **make** of the vehicle will be noted as: "ASVE".
- (C) The **model** of the vehicle will be the three (3) or (4)-letter code reflected on the Oklahoma Certificate of Title of the appropriate component vehicle.
- (D) The **body type** of the vehicle will reflect the current body type of the vehicle. Example: 2DR
- (E) The Total Purchase Price will be the combined purchase price for all components, less those parts on which sales tax was paid.
- (F) Excise tax and/or sales tax due on the assembled vehicle will be determined as follows:
 - (i) Neither excise tax nor sales tax will be collected if the title was in the registrant's name on each of the major components used to build the current vehicle.
 - (ii) Excise tax and sales tax will be due upon transfer if the title was not in the registrant's name on each of the major components used to build the current vehicle.
- (G) The **year** of an assembled motorcycle is the current year (completion date).
- (H) The **make** of the assembled motorcycle will be "ASVE".
- (I) The **model** will be "O".
- (J) The **body type** will reflect "MC".

- (c) **Approval required.** Any application for title using the Affidavit of Assembly and Ownership must be approved by the Motor Vehicle Division. Such approval relates only to the issuance of an Oklahoma title and registration to the assembled vehicle. No attestation or confirmation of the roadworthiness of the vehicle is expressed or implied by the Division's approval.
- (d) **Inspection required.** Following approval of the application for title by the Motor Vehicle Division, the assembled vehicle or motorcycle must be inspected by a motor license agent to confirm the vehicle identification number (VIN).
- (e) **Oklahoma assigned identification number required.** An Oklahoma assigned identification number, when required for an assembled vehicle or motorcycle, shall be assigned by the Motor Vehicle Division.
- (f) **Active liens.** If an active lien is reflected on any vehicle identification number (VIN) of a component used to build a vehicle or motorcycle on which an Oklahoma assigned identification number has been, or will be, assigned, or on which an identification number from a major component has been, or will be, approved by the Commission to be assigned to the completed vehicle, the following will apply:
 - (1) The applicant must provide either a proper lien release(s), or written acknowledgement from the active lienholder(s) of their knowledge of the application for an assembled vehicle which will display a newly assigned VIN and their understanding that any other liens reflected on other components of the assembled vehicle will also be reflected on the vehicle record, listed in order of original perfection date.
 - (2) Upon receipt of the lienholder acknowledgement, the Motor Vehicle Division will issue a revised Lien Entry Form, reflecting the newly assigned vehicle identification number and will forward the forms and written notification of the new vehicle identification number (VIN) to any lienholder of record.
- (g) **No active liens.** If no liens are active on any vehicle identification number (VIN) used to build the vehicle or motorcycle, the approved Oklahoma Tax Commission Application for Title, Assembly and Ownership Affidavit, and all

original receipts and notarized bills of sale associated with the transaction may be submitted to an Oklahoma motor license agency for processing.

(h) **Issuance of title; tag and decal, if applicable.** At the time the Oklahoma Certificate of Title is issued, a current tag and decal will be issued also, if applicable. All plates and/or registration decals issued to any original vehicle or motorcycle used as a component for the rebuilt vehicle become invalid.

(i) **Major component.** For purposes of this Section, "**major component**" for a vehicle means a body, cab, frame, front end clip, or rear end clip. "Major component" for a motorcycle means a frame or front fork assembly.

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 28 Ok Reg 1839, eff 6-25-11; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 30 Ok Reg 1861, eff 7-11-13; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-5-92. Obtaining title for front end section or glider kit

(a) **Documentation required.** Documentation required to support application to acquire title for a front end section / glider kit includes:

(1) **A Manufacturer's Statement of Origin.** The applicant must present a Manufacturer's Statement of Origin for the front end section or glider kit, showing the new serial number and a complete description of the vehicle, including the model year.

(2) **Itemized invoice.** The applicant must also present an itemized invoice listing the front end section or glider kit, all new parts, labor, and the actual purchase price of all the new parts used, excluding federal excise tax. The invoice must show a completion date and set out a statement of facts describing the rebuilding of the vehicle, including, if applicable, reference to the old vehicle (and its serial number) from which "power train" components were obtained.

(3) **Application for Oklahoma Certificate of Title.** The applicant must submit a completed application for Oklahoma Certificate of Title (OTC Form 701-6).

(b) **Determination of taxable value.** Excise tax will be assessed against the combined purchase price of the glider kit components and any purchased vehicle to which the components were affixed, less the cost of any components on which sales tax was paid.

(c) **Issuance of new title; cancellation of prior title.** A new original title will be issued using the serial number of the glider kit as the Vehicle Identification Number (VIN). The model year shown on the new title will be the model year of the glider kit. The title and license plate of the old vehicle must be surrendered for cancellation at the time of registration of the rebuilt vehicle

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-5-93. Affidavit of body changes

If a vehicle is converted to another type, such as adding a fifth (5th) wheel to a truck to use as a truck tractor, a Body Change affidavit (OTC Form 701-9) must be completed. A title receipt showing the new designation and re-registration will be issued accordingly.

[Source: Added at 12 Ok Reg 2931, eff 7-14-95]

710:60-5-94. Transfer affidavit for use when assigned title is lost (OTC Form 777)

(a) **When Transfer Affidavit is used.** The purpose of the Transfer Affidavit (OTC Form 777) is to transfer a title when the assigned title has been lost and the previous owner cannot get a duplicate title and assign it to the purchaser. It must show the same information requested on the reverse side of the assigned title (assignment of title and reassignment by registered dealer).

(b) **Supporting documentation required.** The Transfer Affidavit (OTC Form 777) is acceptable only when accompanied by supporting documentation, such as a notarized Bill of Sale, canceled check, Sales Contract or notarized statement of a witness to the transaction.

(c) **Determining applicable taxes and fees.** If a lien had previously been perfected in the new owner's name, the date on the lien may be used as the date of sale in determining the applicable taxes and fees and whether penalties are due.

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01]

710:60-5-95. Repossession affidavit (OTC Form 737)

(a) **Documentation required.** An applicant for a repossession title must submit:

- (1) The actual or certified copy of the mortgage instrument;
 - (2) A completed Repossession Affidavit (OTC Form 737);
 - (3) A copy of the certified letter of notice to other lienholders, if applicable;
- and
- (4) A properly executed lien release.

(b) **Approval required.** All repossessions must be approved by the Motor Vehicle Division of the Oklahoma Tax Commission or a motor license agent.

(c) **Fees.** The mortgagee shall be required to pay statutory repossession and title fees. If the vehicle is not currently registered, the mortgagee shall be issued an initial license plate or decal bearing an expiration date of the month of repossession.

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-5-96. Ownership affidavit (OTC Form 753)

(a) **When Ownership Affidavit is used.** The Ownership Affidavit may be used upon Oklahoma Tax Commission approval, in situations where a title applicant is lacking normally required titling documentation, such as an assigned certificate of title, and no other party or lienholder can be identified as to ownership or claim. To employ the Ownership Affidavit process described herein, the vehicle must have been purchased by, or from, an Oklahoma resident.

(b) **Documentation required.** Unless otherwise authorized by the Oklahoma Tax Commission, an applicant using an Ownership Affidavit must present proof of purchase, not to exclude the Federal Odometer Disclosure Statement, if applicable. The proof of purchase must include the following:

- (1) Complete description of the vehicle, to include the year, make, and the complete vehicle identification number;
- (2) Seller's notarized signature;
- (3) Buyer's name and address; and
- (4) Date of sale (not the notary date).

(c) **Approval required.** Except for those specific procedural instances where pre-approval is not required, utilization of ownership affidavits must be approved by

the Motor Vehicle Division of the Oklahoma Tax Commission. Upon receipt of a completed Affidavit and supporting documentation, the Motor Vehicle Division will confirm the absence of an ownership and/or lienholder record. If such a record is located, titling by Ownership Affidavit alone will not be approved. If no record is located and the Affidavit approved, a physical inspection and confirmation of the vehicle's identification number must be performed by the Division, or a motor license agent, before an Oklahoma title will be issued.

[Source: Added at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-5-97. In Lieu of Replacement Title Affidavit (OTC Form 780-A)

This affidavit is required when an insurance company makes application for a salvage or junk certificate of title pursuant to the applicable provisions of 47 O.S. § 1105 (H). The affidavit is to be completed in its entirety by the applying insurance company, or authorized representative, with the appropriate title type indicated. The insured owner's name as indicated on the affidavit by the applicant must be reflected as an owner of the vehicle on the Oklahoma title record.

[Source: Added at 30 Ok Reg 1861, eff 7-11-13]

710:60-5-98. Unobtainable Ownership Documentation Affidavit (OTC Form 780-B)

This affidavit is required when an insurance company makes application for a salvage certificate of title pursuant to the provisions of 47 O.S. § 1105 (P). The affidavit is to be completed in its entirety by the applying insurance company, or authorized representative. The insured owner's name as indicated on the affidavit by the applicant must be reflected as an owner of the vehicle on the Oklahoma title record. Photocopies of the statutorily mandated two (2) written contact attempts directed to the insured owner must be affixed. At least thirty (30) days must elapse since the date of settlement acceptance by the insured, before this affidavit may be submitted.

[Source: Added at 30 Ok Reg 1861, eff 7-11-13]

PART 11. LIENS

710:60-5-110. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-5-111. Perfecting liens

(a) **Documents required for perfecting lien.** To perfect a lien, either an Oklahoma title, or an Application for Oklahoma Title accompanying a properly assigned Manufacturer's Statement of Origin or out-of-state ownership document, must be presented, along with a completed Lien Entry Form. If the lien is being perfected on behalf of a transferee who has yet to obtain ownership in their name, the title presented must be properly assigned to that transferee before a lien may be perfected.

(b) **Lien form must be legible.** To be acceptable, all lien entry forms must be clearly legible, as determined by the Tax Commission.

(c) **Secured party information.** The secured party must have completed his part of the form, particularly the signature and date of execution. Strikeovers and off line printing are not acceptable.

(d) **Title to conform to lien entry form.** The name of the secured party will be entered on the face of the secured title exactly as it appears on the lien entry form.

(e) **Title receipt reflecting lien to be issued; fees.** When recording a lien on a registered vehicle, boat or motor used as collateral, a title must be issued to reflect the lien. A title fee, in addition to the lien fee, will be assessed.

(f) **Reassignment of lien.** A secured party may file a reassignment of a lien to another secured party by submitting to the Oklahoma Tax Commission Motor Vehicle Division a release of the initial lien, as well as a lien entry form and filing fees for the lien reassignment. The lien entry form is to state it is a reassignment of an existing lien. Upon receipt of proper documentation and payment, the Motor Vehicle Division will enter the new lien information to the vehicle record, reflecting the same effective date as the initial lien.

(g) **Certain liens not perfectible under Motor Vehicle Code.** Lien entry forms cannot be accepted on any vehicle that cannot be issued an Oklahoma Certificate of Title. As an example, farm tractors or mobilized farm machinery cannot be issued a title. A lien cannot be perfected under the Motor Vehicle Code because a title will never be issued.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 34 Ok Reg 2079, eff 9-11-17]

710:60-5-112. Non-perfected liens [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Revoked at 16 Ok Reg 2650, eff 6-25-99]

710:60-5-113. Lienholder notification

(a) **Procedures for entry of lien on Oklahoma title documents.** A tag agent or the Tax Commission must complete a lien entry form on any vehicle registering for the first time in Oklahoma, if the submitted documentation contains the name of a secured party, or if the title certificate is being held by the secured party in another state, or if the Oklahoma title is to be placed on document hold and the applicant has confirmed the existence of an active lien. The owner of a vehicle on which there is an existing lien or encumbrance and whose title is being held by a secured party in another state, or an owner who has confirmed the existence of an active lien on a vehicle for which the Oklahoma title is to be placed on document hold, shall file an affidavit to that effect with the Commission or the motor license agent. The current name and address of the secured party or lienholder shall also be stated in the affidavit. The lien will be shown on the face of the original Oklahoma title.

(b) **Notification procedure.** The lien entry form and releases will be mailed to the creditor, along with an explanatory letter. When an out-of-state lienholder is holding the out-of-state certificate of title, the lienholder will be requested to send the title to the Commission, so that an Oklahoma title with the lien noted thereon may be delivered to the debtor.

(c) **Fees.** The total charge for completing and recording the lien as set forth by statute will be paid by the person registering the vehicle (owner).

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 10 Ok Reg 3843, eff 7-12-93; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 17 Ok Reg 2160, eff 6-11-00; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-5-114. Providing lien information to lienholders

Upon written request, subject to the provisions of OAC 710:60-1-3, and remittance of the applicable fee, a lienholder may obtain lien information from the Motor Vehicle computer system on any vehicle on which they hold a valid security interest. The fee for obtaining such information from the Motor Vehicle Division or a Motor License Agent is set forth by statute.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01]

710:60-5-115. Recording liens on certificates of title

(a) **Lien perfected with M.S.O.** When an M.S.O. is presented reflecting a lien entry stamp, the lien noted on the assignment of the M.S.O. or the lien entry form, will be reflected on the title issued.

(b) **Oklahoma Title on which a lien has been entered.** When presented with an Oklahoma Title on which a lien entry stamp appears, the lien information from the back of the title or the Lien Entry Form will be transferred to the title issued.

(c) **Generally, lien information is reflected on the face of the transferred title.** When transferring an assigned Oklahoma Certificate of Title with a lien on the face of the assigned title, the lien information must be reflected on the face of the transferred title issued, unless a lien release is received.

(d) **Lien perfected from Indian Tribal Certificate of Title.** A security interest in a vehicle registered by a federally-recognized Indian tribe shall be deemed valid under Oklahoma law if validly perfected under the applicable tribal law, and the lien is noted on the face of the tribal certificate of title.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 32 Ok Reg 1363, eff 8-27-15]

710:60-5-116. Possessory liens under Title 42 of the Oklahoma Statutes

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Business day"** means a day on which State offices are open for regular business.
- (2) **"Commission"** means the Oklahoma Tax Commission.
- (3) **"Division"** means the Motor Vehicle Division of the Oklahoma Tax Commission.
- (4) **"Itemized charges"** means total parts, total labor, total towing fees, total storage fees, total processing fees and totals of any other fee groups, the sum total of which shall equal the compensation claimed.
- (5) **"Lawfully in possession"** means a person has documentation from the owner or the owner's authorized agent, or an insurance company or its authorized agent, authorizing the furnishing of material, labor or storage, or that the property was authorized to be towed to a repair facility.
- (6) **"Property"** means any vehicle, trailer, manufactured home, boat or outboard motor subject to the lien process described herein.
- (7) **"Salvage pool"** means any person or business which regularly conducts a salvage disposal sale.

(b) **Application review and approval.** Any person who wishes to claim a possessory lien and sell property for storage fees or work done for which they have not been compensated must comply with the applicable lien filing provisions of Title 42 of the Oklahoma Statutes and submit proper documentation to the Commission for review and title issuance approval. As part of the review process, the record will be checked against a national stolen vehicle database, such as NCIC

or NICB, for the presence of a stolen property record. If a stolen property report is on file, the application will be denied and the filer advised of the law enforcement agency responsible for the report.

(c) **Forms and instructions available.** A packet of instructions and required forms may be obtained from the Division or online at www.tax.ok.gov. There are two (2) types of possessory lien filings applicable to property under Title 42 of the Oklahoma Statutes:

(1) **Process One.** Filings pursuant to 42 O.S. § 91, commonly referred to by the Division as Process One, apply to property titled in the State of Oklahoma, or with a federally recognized Indian tribe, and on which an active lien is recorded and for which the lien filers are not excluded pursuant to 42 O.S. § 91 (A)(1)(b). Excepting manufactured homes, if an active lien is present, but is over fifteen (15) years old, the provisions of 42 O.S. § 91A apply.

(2) **Process Two.** Filings pursuant to 42 O.S. § 91A, commonly referred to by the Division as Process Two, apply to property titled in another state, or which do not have a certificate of title or have a certificate of title on which an active lien is not recorded, or are excluded by 42 O.S. § 91(D) from the process described in paragraph (1) of subsection (c), or on which the lien is filed by either a licensed Class AA Wrecker Service, unless the action results from a consensual tow, or a Salvage Pool, as defined in 47 O.S. § 591.2.

(d) **Procedure for completion and submission of required forms.** Incomplete or altered forms will not be accepted. The forms provide the applicant with designated areas in which to enter required information.

(e) **Persons qualified to file possessory liens.** Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof by furnishing material, labor or skill for the protection, improvement, safekeeping, towing, storage or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due such person from the owner for such service. Written proof of authority to perform the work, labor or service, or, when applicable, claimant's statement that the property was abandoned by the owner, is required.

(f) **Manner of foreclosure.** Said lien may be foreclosed by a sale of such personal property, following proper notification to the record owner and all interested parties.

(g) **Notice requirements.**

(1) **General requirements.** The content and filing timeframes of required notices are outlined by statute. Notification of the record owner and all interested parties, when ascertainable, is always required. Completion and proper posting of a Notice of Sale (OTC 752-A) is required. With the specific exception of salvage pools, most lien filers must complete and send a Notice of Possessory Lien (OTC 752-D) to all interested parties.

(2) **Contact information.** All notices to interested parties must include complete and accurate contact information for the claimant, as specified by statute.

(3) **Certified mailing requirements.** All written notifications to interested parties must be sent via certified mail, return receipt requested. Either the returned receipt, or the postal service approved electronic equivalent of proof of return receipt requested, shall be required when submitting for title issuance approval.

(4) **Itemization of charges.** An itemized listing of all charges, as defined by statute, equaling the total compensation claim, is required.

(5) **Photograph.** All filings pursuant to 42 O.S. § 91 must include a photograph of the property. Filings pursuant to 42 O.S. § 91A for motor vehicles must include a photograph of said motor vehicle. For other property, filings pursuant to 42 O.S. § 91A must contain:

(A) Written confirmation of a visual inspection of the property completed by the filer, verifying the identification number or serial number assigned the property and the general condition of such property, or

(B) Photograph of the property.

(6) **Ownership/Lienholder determination for notification purposes.**

Within the timeframes prescribed by statute, the lien claimant must attempt to ascertain record ownership of the property and the existence of any lienholders on file with the Division, or the equivalent office in another jurisdiction.

(A) If the property has an Oklahoma license plate, registration decal, boat registration number, or is otherwise believed to have been registered in this state, the Commission or any Oklahoma tag agency shall be contacted for ownership/lienholder information. Provided the information is available in the computer file, the claimant will be asked to complete a Vehicle Information Request (OTC Form 769) and pay the applicable fee. The Commission or tag agency will provide the requested Oklahoma computer file ownership/lienholder information within ten (10) business days of receiving the request.

(B) If there is no current ownership/lienholder record on file, a Vehicle Information Request (Form OTC 769), requesting a title search for the last record owner is to be completed and submitted to the Oklahoma Tax Commission/Motor Vehicle Division Title Research Section, along with the applicable fee.

(C) If the Research Section has no record on file and the property is over five (5) years old, or over fifteen (15) years old if a manufactured home, the claimant will be advised that the interested party notice may be accomplished by publication. Refer to **Notice when owner is unknown.**

(D) If the property was most recently titled and/or registered in another state or with an Indian Tribe, the appropriate registering authority of that state or tribe must be contacted for ownership/lienholder information. Letters or computer record printouts from the applicable state or tribe providing owner and lienholder information are acceptable. Ownership/lienholder information provided by entities other than the appropriate registering authority may be acceptable, provided the accuracy of the information may be verified by the Division.

(E) When no Oklahoma record is on file, the jurisdiction of titling is unknown and the property, unless a manufactured home, is five (5) model years or newer, or, if a manufactured home, is fifteen (15) model years or newer, the claimant or their agent shall request, in writing, that the Division ascertain the jurisdiction of titling. Within fourteen (14) days of receipt of the request, the Division will

provide either the titling jurisdiction, or notice that no determination was made. If a titling jurisdiction is determined, the claimant must contact that state's titling authority for ownership and lienholder information. If no titling jurisdiction determination is made, as confirmed by the Division, notice by publication is required.

(F) When no Oklahoma record is on file, the jurisdiction of titling is unknown and the vehicle/ATV/commercial trailer boat or motor is over five (5) model years old, or manufactured home is over fifteen (15) model years old, notice by publication is required.

(7) Notice when owner is unknown. In the event all applicable ownership/lienholder determination procedures have been followed and resulted in no record found, notice by publication in an authorized newspaper must be performed as follows:

(A) The newspaper must be authorized to publish legal notices pursuant to the provisions of 25 O.S. § 106 and must be published in the county in which the property is located. If no newspaper authorized by law to publish legal notices is published in that county, the notice is to be published in some such newspaper of general circulation which is published in an adjoining county. Eligible newspapers may be verified by contacting the Division.

(B) The newspaper notice must identify the property by identification number, year, and make.

(C) The notice must include the name of an individual who may be contacted in reference to the sale, including their telephone number or the address where the property is located.

(D) The notice must run at least (1) day per week for (3) consecutive weeks. The first date available for public sale of the property is the day following publication of the final notice, but no fewer than thirty (30) days after the lien has accrued.

(E) Upon completion of the newspaper notification process, an Affidavit of Publication (OTC Form 752-E) must be completed and included with the Title 42 documentation submitted to the Division.

(h) Sale and distribution of proceeds of sale. When the property is sold, the special (possessory) lien holder, upon satisfying the amounts due to him/her must make arrangements for the payment in excess of the amounts due to him to be paid to the secured party or parties and to the owner of the property.

(i) Effect of foreclosure on purchaser's title. The purchaser of the property will receive a Certificate of Title without any liens indicated. [See: 42 O.S. § 91 et seq.]

(j) Abandoned property auction. Any property offered at an abandoned property auction performed by a Class AA wrecker service or lien claimant is exempt from all prior year registration fees, title fees, stop flag fees, and any other fees imposed by the state resulting from the prior ownership of the property. However, if the purchaser is the registered owner of the property prior to towing, any outstanding prior years' fees will be due.

(k) Failure to comply. Failure by a lien filer to comply with any statutory filing requirements shall result in denial of the title application. Notification of denial will be returned to the filer by the Division via certified mail.

(1) Applicants filing pursuant to the provisions of 42 O.S. § 91A are entitled to one (1) resubmission within thirty (30) business days of receipt of the denial.

(2) Applicants filing pursuant to the provisions of 42 O.S. § 91 are entitled to one (1) resubmission within fifteen (15) business days of receipt of the denial.

(l) **Notice of legal proceedings.** Upon receipt of a notice of legal proceedings, the Commission shall place a hold on the sale process until notice of resolution of the court proceedings is received.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-5-117. Releasing liens

(a) Perfected liens may ordinarily be released by submission of one (1) of the following to the Oklahoma Tax Commission Motor Vehicle Division or a motor license agent:

(1) Copy #4 (if unavailable, a **certified duplicate** copy of Copy #3 or #4, or an **original** or **certified** copy of Copy #1 is acceptable) of the six (6) part lien entry Form 21, with the release signed and dated.

(2) Any of the lien release receipts, original or certified copy, generated when the lien was perfected by the Oklahoma Tax Commission or a motor license agent, signed and dated.

(3) Should a standard lien release as outlined above be unavailable, the lien may be released by submission of a typed, notarized release statement from the secured party. The statement must include the notarized signature of a representative of the secured party, the name of the secured party, name of the debtor, and vehicle identification number/serial number of the vehicle.

(b) If the lender is out of business and no longer available, their lien may be released by the following procedure:

(1) A certified letter, restricted delivery, requesting a lien release and listing the year, make, and vehicle identification number is to be sent to the lender's address listed on the Motor Vehicle Division file.

(2) The administering agency of the lienholder (i.e., Oklahoma Used Motor Vehicle and Parts Commission if an Oklahoma used dealer; State Banking Department if a bank, savings and loan or credit union; Department of Consumer Credit if a finance company) is to be contacted and written confirmation requested that the lienholder is no longer in business at the address requested. If an out-of-state lienholder, that state's equivalent agency is to be contacted. If the response from the administering agency is that the lender was taken over by another business entity, that entity will have to be contacted for a release.

(3) The returned certified letter and post office receipts, the written confirmation from the administering agency, the Oklahoma certificate of title and applicable titling fee is to be submitted to the Oklahoma Tax Commission Motor Vehicle Division for review. If approved, a confirming affidavit will be returned to the vehicle owner for his/her review and signature. Upon return of that affidavit to the Division, a new Oklahoma certificate of title, without the lien reflected, will be issued.

[Source: Added at 24 Ok Reg 2375, eff 6-25-07; Amended at 33 Ok Reg 1081, eff 8-25-16]

PART 13. FOREIGN VEHICLES

710:60-5-130. Foreign vehicles

(a) **Documents required.** When an owner obtains a foreign vehicle originally manufactured for sale outside of the United States, or a vehicle that is currently titled in a foreign country, the following documents must be presented to obtain a certificate of title:

- (1) Manufacturer's Certificate of Origin; **or** the existing foreign Certificate of Title; **and**
- (2) A legible letter of translation for all foreign (non-English language) documents; **and**
- (3) Documentation verifying U.S. Customs clearance. If entering from a country other than Canada, documentation verifying compliance with U.S. Environmental Protection Agency and U.S. Department of Transportation requirements.

(b) **Titling documentation.** All required documentation must be submitted in order to issue an Oklahoma title. No document hold title will be processed.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 17 Ok Reg 2160, eff 6-11-00; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 25 Ok Reg 2063, eff 7-1-08]

SUBCHAPTER 6. VEHICLE SALES TAX

710:60-6-1. General provisions

(a) **Date due; penalty.** Sales tax is generally due upon the purchase of a vehicle occurring on or after July 1, 2017 and must be paid within thirty (30) days of such date. After the thirtieth (30th) day, interest is to be collected in addition to the tax due, accruing until paid. After the forty-fifth (45th) day following purchase, a penalty amount is assessed. Sales tax, interest and penalty levy amounts are established by statute.

(b) **Taxable value.** Sales tax assessment is based upon the purchase price of the vehicle before any credit or discount is allowed for a vehicle trade-in..

[Source: Added at 35 Ok Reg 2085, eff 9-14-18]

710:60-6-2. Sales tax levy and exemptions

(a) **General levy on purchase of a vehicle.** Sales tax is levied upon purchase of a vehicle, unless an exemption from that levy applies. Sales tax is to be paid by the consumer in the same manner and time as the vehicle excise tax for said vehicle is due. No sales tax is assessed when transferring ownership of a vehicle for which no purchase was involved.

(b) **Exclusions by type.** Sales tax is not collected at the time of titling or registration of purchased manufactured homes; boats; outboard motors; special mobilized machinery; low-speed or medium-speed electrical vehicles; trailers registered as farm or private trailers.

(c) **Exemptions.** In general, vehicles purchased by sales tax exempt entities are exempt from the assessment of vehicle sales tax. Following is information on some of the more frequently encountered sales tax exemptions. Presentation of documentation supporting the exemption may be required.

- (1) **Agricultural permit holder.** All-terrain vehicle, utility vehicle, or off-road motorcycle purchased by holder of agricultural permit. Presentation of permit required.
- (2) **Church.** Vehicle purchased by a church.

- (3) **City.** Vehicle purchased by a city.
- (4) **Corporate transfer.** Certain transfers of vehicle ownership between corporation and shareholder.
- (5) **County.** Vehicle purchased by a county.
- (6) **Disabled veteran (100%).** Vehicles purchased by a 100% DAV, or their surviving spouse, may have a portion of the purchase price exempted from sales tax. Veteran/surviving spouse choosing this option must designate that portion of their statutorily allowed annual sales tax exemption allowance they have available and wish to apply to the vehicle purchase price. Completion of an MV Sales Tax Exemption Certificate is required, on which the veteran/surviving spouse declares the amount of their available annual sales tax purchase price exemption they wish to have applied to the vehicle purchase price.
- (7) **Dealer.** Vehicle purchased by a licensed dealer and being held for resale.
- (8) **Federal credit union.** Vehicle purchased by a federal credit union.
- (9) **Federal land bank.** Vehicle purchased by a federal land bank.
- (10) **Fire protection district.** Vehicle purchased by a fire protection district.
- (11) **Housing authority.** Vehicle purchased by a housing authority.
- (12) **Indian Tribal Government.** Vehicle purchased by an Indian Tribal Government.
- (13) **Insurance loss.** Vehicle transfer to insurance company following payment of a loss
- (14) **International Registration Plan (IRP).** Vehicles purchased to be registered under IRP.
- (15) **Leasing company.** Vehicle purchased by a leasing company to be leased. Presentation of sales tax permit number required.
- (16) **Limited liability corporation.** Certain transfers of vehicle ownership involving LLCs.
- (17) **Partnership transfer.** Certain transfers of vehicle ownership between partnership and partners.
- (18) **Public trust.** Vehicle purchased by a public trust.
- (19) **Red Cross.** Vehicle purchased by the Red Cross.
- (20) **Rental title.** Vehicle purchased by a rental company to be used as a rental vehicle and being issued a rental certificate of title. Sales tax permit number required.
- (21) **Rural ambulance.** Vehicle purchased to be utilized as a rural ambulance.
- (22) **Rural electric cooperative.** Vehicle purchased by a rural electric cooperative.
- (23) **Rural gas district.** Vehicle purchased by a rural gas district.
- (24) **Rural sewer district.** Vehicle purchased by a rural sewer district.
- (25) **Rural water district.** Vehicle purchased by a rural water district.
- (26) **Sales tax exemption permit or letter.** Vehicle purchased by possessor of an Oklahoma sales tax exemption permit, or an Oklahoma Tax Commission exemption letter. The permit or letter must be presented and completion of a MV sales tax exemption certificate is required.
- (27) **Salvage dealer.** Vehicle purchased by a licensed automotive dismantler.
- (28) **School district.** Vehicle purchased by a school district.

- (29) **Sole proprietorship.** Transfer of vehicle ownership between a sole proprietorship and owner of the sole proprietorship.
- (30) **State.** Vehicle purchased by the State.
- (31) **Volunteer fire department.** Vehicle purchased to be utilized by a volunteer fire department.
- (32) **Water conservancy district.** Vehicle purchased by a water conservancy district.

[Source: Added at 35 Ok Reg 2085, eff 9-14-18]

SUBCHAPTER 7. MOTOR VEHICLE EXCISE TAX

710:60-7-1. General provisions

(a) **Date due; penalty.** Excise tax is due at the time of transfer of legal ownership or possession of a vehicle and must be paid within thirty (30) days of such date. After the thirtieth (30th) day, a penalty is to be collected in addition to the tax due. The daily penalty will accrue until the tax is paid. However, the penalty is not to exceed the amount of the tax due.

(b) **Taxable value.** On vehicles, other than manufactured homes and certain commercial vehicles, excise tax is based upon the actual sales or purchase price. The actual sales price, commonly referred to as "purchase price", is the actual sales price of a vehicle excluding any consideration given for a trade-in. For the purpose of vehicle taxable value computation, actual sales price is to include the cost of the vehicle, including any equipment or product affixed to, or applied upon, the vehicle. It is not to include any fee included in the sale transaction that is related to a service provided by the seller, or an outside party (i.e. documentary fee; financing fee; insurance coverage fee; maintenance agreement fee). No consideration for a vehicle trade-in, either debit or credit, is to be included in the actual sales price utilized for establishing the taxable value for the purpose of excise tax assessment. The actual sales price must be within twenty percent (20%) of the average retail price value of the vehicle, as listed in the automotive reference material prescribed by the Oklahoma Tax Commission. [See: 710:60-5-50] If the actual sales price is not within that value range, the Tax Commission shall establish a taxable value as close to the actual sales price as possible while still within the prescribed value range.

(c) **Minimum tax.** The minimum excise tax on vehicles and the minimum excise tax on manufactured homes is set by statute.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 19 Ok Reg 431, eff 11-13-01 (emergency); Amended at 19 Ok Reg 864, eff 3-4-02 (emergency); Amended at 19 Ok Reg 2441, eff 6-27-02; Amended at 25 Ok Reg 2063, eff 7-1-08]

710:60-7-2. Determining correct excise rate

(a) **Rate on sale of new vehicle by dealer.** A new vehicle being sold by a dealer for the first time will always be assessed the new vehicle rate, regardless of model year. Should that vehicle be resold during the same year, the used vehicle rate would be used.

(b) **Rates on used vehicles.** The rate of excise tax on vehicles is set by statute.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01]

710:60-7-3. Excise tax levy and exemptions

(a) **General levy on transfer of legal ownership.** Excise tax is levied on every exchange of legal ownership on any vehicle registered or being registered in Oklahoma unless a specific tax exemption applies.

(b) **Exemptions.** Following is information on some of the more frequently encountered exempt situations:

(1) **Husband and wife; parent and child.** Only transfers made without consideration between husband and wife, parent and child, or vice versa, are exempt. A Family Affidavit (Form 794) must be included with the other supporting documentation and is to be attached to the title documentation. This exemption does not apply to transfers between in-laws or grandparents to grandchildren.

(2) **Out-of-state residence and registration; nonresident military.** Any vehicle brought into Oklahoma by a person formerly living in another state is exempt, if the person owned and registered the vehicle in such other state of his residence at least sixty (60) days prior to the time it is required to be registered in Oklahoma. Nonresident members of the Armed Forces stationed in Oklahoma may register their vehicle without excise tax if the vehicle has been registered by them in another state (60 day limit does not apply).

(3) **Governmental entities.** Any vehicle is exempt if registered by the State of Oklahoma or any political subdivision thereof. Additionally, vehicles leased by a county, municipality, or a school district are exempt from the excise tax.

(4) **Title by inheritance.** Any vehicle on which legal ownership was obtained by inheritance is exempt from the levy of the excise tax.

(5) **Certain transfers of corporations and partnerships.** Legal ownership of vehicles obtained by transfer as set out in Section 2105(9) of Title 68 may also be exempt.

(6) **Moped.** A motorized bicycle (moped) is exempt if sales tax was paid to the retailer at point of purchase.

(7) **Rural water districts.** A rural water district is exempt.

(8) **Rural electric cooperatives.** A rural electric coop is exempt.

(9) **Federal reserve banks.** Federal reserve banks are exempt.

(10) **Vehicles registered under International Registration Plan.** Transfer of vehicles registered under the International Registration Plan between lessor and lessee at the termination of the lease are exempt from the excise tax.

(11) **Short term rentals by rental companies.** Vehicles acquired by rental companies not to be rented for terms of more than 90 days may be registered and titled by the rental agency exempt from excise tax. An Oklahoma title branded "Rental Vehicle" will be issued. If the vehicle is sold less than one (1) year from date of issuance of the title, the rental agency must pay the excise tax that would have been due on the vehicle, plus a 20% penalty before transferring the vehicle, unless the vehicle is being transferred to the manufacturer or its financing company, to a franchised dealer of the same line/make of the vehicle to be transferred, or to anyone, if the vehicle is in a salvage condition (salvage or junk title).

(12) **Foreclosure of lien or mortgage; insurance contracts.** Any vehicle, the ownership of which was obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided by law or to the insurer under subrogated rights arising by reason of loss under an

insurance contract, is exempt from excise tax.

(13) **New vehicles registered by new car dealers.** A new vehicle registered by a new vehicle dealer is exempt for a period of four (4) months.

(14) **Insurance companies.** An insurance company may obtain title to a vehicle on which they paid a loss exempt from excise tax.

(15) **Revocable trusts.** Transfers made without consideration between an individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke are exempt.

(16) **Limited liability companies.** A limited liability company is a combination of a corporate and a partnership business organization structure. Excise tax exemption applies to the following transfers:

(A) Transfers to the limited liability company if former owners are members of the limited liability company and the interest in the company is in proportion to interest in the vehicle prior to the transfer. A notarized bill of sale indicating such will be required as supporting documentation.

(B) Transfers of ownership from a limited liability company to members when a dissolution is made. A notarized affidavit indicating such is required.

(17) **Vehicle lease or lease-purchase agreements.** Transfers of ownership of a vehicle acquired by a lessee are exempt from excise tax, provided the vehicle excise tax was paid at the time of the initial lease or lease-purchase agreement and an Oklahoma title was issued.

(18) **Fire protection districts.** Vehicles acquired by a fire protection district are exempt from the levy of excise tax.

(19) **Exemption for disabled veterans in receipt of compensation at the one hundred percent rate.** Persons who have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard, and who have been certified by the United States Department of Veterans Affairs, or its successor, to be in receipt of compensation at the one hundred percent (100%) rate for a permanent disability sustained through military action or accident or resulting from a disease contracted while in such service is exempt from vehicle excise tax for one (1) vehicle in a consecutive three (3) year period, unless the vehicle is a replacement for a vehicle which was destroyed and declared by the insurer to be a total loss claim.

(A) To prove eligibility a disabled veteran must submit either an Oklahoma Tax Commission exemption card with the notation "Sales Tax Exemption:100% Disabled Veteran" or a letter from the United States Department of Veterans Affairs, its successor, or the Armed Forces of the United States, certifying that the veteran is receiving disability compensation at the 100% rate.

(B) In order to qualify for the exemption, the vehicle must have been purchased on or after July 1, 2005 and the name of the eligible disabled veteran must be included as an owner on the vehicle title.

(C) The consecutive three (3) year period computation is to be based upon the actual purchase date of the vehicle(s), as reflected in the ownership assignment date on the MSO or title certificate surrendered to the Commission at time of title application. To qualify for this excise tax exemption, the actual date of purchase of the vehicle must be more than three (3) years removed from the

date of purchase of the prior vehicle to which the exemption was most recently applied.

(D) To qualify for an excise tax waiver under the total loss claim exception to the three (3) year restriction, documentation confirming the insurer's total loss claim declaration must be presented for review and approval by the Tax Commission.

(20) Exemption for repossessed vehicle transferred back to former owner. Ownership of a vehicle transferred by the reposessor back to the former Oklahoma title record owner(s) within thirty (30) days of issuance of the repossession title.

(A) Ownership must be identical to that reflected in the Oklahoma title record immediately prior to issuance of the repossession title. Ownership (as assigned by the reposessor) may reflect an additional name without the assessment of excise tax only if an exemption exists between the owners. Otherwise, any change in ownership will result in the assessment of excise tax.

(B) Title assignment to the former owner(s) must be completed within thirty (30) days of issuance of the repossession title.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 31 Ok Reg 2436, eff 9-12-14; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 34 Ok Reg 2079, eff 9-11-17; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-7-4. Excise tax on heavy-weight trucks and commercial trailers

(a) Any truck or truck-tractor carrying a laden weight or a combined laden weight of 55,000 lbs. or more, any cargo-carrying commercial trailer, and any frac tank shall pay a specified excise tax amount set forth by statute. This excise tax amount is due on original or transfer titles.

(b) This rate does not apply to Special Mobilized Machinery, forest product vehicles, trailers or semitrailers which have been manufactured, modified or re-manufactured for the purpose of providing services other than transporting cargo over the highways. Nor is rate described in this Section applicable to pickup trucks, vans, or sport-utility vehicles, which are assessed at the standard vehicle excise tax rate, regardless of laden weight.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 15 Ok Reg 2821, eff 6-25-98; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 26 Ok Reg 2344, eff 6-25-09]

710:60-7-5. Licensed dealer exemptions

(a) **Determination of latest manufactured model vehicle.** For the purpose of determining an exemption for licensed dealers, the latest manufactured model vehicle is the newest year of vehicle available at the retail level. For this purpose, July 1 is the date that most vehicles for the next year go on sale. If a certain model comes out before that date, that model becomes the latest manufactured model for that specific line.

(b) **New dealers.** Any vehicle of the latest manufacturers model purchased by a franchised Oklahoma motor vehicle dealer which holds a franchise of the same line or make as the vehicle being registered is exempt from excise tax. This exemption does not apply if the vehicle is of a different make than the dealer's franchise. In that situation, "new vehicle" excise tax would be assessed. New dealers may register a vehicle for a period of four (4) months for personal use by an individual.

A photocopy of the MSO shall be surrendered to the tag agency and a title record will be created reflecting the applicable hold status with no excise tax due.

(c) **Used dealers.** Any vehicle owned and being offered for sale by a person currently licensed as a dealer in used vehicles is exempt from excise tax except on the latest manufactured model. If the vehicle is being titled from an MSO or is the latest manufactured model and has not been previously titled and excise tax paid in Oklahoma, excise tax is due and the "new vehicle" rate will be charged. The assignment must be made to the dealership's name only. However, a title with an assignment showing an individual's name "DBA" a dealership name will be accepted if the dealership is a partnership or is individually owned and the name on the assignment is a partner or the owner. Excise tax is ordinarily not exempt when transferring ownership from a licensed dealership to the individual owner of the dealership.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 10 Ok Reg 3843, eff 7-12-93; Amended at 18 Ok Reg 878, eff 2-23-01 (emergency); Amended at 18 Ok Reg 1340, eff 5-11-01; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 31 Ok Reg 2436, eff 9-12-14; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-7-6. Credit on replacement vehicle

If a new vehicle is stolen within ninety (90) days of purchase, or if a new vehicle is certified by the manufacturer as defective within six (6) months of purchase, credit on the excise tax and registration fee for a new replacement vehicle will be allowed.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92]

710:60-7-7. Charitable organization exemption

Charitable organizations licensed through the Oklahoma Secretary of State's Office are exempt from excise tax on vehicles donated to them, as provided by statute.

[Source: Added at 17 Ok Reg 2160, eff 6-11-00; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-7-8. Tornado excise tax credit

Credit will be allowed with respect to the excise tax due on a vehicle which is a replacement for a vehicle destroyed by a tornado in 2013, or any subsequent year, for which a Presidential Major Disaster Declaration was issued and on which excise tax had been paid on or after January 1, 2012. Credit will be allowed on a vehicle which is a replacement for a vehicle destroyed by tornado in calendar years 2012 and 2013 for which no Presidential Major Disaster Declaration was issued and on which excise tax was paid on or after January 1, 2011. Credit will be allowed in the amount of excise paid on the destroyed vehicle, excluding any penalties. The credit may only offset any excise tax due on the replacement vehicle. No excess credit may be refunded. Proof of loss of the destroyed vehicle must ordinarily be provided by the registrant, i.e., a letter or other documentation from the insurance company, identifying the vehicle and confirming its loss. If such documentation is unavailable, the Motor Vehicle Division may be contacted for consideration of an alternative or exception to the documentary requirement.

[Source: Added at 20 Ok Reg 2173, eff 6-26-03; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 32 Ok Reg 1363, eff 8-27-15]

710:60-7-9. Retail implement dealer

Retail implement dealers, as statutorily defined in 47 O.S. § 581(15), are exempt from acquiring titles and being assessed excise tax when reassigning ownership on Oklahoma certificates of title for all terrain vehicles, utility vehicles and off-road motorcycles. When reassigning Oklahoma certificates of title under this allowance, the dealer's current Oklahoma sales tax permit number must be provided to the purchaser. The Commission will confirm the validity of the permit when processing an application for title by the purchaser.

[Source: Added at 33 Ok Reg 1081, eff 8-25-16]

SUBCHAPTER 8. RENTAL TAX ON MOTOR VEHICLE RENTALS [REVOKED]

710:60-8-1. Purpose [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 30 Ok Reg 1866, eff 7-11-13]

710:60-8-2. Definitions [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 30 Ok Reg 1866, eff 7-11-13]

710:60-8-3. Applicability of the rental tax on motor vehicle rentals [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Amended at 16 Ok Reg 2650, eff 6-25-99; Revoked at 30 Ok Reg 1866, eff 7-11-13]

710:60-8-4. Collection, reporting, remittance of the tax; interest and penalties [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Amended at 16 Ok Reg 2650, eff 6-25-99; Amended at 23 Ok Reg 2837, eff 6-25-06; Revoked at 30 Ok Reg 1866, eff 7-11-13]

710:60-8-5. Recordkeeping [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Revoked at 30 Ok Reg 1866, eff 7-11-13]

710:60-8-6. Examples and applications [REVOKED]

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Amended at 16 Ok Reg 2650, eff 6-25-99; Revoked at 30 Ok Reg 1866, eff 7-11-13]

SUBCHAPTER 9. MOTOR VEHICLE LICENSE AGENTS/AGENCIES

PART 1. GENERAL REQUIREMENTS, DUTIES AND RESPONSIBILITIES OF MOTOR LICENSE AGENTS

710:60-9-1. Purpose and general applicability

The provisions of Parts 1 through 11 of this Subchapter, relating to the qualifications, restrictions, duties and other requirements for motor license agents and agencies have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and are applicable to all Motor License Agents.

710:60-9-2. Consanguinity; residency

(a) No person shall be appointed as a motor license agent that is related by consanguinity (by blood relation) or affinity (by marriage) within the third degree to any member of the Oklahoma Tax Commission or to any employee of the Oklahoma Tax Commission.

(b) Any motor license agent appointed according to the provisions of 47 O.S. §1114.2 shall have been a resident of the county in which his/her agency is located for a period of six (6) months prior to his/her appointment. Provided, that if a motor license agent moves his residence to a place outside the county, he/she shall forfeit his/her appointment. It shall be the duty of any motor license agent who establishes, or plans to establish, his/her residence in a county other than that in which his/her motor license agency is located to immediately notify the Oklahoma Tax Commission.

(c) A motor license agent may relocate the agency to a county in which the agent does not reside, provided that the agency remains within the same municipality. Such relocation must be approved by the Oklahoma Tax Commission.

[Source: Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 37 Ok Reg 2233, eff 9-11-20]

710:60-9-3. Bond requirements

(a) **Faithful performance surety bond or cash bond required.** During the first year of operation, a Motor License Agent shall obtain a faithful performance surety bond or cash bond in the amount of Thirty Thousand Dollars (\$30,000.00) or in such additional amount and form as required by the Oklahoma Tax Commission.

(b) **Motor license agent indemnity fund.**

(1) All motor license agents who have been in office at least one year are assessed annually by the Department of Central Services for payment into the Motor License Agent Indemnity Fund. The assessment amounts are set by statute.

(2) New motor license agents are not assessed for the Indemnity Fund until they have been in office for one year. New agents must maintain separate surety bonds during their first year of operation.

(c) **Proof of bond required prior to application for appointment.** A commitment by the bonding company to issue the required bond in the amount specified by the Oklahoma Tax Commission or an affidavit that the applicant will provide a cash bond, must be attached to the application for the appointment as a Motor License Agent.

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96]

710:60-9-4. Maximum compensation [REVOKED]

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 19 Ok Reg 1849, eff 6-13-02]

710:60-9-5. Qualifications and requirements of a motor license agent

A Motor License Agent shall, at all times during his/her service as a Motor License Agent, be in compliance with all federal and state tax laws. Failure to so comply shall constitute grounds for termination of service as a motor license agent.

710:60-9-6. Motor license agent accounts

(a) The Motor License Agent shall maintain for the Motor License Agency two bank accounts:

- (1) An Oklahoma Tax Commission Motor License Agency Account pursuant to 47 O.S. §1142; and
- (2) An operational account in which all other funds received by the Motor License Agent in performance of his/her duties shall be deposited and shall not be combined with any other funds.

(b) As a condition of service as a Motor License Agent, the Motor License Agent and the Oklahoma Tax Commission shall agree that the Motor License Agent's operational account shall for all purposes, be treated the same as tax monies.

710:60-9-7. Review examination [REVOKED]

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Revoked at 19 Ok Reg 1849, eff 6-13-02]

710:60-9-8. Operating reserves [REVOKED]

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 19 Ok Reg 1849, eff 6-13-02]

710:60-9-9. Issuance of tags, titles, liens; collection of fees

A Motor License Agent shall issue and collect fees on all tags, except apportioned (pro-rate) tags and special tags which are issued by the Oklahoma Tax Commission, issue all titles, liens, boat and motors titles-registration, etc., prescribed by the Oklahoma Tax Commission.

710:60-9-10. Strict compliance with laws and rules

A motor license agent shall strictly comply with all applicable statutes, rules, regulations, fee schedule, and procedures as set forth in the "Motor License Agents Manual of Procedure."

[Source: Amended at 38 Ok Reg 1536, eff 9-1-21]

710:60-9-11. Motor license agent prohibited from extending credit

All transactions must be paid for at the time of processing. A motor license agent shall not process any transaction or release any item on credit or before the taxpayer pays the tax or fee due.

[Source: Amended at 25 Ok Reg 2063, eff 7-1-08]

710:60-9-12. Responsibility for errors in computation

A Motor License Agent shall be responsible for errors in tax computations and/or fee computations and collections.

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-13. Inspections by motor license agent

A Motor License Agent shall perform all necessary inspections as required by the Oklahoma Tax Commission Motor License Agent's Manual.

710:60-9-14. Responsibility for agency shortages

- (a) A motor license agent shall be responsible for paying any balance determined to be due as a result of a field audit conducted by the Commission.
- (b) Upon demand for payment, the motor license agent must remit, within seven (7) business days, the full amount of any shortage determined to be due. Payment of the amounts due within the stated time frame does not preclude the Commission

from discharging the motor license agent or taking any other action deemed appropriate.

(c) Any portion of a field audit balance determined to be attributable to the nonpayment of funds due the State shall be subject to the penalty enumerated in 47 O.S. § 1142.

[Source: Added at 15 Ok Reg 2821, eff 6-25-98; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 33 Ok Reg 1081, eff 8-25-16]

PART 3. [RESERVED] **PART 5. SPECIFIC RECORDKEEPING DUTIES**

710:60-9-50. Retention of records

Any and all records, files, books, or otherwise of a Motor License Agent relating to the operation of the Motor License Agency shall be retained at all times at the office of the Motor License Agent.

710:60-9-51. Forms to be typewritten or printed

All forms must be typewritten, using black ribbons, or printed by computer, including reports and advice of deposit slips.

710:60-9-52. Maintenance of required indexes and files

(a) **Files to be retained.** A motor license agent shall maintain records of semimonthly reports generated and related financial information pertaining to the collection and disposition of all monies due the state. Copies of individual transaction receipts are not required to be retained, unless the transaction required some special action or notation, or retention was specifically requested by the Motor Vehicle Division. Copies of documentation supporting any insurance verification override are to be retained. Copies of Vehicle Information Requests are to be retained. All referenced retained records are to be maintained by the motor license agent for a period of two (2) years.

(b) **Disposition of files containing taxpayer information.** When disposing of files or records, the motor license agent is responsible for the proper destruction of any file or record containing confidential taxpayer information that was either generated by, or submitted to, his or her agency. The file or record is to be destroyed to the extent no such confidential information may be recovered.

[Source: Amended at 13 Ok Reg 1281, eff 3-7-96 (emergency); Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 32 Ok Reg 1363, eff 8-27-15]

710:60-9-53. Accountable items

All numbered items consigned to the motor license agent from the Oklahoma Tax Commission must be accounted for by the motor license agent. Once received, such items must be properly accounted for by the agent as either issued, reconsigned to another agent, or returned unissued to the Motor Vehicle Division. Agents should never destroy or dispose of unissued accountable items, unless specific, written authorization to do so is issued by the Commission.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 28 Ok Reg 1839, eff 6-25-11]

710:60-9-54. Ordering supplies and inventory control of accountable items

Agents should continually monitor their inventory of all OTC-supplied items and order all needed items on a timely basis. All orders are to be entered into

the OTC computer MLA supply ordering system. If the order is to be picked up, the agent is to place the order no less than twenty-four (24) hours in advance of their requested designated pick up date and timeframe. At time of placing the order, the agent is to advise of their intention to pick it up and select the pick up date and timeframe from the options designated by OTC. If the agent is unable to retrieve the items on the selected date/timeframe, it is the agent's responsibility to timely contact OTC to reschedule. Absent rescheduling, unclaimed orders will be cancelled after ten (10) business days.

(1) Verification of consignment order. Upon receipt of consigned numbered items from the Commission, the agent is to verify all items listed on the consignment sheet have been received, pursuant to the provisions under paragraph (2) of this subsection. If received items do not correspond with the consignment sheet, the agent is to notify the Commission within ten (10) days of receipt of the consignment. The original copy of the consignment sheet, with any necessary adjustments noted, is to be signed by the agent and returned to the Motor Vehicle Division within ten (10) days of receipt of the consignment. The second copy of the consignment sheet is to be retained by the agent. Failure to advise the Commission of consignment discrepancies within ten (10) days of receipt of the consignment will result in the entire consignment being considered as received by the agent and the agent will be held accountable for all items therein, with the exception of the individual sealed box/container process outlined in (2)(B) of this Section.

(2) Verification of contents of all containers.

(A) If the manufacturer's seal on the box and/or package has been broken, the receiving agent is to open it and verify all items upon receipt of the consignment.

(B) If the manufacturer's seal has not been broken, it is not necessary to confirm the contents of the package upon receipt of the consignment - only that the contents listing on the outside of the package coincides with the consignment sheets. As the sealed individual boxes and/or packages of numbered items are opened prior to issuance, all numbered items should be checked to make sure all were received in the individual package or box. If the package contents do not correspond to the contents listing on the outside of the package, the agent is to notify the Commission within ten (10) days of opening the container. Failure to advise the Commission of individual items missing from the box/package within ten (10) days of the first item issued from that box/package will result in the entire contents of the box/package being considered as received by the agent and the agent will be held accountable for all items therein. When receiving inventory from another motor license agent, the items are to be verified against the system order. Once verified, the receiving agent is to change the order status to received and on hand.

(3) Procedure for reporting discrepancies, missing items. To report consignment discrepancies pursuant to the process outlined in this Section, a notarized affidavit of fact from the motor license agent is to be completed and submitted to the Motor Vehicle Division.

(4) Procedure for mutilated or defective items.

(A) **License plates.** Any license plate received that has a noticeable graphics error (i.e. discoloring, smearing, etc.) or is mis-numbered (i.e. out of sequence; duplicated number, etc.) is not to be issued, but returned to the Commission for inventory credit and cancellation.

(B) **Other items.** The remains of any registration decal that is of inferior quality (i.e. inadequate adhesive), or is torn or otherwise mutilated, must be returned to the Oklahoma Tax Commission for inventory credit and cancellation, accompanied by a statement of fact from the motor license agent.

(5) Procedure for transferring accountable items to another agent.

When releasing accountable items to another agent, the releasing agent is to immediately notify the Motor Vehicle Division Supply Section via a system notification message. The agent originally consigned the accountable items is responsible for numbered items transferred to another agent until such time as the Division is notified of the transfer.

(6) **Agent liability for missing items.** Following an inventory audit, normally conducted in conjunction with a field audit, agents will be notified of any unaccounted for items and will be given the opportunity to provide any information/documentation they may have relating to the items. Any numbered item for which the motor license agent remains unable to account for will be charged to the agent's account as a missing item. The missing item rate is based upon the average amount received throughout the state for that type of item during the period of time in which it became unaccountable, except for license plates and certain forms which have a fixed fee established. If a numbered item which a motor license agent is previously unable to account for is found by the Oklahoma Tax Commission to have been issued, the agent will be charged the amount the taxpayer remitted to the motor license agent.

(7) **Reconciliation of statements of missing items to inventories.** All statements submitted to account for missing items must be signed by the agent and notarized by a notary public. All information submitted for consideration for credit is subject to approval by the Motor Vehicle Division. Upon receipt, the statements may be filed by the Division and subsequently reviewed at the time an inventory audit is completed. Agents are to keep a copy of all statements sent into this office for consideration of credit.

(8) **Preservation of accountable items.** Agents are to never destroy or dispose of accountable items which must be properly reported as issued, reconsigned to another agent, or returned to the Motor Vehicle Division for credit and deletion from the agent's inventory.

(9) **Forms.** Forms supplied to agents by the Motor Vehicle Division are to be used only for the purposes for which they have been provided.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 29 Ok Reg 532, eff 5-11-12; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-9-55. Missing items

(a) A motor license agent shall respond within fifteen (15) days of receipt of a missing item notification issued by the Commission with all documentation and information relating to the disposition of the item(s).

(b) Should the agent discover information or documentation regarding the issuance of any accountable item identified as missing by the Commission, the agent is to notify the Commission for direction before taking any action. In no event is an identified missing item to be issued or entered to any transaction without written authorization from the Commission.

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-9-56. Required OTC forms provided

Forms required in the application and processing of Oklahoma titles and registrations are provided to motor license agents by the Tax Commission. Agents may not create and/or require taxpayers to complete any additional form outside those approved and required by the Tax Commission.

[Source: Added at 24 Ok Reg 2375, eff 6-25-07]

PART 7. SPECIFIC REPORTING DUTIES

710:60-9-70. Reporting duties of motor license agent [REVOKED]

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Revoked at 33 Ok Reg 1081, eff 8-25-16]

710:60-9-71. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-72. Semimonthly reporting procedure

- (a) **Semimonthly reports.** Each motor license agent must submit semimonthly reports to the Tax Commission to properly account for all funds, regardless of source, received by a motor license agent in the performance of the agent's duties.
- (b) **Closing dates for report preparation.** Reports are to be ended on the fifteenth (15th) and the last day of each month. Report summary pages are to be generated from the computer system and included with the required report transaction documentation. Driver license transaction reporting guidelines are established by the Department of Public Safety. IRP (International Registration Plan) transaction reporting guidelines are established by the Corporation Commission.
- (c) **Transaction documents.** Semimonthly report transaction documentation is to be prepared and submitted to the Oklahoma Tax Commission in a manner outlined by the Motor Vehicle Division. The Division shall communicate any report preparation procedural changes to motor license agents in a timely manner.
- (d) **When reports due; penalties for late report.** All agents are to prepare semimonthly reports to be filed with the Oklahoma Tax Commission no later than the first (1st) day of the month for the report ending on the fifteenth (15th) day of that month and the fifteenth (15th) day of the following month for the report ending on the last day of a month. When a report due date falls on a Saturday, Sunday, state holiday or federal holiday, the next business day becomes the due date for that report. If not postmarked by the due date, a penalty of 1% of the gross amount of the report shall be assessed. The penalty increases to 3% should the report not be postmarked within 5 days of the due date.
- (e) **Sufficiency of semimonthly reports.** To comply with the reporting requirement, the reports filed with the Oklahoma Tax Commission must include system generated remittance pages, Department of Public Safety driver license

transaction report summary (when applicable), Oklahoma Corporation Commission IRP transaction report summary (when applicable) and all supporting individual transaction documentation. Any such semimonthly report that does not include these minimum requirements shall not constitute the mandatory report. In the event a proper semimonthly report is not filed on or before the due dates, in accordance with (d) of this Section, the report shall be delinquent.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 34 Ok Reg 2079, eff 9-11-17]

710:60-9-73. Waiver of penalty for failure to timely file semimonthly report

(a) **Criteria considered by the Commission.** The Oklahoma Tax Commission may waive the penalty for failing to file a semimonthly report in a timely manner if all the following criteria have been met:

- (1) The funds to which the report applies have been properly deposited.
- (2) The failure to timely file the report was due to emergency conditions beyond the control of the agent.
- (3) The report has been filed within a week of the date on which it was required to be filed on.

(b) **Not applicable to penalties associated with late deposits.** These criteria in no way affect penalty assessments for late deposits.

(c) **Penalties not a part of agency operating expenses.** Any motor license agent who pays a penalty in this situation may not allocate that payment as a part of operating expenses, but shall use personal funds for payment.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-9-74. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-75. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-76. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-77. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-78. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-79. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-80. Financial statement [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 19 Ok Reg 1849, eff 6-13-02]

710:60-9-81. Income, operating expenses and disbursements [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 19 Ok Reg 1849, eff 6-13-02]

710:60-9-82. Prohibited expenses [REVOKED]

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Revoked at 18 Ok Reg 878, eff 2-23-01 (emergency); Revoked at 18 Ok Reg 1340, eff 5-11-01]

PART 9. SPECIFIC FISCAL DUTIES

710:60-9-90. Deposit of monies

(a) **Funds due the Oklahoma Tax Commission.** A motor license agent shall deposit all monies which the agent is required to account for and pay over to the Commission in an Oklahoma Tax Commission Motor License Agency Account (designated for each agency) within one (1) banking day of collection. The motor license agent is to enter all required deposit information into the Oklahoma Tax Commission's deposit entry system by the end of the same business day the deposit is made to the bank. The monies belonging to the Oklahoma Tax Commission are not to be deposited to any account except the Oklahoma Tax Commission Motor License Agent Account.

(b) **Motor license agent fee retention.** The fees to be retained by the motor license agent as compensation shall not be deposited in the Oklahoma Tax Commission Motor License Agent Account. Should the motor license agent not have enough cash receipts to withhold the statutorily authorized agent's fee for the transactions reflected in the deposit being made, the motor license agent may designate on the Oklahoma Tax Commission Motor License Agent Account deposit slip the amount necessary to make up the difference as "Less Cash Received". Only the amount necessary to allow for the retention of the statutorily authorized motor license agent's fees for the transactions reflected in the deposit being made may be deducted from the Oklahoma Tax Commission deposit.

[Source: Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-9-91. Advice of deposits and depositing procedure

(a) **Agent to establish Oklahoma Tax Commission motor license agency account.** Every motor license agent shall establish an Oklahoma Tax Commission bank account in a bank or bank authorized to do a banking business in this state. At any time that collected receipts total One Hundred Dollars (\$100.00) or more, all funds due the Oklahoma Tax Commission must be deposited into this account within one banking day of collection.

(b) **Agent to establish motor license agency operational account.** In addition, an operational account must be established in which all other funds received by a motor license agent in the performance of his or her duties shall be deposited and shall not be commingled with any other funds.

(c) **Entry of deposit information.** The motor license agent is to record deposits made to their Oklahoma Tax Commission depository account by entering all required information into the Oklahoma Tax Commission's deposit entry system by the end of the same business day the deposit is made to the bank.

(d) **Reconciliation with semimonthly report.** All deposits that apply to a particular semimonthly report shall be listed on that report's remittance slip. Any

discrepancy between the deposit and report totals must be detailed by the agent on the report remittance slip.

(e) **Checks.** Payment by check shall be accepted, unless the applicant is within a penalty period, in which case acceptance of a check by the agent is optional. All checks received must be made payable to the Oklahoma Tax Commission and must include either the driver license number or Department of Public Safety identification number of the remitter. Postdated checks cannot be accepted.

(f) **Insufficient checks.** Should an agent's bank notify them of an insufficient check being deposited into the Oklahoma Tax Commission account, the agent must redeposit monies into the account to offset the debit. No Advice of Deposit is needed since the amount has already been included in a previous one.

(g) **Change of bank.** If changing banks, the agent must request new banking papers from the Oklahoma Tax Commission. The new banking papers must be completed and returned to the Oklahoma Tax Commission before making any deposit in the new bank.

(h) **Penalties for late deposits.** If funds due the Oklahoma Tax Commission are not deposited to the Oklahoma Tax Commission account within one banking business day of collection, a penalty of 1% of the deposited amount will be assessed. If the deposit is not made within five days of collection, the penalty increases to 3% of the deposit amount due.

(i) **Penalties incurred not a part of agency operating expenses.** Any motor license agent who pays a penalty for failure to make timely payments may not allocate that payment as a part of operating expenses, but must use personal funds for payment of the penalty.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-9-92. Procedure for use of remittance slip in making deposits, corrections, adjustments, and reconciliations

(a) Use of Oklahoma Tax Commission computer-generated remittance slip.

The remittance slip is a four purpose form. It serves as an overall reconciliation statement on an agent's individual report against deposits applied to that report.

(1) **Deposits.** All deposits, debit card and credit card remittances that apply to a specific report should be listed and totaled where indicated on the remittance slip. Should the total deposits not equal the report total, the filing agent is to indicate the amount long or short and detail the reason(s) for the discrepancy in the section provided on the remittance slip.

(2) **Corrections.** A deposit correction entry may result from the depository account bank reconciliation performed by the Motor Vehicle Division.

(3) **Adjustments.** Monetary adjustments may be required in the Motor Vehicle Division audit process. Any audit adjustment will be explained in a notice to the agent. Audit notices should be reviewed upon receipt by the agent and questions or concerns directed to the Division.

(4) **Reconciliations.** The Division will complete a reconciliation of the remittance slip, summarizing total deposits versus total taxes and fees due the Commission for the period, and incorporating any Division adjustments. The balance due agent or Commission listed on a particular remittance slip is for that report only.

(b) Procedures for common problem situations.

(1) **Shortage resulting from failure to collect proper fees.** Upon receiving notification of a failure to collect the proper tax and/or fee amount, the agent should contact the taxpayer with an explanation and request for payment. Upon receipt of payment, the agent should deposit the money into the Oklahoma Tax Commission account, issue the appropriate transaction receipt to the taxpayer as proof of payment and notify the Division of the collection.

(2) **Shortage resulting from inadequate documentation.** Upon receiving notification of failure to provide proper supporting documentation for a reduced or special rate, the agent must either collect and send in the documentation for review and cancellation of the notification by the Division, or contact the taxpayer for the additional amount due. Credit will be given if the documentation justifies withdrawal of the assessment.

(3) **Requests for credit resulting from encoding errors or failures.** If an agent requests credit for additional fees reflected in error on semimonthly reports as a result of failure to encode a special code or exemption, consideration will be made upon receipt of a statement of fact from the taxpayer denoting fees actually paid to the tag agent.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 33 Ok Reg 1081, eff 8-25-16]

710:60-9-93. Dishonored checks

A motor license agent shall reimburse the Oklahoma Tax Commission depository account for all dishonored checks which have been deposited to the account. The account is not to be charged. Dishonored checks that cannot be collected by the agent within thirty (30) days of retrieval from the depository bank are to be forwarded to the Oklahoma Tax Commission for credit and appropriate collection efforts.

[Source: Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-9-94. Procedures for reporting and collecting dishonored checks on OTC transactions

The following procedures should be followed in the event a check deposited by a motor license agent is returned unpaid.

(1) **Notice of dishonored check.** The bank should notify the agent that they are holding an unpaid item. The agent must make two (2) attempts to redeem the check through the depository bank. Should the bank refuse to accept the dishonored check a second (2nd) time, it shall be treated as if two (2) attempts were made. The agent shall retrieve the check immediately from the bank utilizing one of the following methods:

(A) The agent may utilize current funds due the OTC to reimburse the bank for the dishonored check and immediately forward the check and supporting documentation to the Commission for review and credit. If not received by the Commission within five (5) business days of retrieval, the OTC funds utilized will be considered delinquent and the delinquent depositing penalties outlined in 47 O.S. § 1142 shall apply.

(B) The agent may utilize personal funds to reimburse the bank for the dishonored check and attempt collection from the taxpayer for a period of thirty (30) days, as set forth below.

(2) Procedure for collection of dishonored check; applicable penalties; taxpayer liability. An initial returned check fee of \$25.00 is to be charged to the maker of a dishonored check, after an attempt has been made to deposit the check twice. Should payment for the check be subsequently collected by any motor license agent, that agent may retain the \$25.00 returned check fee. Any accrued penalty to date of collection is to be assessed. The taxpayer is notified to remit payment immediately to the tag office. If the agent's collection attempts on a check retrieved from the depository bank with personal funds are unsuccessful, the agent shall send to the Oklahoma Tax Commission the dishonored check, agent's file copies of documents on which the check was issued, and a copy of the notification to the taxpayer within thirty (30) days of retrieval from the depository bank. Upon receipt of the required documentation, the Commission will issue credit to the agent's account in the full amount of the check. Copies of all transaction and correspondence documentation is to be retained in the motor license agent's office. In the event the taxpayer returns all items issued by the motor license agent, the insufficient check is not to be returned to the taxpayer, or the transaction cancelled by the agent. Return of these items does not relieve the taxpayer of responsibility to remit the proper fees to the State of Oklahoma.

(3) Subsequent tender of payment. After the documents and dishonored check have been forwarded to the Motor Vehicle Division, the agent shall not accept payment from the registrant without contacting the Division for instructions.

(4) License plate or decal may be held. The motor vehicle agent may hold a license plate or decal until the taxpayer's check has cleared the bank.

(5) Dishonored checks to be forwarded to the Oklahoma Tax Commission; time limits. Dishonored checks for which the agent utilizes OTC funds to retrieve from the depository bank are to be forwarded immediately to the Oklahoma Tax Commission, along with the documentation required by the Commission to record and confirm date of retrieval from the depository bank. Information relating to any dishonored check retrieved with OTC funds is to be timely entered to the MLA deposit entry program, in the manner outlined by the Commission. All dishonored checks retained by the agent for attempted collection and for which payment is not received are to be sent to the Oklahoma Tax Commission no later than thirty (30) days after the date picked up from the bank. Further delays in processing may prevent collection.

(6) Purchaser not responsible. The purchaser of a vehicle shall not be required, as a condition for registration of the vehicle, to pay any tax, fee or penalty due resulting from a dishonored check submitted by the previous owner.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 11 Ok Reg 4691, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 21 Ok Reg 1137, eff 5-13-04; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 34 Ok Reg 2079, eff 9-11-17]

710:60-9-95. Procedures for refunds to taxpayer

(a) Refund procedures. All possible vehicle/boat/outboard motor related refund situations are to be referred to the Motor Vehicle Division of the Oklahoma Tax Commission. To initiate a refund under the noted circumstances the taxpayer must

make a refund request, submitting the appropriate documentation and/or information. The following is normally required to initiate a refund, under the noted circumstances:

- (1) **Overcharge on registration.** A refund request with appropriate documentation confirming the registration fee remitted. The original registration receipts reflecting the overcharge may also be required.
- (2) **Duplicate registration for the same vehicle.** A refund request with appropriate documentation confirming both registration remittances, as well as the duplicate registration decal and/or license plate last issued.
- (3) **Registration of a vehicle no longer owned.** A refund request with appropriate documentation confirming the registration remittance, as well as the registration decal and/or license plate issued and proper evidence of the disposition of the vehicle. Such evidence may be a copy of a sales or trade-in contract, a photocopy of the assigned certificate of title, or a notarized affidavit signed by the refund applicant, stating that the vehicle has been sold and identifying the vehicle by serial number and listing the date sold and to whom.
- (4) **Excise tax or sales tax paid in error or overcharge.** A refund request with appropriate documentation confirming the excise tax or sales tax remittance and documentation or information confirming the overcharge or tax exemption.
- (5) **Wrong registration classification.** A refund request with appropriate documentation confirming the incorrect registration and re-registration at the correct classification. The improper license plate and/or registration decal must be returned, as well. The registering motor license agent may be required to submit a notarized statement of error for a refund to be allowed. (This is not to be confused with the process of changing registration classification during a registration period).

(b) **No refund for change in type of registration.** When the type of registration is being changed no refund is due (as in noncommercial registration to farm registration).

(c) **Refund for change of laden weight of a commercial vehicle.** The only circumstance under which the registration for a commercial vehicle's weight can be reduced is when the error is made by the motor license agent. In order to issue a refund in this instance, both original registrations and a notarized statement signed by the motor license agent showing that the error was made in their office must be submitted.

(d) **Refunds payable to taxpayer.** Refund vouchers will be issued payable to the taxpayer for whom the payment was remitted, not payable to the remitter of the payment, if different.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 12 Ok Reg 2931, eff 7-14-95; Amended at 23 Ok Reg 2837, eff 6-25-06; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 35 Ok Reg 2085, eff 9-14-18]

710:60-9-96. Daily reports

Agents are to generate daily reports from the Oklahoma Tax Commission computer system and utilize the reports to verify all money totals and items issued.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-9-97. Allowable fees and charges

(a) **Allowable fees and charges limited by statute.** The Oklahoma Statutes designate all fees which motor license agents are allowed to collect and retain from a taxpayer. No other fees may be charged to a taxpayer for any service rendered pertaining to the issuance of titles, registrations, permits or any other document required by the Motor Vehicle Division. All fees assessed a taxpayer are to be entered into the OTC computer system to be reflected on the affiliated system-generated transaction receipt. All fees assessed a taxpayer must be documented in the agent's records so they may be identified as to type upon inquiry by the affected taxpayer or the Tax Commission. A general, non-specific category such as "Miscellaneous Fee" is not sufficient. The fee must be clearly identifiable.

(b) **Procedure for collection of costs of long-distance telephone charges.** The cost of a long distance phone call made to the Department of Public Safety or the Oklahoma Tax Commission (non-toll-free), made at the request of a taxpayer, may be charged back to the taxpayer, if agreed to in advance. Only the actual cost of the phone call may be charged.

(c) **Requiring mail delivery prohibited.** A motor license agent shall not require the taxpayer to accept mail delivery of any issued item or receipt.

(d) **Accountability for additional services fees.** When assessing a fee for an additional service that is not covered by statute, but is directly related to a motor license agency OTC or DPS transaction (i.e. providing a fax service for required documentation to complete a registration transaction), motor license agents are to:

(1) Explain to the taxpayer that the service being provided is an additional service (not a required service) offered by the agency, at an amount established by the MLA. The taxpayer is then free to accept or reject that additional service.

(2) Document each such fee in the agency records, so that it may be identified as to type upon inquiry by the affected taxpayer, or OTC. A general, non-specific category such as "Miscellaneous Fee" is not sufficient. The fee must be clearly identifiable.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 25 Ok Reg 2063, eff 7-1-08; Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-9-98. Procedures for reporting and collecting returned checks on driver license

The procedures in this Section should be followed by the motor license agent in the event a check deposited in payment of a driver license is returned unpaid:

(1) **Notice of returned check.** Upon receiving notification by the bank that a check which was written for a driver license has been returned unpaid, the agent will pick up the check and complete a notice of returned check (OTC Form 774A) to be sent to the maker of the check. Deposit of the check must be attempted twice.

(2) **Penalties on driver license returned checks.** The motor license agent may charge the maker of the returned check a service charge fee of Twenty-five Dollars (\$25.00), as set forth by statute, provided two attempts were made to deposit the check. Should the depositing bank refuse to accept the dishonored check a second (2nd) time, it shall be treated as if two (2) attempts had been made.

(3) **Procedures if returned check is uncollectible; obtaining credit to agent's account; subsequent payment.** If a motor license agent is unable to collect a returned check written for a driver license, the agent must send

the returned check to the Oklahoma Tax Commission, along with the agent's file copy of the driver license report. The Oklahoma Tax Commission will credit the agent's ledger account in the full amount of the driver license transaction. The motor license agent will forward directly to the Department of Public Safety (DPS) a copy of the returned check and a copy of the documents on the driver license. DPS will send a letter advising the holder of the driver license that the license is invalid, driving privileges are canceled, and payment for the returned check must be made to the motor license agent. When collecting for a driver license returned check, the motor license agent will collect the amount of the returned check, plus the service charge and remit the original check amount to the Oklahoma Tax Commission, while retaining the Twenty-five Dollar (\$25.00) service charge. The Oklahoma Tax Commission will return the check to its maker. The motor license agent will notify DPS when the returned check has been paid.

(4) Driver license returned checks to be forwarded to the Oklahoma Tax Commission; time limits. All insufficient checks for which payment is not received are to be sent to the Oklahoma Tax Commission within thirty (30) days of retrieval from the depository bank.

[Source: Added at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-9-99. Procedures for collecting returned checks on driver's license records

Upon receiving notice from the bank that a check written for a driver's license record has been returned unpaid, the agent will pick up the check. The Motor License Agent **may not** charge the maker of the check a service charge fee upon collection, nor may the Motor License Agent send the check to the Oklahoma Tax Commission for credit or collection, if uncollectible.

[Source: Added at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96]

PART 11. AGENCY OPERATION

710:60-9-110. Consanguinity and affinity prohibited in conduct of motor license agency business; exception [REVOKED]

[Source: Amended at 13 Ok Reg 3113, eff 7-11-96; Revoked at 19 Ok Reg 1849, eff 6-13-02]

710:60-9-111. Maintenance of notary by a motor license agent

A motor license agent shall provide a notary for those documents required to be notarized by the Oklahoma Tax Commission. A motor license agent may not require notarization of any document that is not required to be notarized by the Commission or require additional notarized documents beyond those required by the Commission for the applicable transaction. Only the notary fee amount provided by statute may be assessed for each required notarization.

[Source: Amended at 24 Ok Reg 2375, eff 6-25-07]

710:60-9-112. [RESERVED]

[Source: Reserved at 8 Ok Reg 3305, eff 7-8-91 (emergency); Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-113. Motor license agency purchases [REVOKED]

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Revoked at 19 Ok Reg 1849, eff 6-13-02]

710:60-9-114. Status of motor license agent

A Motor License Agent shall be a self-employed independent contractor. Under no circumstances shall a Motor License Agent hold himself/herself out as an agent of the Oklahoma Tax Commission.

710:60-9-115. Successor agents; Commission authority to determine disputes and hold agency property

Upon the appointment of a successor agent, the Commission has the power to decide the equitable settlement of any issue arising from partial interests involved in real and personal property. The property may, however, be transferred to the Commission to be held or used by the Commission until a successor agent is appointed and qualified.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-116. Motor license agent training and continuing education

(a) **Training.** A newly appointed agent will be given a three (3) to four (4) day indoctrination, encompassing policies and procedures involved in the issuance of certificates of title, registrations and other matters pertaining to the duties and responsibilities of a Motor License Agent.

(b) **Continuing education.** Agents are responsible for keeping abreast of, as well as implementing, statutory and procedural changes and instructions issued by the Tax Commission. Attendance by the Motor License Agent and selected employees at annual motor license agent schools conducted by the Oklahoma Tax Commission is not mandatory, but is strongly encouraged.

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 15 Ok Reg 2821, eff 6-25-98; Amended at 22 Ok Reg 1549, eff 6-11-05]

710:60-9-117. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-118. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-119. [RESERVED]

[Source: Reserved at 9 Ok Reg 2151, eff 6-12-92]

710:60-9-120. Summary of operational requirements

The following is a summary of operational requirements for agents and agencies:

- (1) Agents are required to operate the agency forty (40) hours a week, of which at least four (4) hours are after normal business hours or on Saturday. The number of operating hours required of a specific agency may be reduced upon written approval from the Oklahoma Tax Commission.
- (2) Agents are required to collect fees as outlined by state statute, and issue all documents (i.e. license plates, registration decals, title certificates) prescribed by the Oklahoma Tax Commission. Additionally, an agent must issue all titles and liens, boats and motors titles - registrations, etc.,

prescribed by the Oklahoma Tax Commission.

(3) Agents are required to deposit all monies required by the Commission into the designated Oklahoma Tax Commission bank account within one (1) banking day of collection, preparing an Advice of Deposit which is to be submitted to the Oklahoma Tax Commission in the manner prescribed by the Commission.

(4) Agents are required to prepare semimonthly reports to be received by the Oklahoma Tax Commission within the time frame outlined in Section 710:60-9-72.

(5) Agents must perform all necessary inspections required by the Oklahoma Tax Commission motor license agents manual.

(6) Agents are required to provide a notary within their agency.

(7) Agents are required to insure that all transactions are processed and entered to the Oklahoma Tax Commission computer system on a daily basis.

(8) The Advice of Deposit shall be submitted to the Oklahoma Tax Commission, Motor Vehicle Division in the manner prescribed by the Commission. Advice of Deposit information is to be entered to the Oklahoma Tax Commission MLA deposit entry system immediately following depositing of the funds.

(9) Agents are responsible for errors in tax computations and/or fee computations and collections as determined by the Commission.

(10) A motor license agent shall follow the process and procedures set forth in Section 710:60-9-94 for reporting and collecting dishonored checks on Tax Commission transactions. (11) Agents are required to maintain files of all receipts and required reports issued by their office, including those of a former agent, if applicable, for at least two (2) years.

(12) Agents must pay or account for all missing items identified by an inventory audit.

(13) Agents shall not issue license plates, registration decals, receipts, or any type of document until payment of all applicable taxes and fees has been received in full. Payment may be made by cash, money order, personal or company check, cashier's check, or by a nationally recognized credit or debit card. The Tax Commission shall determine which nationally recognized credit or debit cards will be required to be accepted by motor license agents, ensuring no loss of state revenue results from their use. All checks and money orders are to be made payable to the Oklahoma Tax Commission.

(14) Agents are required to maintain strict compliance with the Motor Vehicle Licensing and Registration Act and with the rules, regulations, fee schedule, and procedures as set forth in the Motor License Agents Manual of Procedure and instructional material periodically issued by the Tax Commission.

(15) Agents are responsible for keeping abreast of, as well as implementing, statutory and procedural changes and instructions issued by the Tax Commission. Annual area schools conducted by the Commission are an important component in disseminating such instruction. Area school attendance is not mandatory, unless specifically mandated by the Commission, but is strongly encouraged.

(16) Agents are required to post the Public Notice Fee Chart, in addition to any other required public notices provided by the Tax Commission, in a

conspicuous location in the agency.

(17) All customers' checks are to be made payable to: Oklahoma Tax Commission. One of the following identifying numbers must be listed on the face of the check: the remitter's driver license number, or a Department of Public Safety identification number.

(18) Motor license agents are authorized to perform additional duties as directed by the Tax Commission, in compliance with Oklahoma statutory guidelines.

(19) Agents must maintain a clean, orderly office environment, conducive to taxpayer service.

(20) Agents shall comply with Oklahoma Tax Commission policies relating to the provision and maintenance of equipment furnished by the Commission.

[Source: Added at 8 Ok Reg 3305, eff 7-8-91 (emergency); Added at 9 Ok Reg 2151, eff 6-12-92; Amended at 11 Ok Reg 3507, eff 6-26-94; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 19 Ok Reg 1849, eff 6-13-02; Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 32 Ok Reg 1363, eff 8-27-15; Amended at 33 Ok Reg 1081, eff 8-25-16; Amended at 34 Ok Reg 2079, eff 9-11-17; Amended at 36 Ok Reg 1227, eff 8-11-19]

PART 13. PROVISIONS FOR MOTOR LICENSE AGENT APPLICATION AND APPOINTMENT

710:60-9-130. Appointment/operation of motor license agents/agencies in municipalities having a population in excess of 8,500, located in a county having a population in excess of 130,000 [REVOKED]

[Source: Revoked at 27 Ok Reg 127, eff 10-1-09 (emergency); Revoked at 27 Ok Reg 2293, eff 7-11-10]

710:60-9-130.1. Purpose

The provisions of this Part have been promulgated to facilitate the application and appointment guidelines for motor license agents appointed on or after July 1, 2009, pursuant to the Oklahoma Vehicle License and Registration Act (47 O.S. § 1140 et seq.), which are in addition to all other requirements and restrictions set forth in this Subchapter.

[Source: Added at 27 Ok Reg 127, eff 10-1-09 (emergency); Added at 27 Ok Reg 2293, eff 7-11-10]

710:60-9-131. Application for the position of a motor license agent

(a) The applicant must not have been convicted of a felony and/or no felony charges may be pending against the applicant.

(b) The applicant must submit an authorization for release of criminal history and credit history along with a personal financial statement in a manner prescribed by the Tax Commission.

(c) The applicant must be in compliance with all tax laws of the state of Oklahoma.

(d) Prior to appointment as a motor license agent, applicants for an appointment must submit an estimated budget, including the number of agency employees, for approval by the Oklahoma Tax Commission.

(e) As a condition precedent to appointment as a motor license agent, applicant must obtain a faithful performance surety bond as provided by law. The applicant is to contact the Oklahoma Tax Commission for the amount of the bond required for the location of the agency. A commitment by the bonding company to issue the required bond in the amount specified by the Oklahoma Tax Commission or an affidavit that the applicant will provide a cash bond, must be attached to the

applicant for the appointment as a motor license agent.

(f) The application and the non-refundable statutory application fee is to be submitted to the Motor Vehicle Division of the Oklahoma Tax Commission.

[Source: Amended at 8 Ok Reg 3305, eff 7-8-91 (emergency); Amended at 9 Ok Reg 2151, eff 6-12-92; Amended at 13 Ok Reg 3113, eff 7-11-96; Amended at 27 Ok Reg 127, eff 10-1-09 (emergency); Amended at 27 Ok Reg 2293, eff 7-11-10]

710:60-9-132. Necessary job skills and experience

(a) In order to be appointed as a motor license agent, an Applicant shall have the following necessary knowledge and skills:

- (1) Skill in establishing and maintaining effective relationships with others; in directing and reviewing the work of others; in analyzing complex situations and adopting an effective course of action.
- (2) Thorough knowledge of the principles and practices of business organization and management and of public relations.
- (3) Knowledge of accounting practices; of the method and techniques of public and business administration; of financial report writing; and of modern office machines and procedures.

(b) In order to be appointed as a motor license agent, an Applicant shall have the following education and/or experience:

- (1) Completion of the curriculum requirements for a baccalaureate degree in business or a closely related field and two (2) years experience in accounting, bookkeeping, auditing, including one (1) year in a supervisory capacity; or
- (2) Any equivalent combination of education and experience; or
- (3) Six (6) years of business experience which should include accounting or bookkeeping experience, as determined by the Oklahoma Tax Commission; or
- (4) A combination of education and experience satisfactory to the Commission.

[Source: Amended at 29 Ok Reg 532, eff 5-11-12]

710:60-9-133. Primary source of income

The compensation from the agency must be the primary source of income for all appointed motor license agents in counties with a population in excess of 30,000 persons according to the latest Federal Decennial Census. The motor license agent shall annually submit an affidavit that the income from the agency is the motor license agent's primary source of income. The Commission may confirm the accuracy of that affidavit by examining income information from Commission files, or from an outside state or federal agency. By accepting appointment as a motor license agent, the appointee expressly grants consent to the Commission to examine the appointee's tax records, and other appropriate income-related information, for this purpose.

[Source: Amended at 27 Ok Reg 127, eff 10-1-09 (emergency); Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 36 Ok Reg 1227, eff 8-11-19]

710:60-9-134. Motor license agency location, staffing, equipment, office space, parking, and hours

(a) The location of the applicant's agency shall not be within a three (3) mile radius of an existing agency unless the applicant assumes the location of an existing agency. If the applicant assumes the location of an existing agency, the current

agent may submit a letter of resignation contingent upon the appointment of the applicant regardless of the population of the municipality in which the agency is located. The Oklahoma Tax Commission may, at its discretion, approve the relocation of an existing agency within a three (3) mile radius of another existing agency only if a naturally intervening geographic barrier within that radius causes the locations to be separated by not less than three (3) miles of roadway by the most direct route.

(b) No motor license agent shall select a location owned by a member of the Oklahoma Tax Commission or an employee of the Oklahoma Tax Commission or to any person related to a member of the Oklahoma Tax Commission or an employee of the Oklahoma Tax Commission within the third degree of consanguinity (by blood relation) or affinity (by marriage).

(c) The number of agency employees is to be determined by the motor license agent subject to the Oklahoma Tax Commission's approval.

(d) The motor license agent shall maintain adequate equipment to accommodate the employees of the agency and sufficient seating arrangements for the taxpayers as determined by the Oklahoma Tax Commission.

(e) The Oklahoma Tax Commission shall determine the amount of office space the motor license agent shall maintain to provide a working area for the employees which is separate from the waiting area of the public. However, the amount of such office space shall not be less than Eight Hundred (800) square feet.

(f) The Oklahoma Tax Commission shall determine the amount of public parking the motor license agent shall maintain. However, the number of parking spaces shall not be less than five (5) with at least one (1) space reserved for disabled persons. It shall be the responsibility of the motor license agent to ensure compliance with all applicable local and ADA (Americans with Disabilities Act) parking and customer access requirements.

(g) In addition to the payment of costs required by *OAC 710:60-9-131(f)* for new agents, existing motor license agents shall be responsible for all costs incurred by the Tax Commission when relocating an existing agency. Such payment may be waived by the Tax Commission in case of emergency or unforeseen business conditions beyond the control of the agent.

(h) The motor license agent shall provide and maintain, within the agency, a personal computer with internet access for use during normal business hours. The personal computer equipment provided by the motor license agent must satisfy the technical requirements established for such equipment by the Commission. Should those technical requirements change, it shall be the responsibility of the motor license agent to upgrade or replace their personal computer equipment as necessary to remain in continuous compliance.

[Source: Amended at 22 Ok Reg 1549, eff 6-11-05; Amended at 26 Ok Reg 2344, eff 6-25-09; Amended at 27 Ok Reg 127, eff 10-1-09 (emergency); Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 36 Ok Reg 1227, eff 8-11-19; Amended at 37 Ok Reg 2233, eff 9-11-20]

710:60-9-135. Minimum office hours [REVOKED]

[Source: Revoked at 27 Ok Reg 127, eff 10-1-09 (emergency); Revoked at 27 Ok Reg 2293, eff 7-11-10]

710:60-9-136. Interviews

The Oklahoma Tax Commission shall designate the interviewer and the applicant will be given adequate notice of the time, date and place of the interview.

710:60-9-137. Appointment

- (a) Based upon the findings of a study performed by the Commission and other information as may be deemed applicable, the Executive Director of the Commission may, at his or her discretion, make motor license agent appointment recommendations to the Commission.
- (b) The successful applicant will be furnished a letter of appointment.
- (c) If the applicant is rejected, the applicant will be forwarded a notification of rejection along with the reason for rejection.
- (d) The successful applicant must accept or reject the appointment, in writing, within thirty (30) days of the appointment letter.
- (e) If the applicant accepts the appointment, the applicant will be required to open the agency within fifteen (15) days after acceptance of the appointment, unless a time extension is granted by the Commission.

[Source: Amended at 24 Ok Reg 2375, eff 6-25-07; Amended at 27 Ok Reg 127, eff 10-1-09 (emergency); Amended at 27 Ok Reg 2293, eff 7-11-10; Amended at 30 Ok Reg 1861, eff 7-11-13; Amended at 38 Ok Reg 1536, eff 9-1-21]

710:60-9-138. Suspension of appointment

When determined to be in the public interest, the Executive Director of the Commission may order an immediate, temporary suspension of a motor license agent's operation, pending review and appropriate action by the Commission.

[Source: Added at 30 Ok Reg 1861, eff 7-11-13]

APPENDIX A. ESTIMATED MILEAGE CHART FOR NEW IRP REGISTRANTS [REVOKED]

[Source: Added at 19 Ok Reg 428, eff 10-18-01 (emergency); Added at 19 Ok Reg 1218, eff 5-11-02; Revoked and reenacted at 20 Ok Reg 377, eff 12-20-02 (emergency); Revoked and reenacted at 20 Ok Reg 2591, eff 7-11-03]

CHAPTER 65. SALES AND USE TAX

[Authority: 2 O.S., § 11-96; 68 O.S., §§ 203, 1353(B), 1354(A)(21), 1354.18, 1357(23), 1357.4(D)(3), 1357.5(E)(3), 1357.10(C), 1359.1(E)(3), 1364(D), 1404.1(E)(3), 1404.3(D)(3), 1404.4(E)(3), 1404.5(D) and (E)(3), 1407, 1407.2, 1515(D), 2397, 54004(E)(3), and 54005(E)(3)]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:65-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250. 1 et seq., and to facilitate the administration, enforcement, and collection of taxes under the Oklahoma Sales and Use Tax Codes. (68 O.S. §§1351 et seq.; 68 O.S. §§1401 et seq.)

710:65-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Business" means any activity with the potential to generate a profit even if the business actually operates at a loss. This category also includes non-profit, religious and other organizations and persons who are otherwise exempt when they are conducting activities for a profit in competition with other businesses.

"Bundled Transaction" means the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable, and the products are sold for one nonitemized price. A

"bundled transaction" does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction. As used in this paragraph:

(A) **"distinct and identifiable products"** does not include:

(i) packaging such as containers, boxes, sacks, bags, and bottles, or other materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof, including but not limited to, grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes;

(ii) a product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge, or

(iii) items included in the definition of gross receipts or sales price, pursuant to this Section.

(B) **"one nonitemized price"** does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(C) A transaction that otherwise meets the definition of a **bundled transaction** shall not be considered a **bundled transaction** if it is:

(i) the retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(ii) the retail sale of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

(iii) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis. For purposes of this Section, "de minimis" means the seller's purchase price or sales price of taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

(iv) the retail sale of exempt tangible personal property and taxable tangible personal property where:

- (I) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices or medical supplies, and
- (II) the seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction.

"Consumer" or **"user"** means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

"Consideration" means and includes, but is not limited to:

- (A) The price arrived at between purchaser and vendor.
- (B) Any additional bona fide charges added to or included in such price for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other services performed in respect to or labor charges for work done with respect to such property prior to transfer.
- (C) No deduction from gross receipts is permitted for services performed or work done on behalf of the vendor prior to transfer of such tangible personal property. [See: 68 O.S. § 1352(12)]

"Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. **"Delivery charges"** does not include charges for the delivery of **"direct mail"** if the charges are separately-stated on an invoice or similar billing document given to the purchaser.

"Gross receipts", "gross proceeds", or "sales price" means the total amount of consideration including cash, credit, property, and services, for which personal property or services are sold, leased, or rented; valued in money, whether received in money or otherwise, without any deduction for the following:

- (A) *The seller's cost of the property sold;*
- (B) *The cost of materials used, labor, or service cost;*
- (C) *Interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;*
- (D) *Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;*
- (E) *Delivery charges and installation charges, unless separately stated on the invoice, billing, or similar document given to the purchaser; or,*
- (F) *Credit for any trade-in.*

"Gross receipts", "gross proceeds", or "sales price" shall not include:

- (A) *Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;*

(B) *Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or*

(C) *Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser. [68 O.S. § 1352(12)]*

"Gross receipts", "gross proceeds", or "sales price" shall include consideration received by the seller from third parties if:

(A) *The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*

(B) *The seller has an obligation to pass the price reduction or discount through to the purchaser;*

(C) *The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*

(D) *One of the following criteria is met:*

(i) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;*

(ii) *The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, a "preferred customer" card that is available to any patron does not constitute membership in such a group; or*

(iii) *The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.*

"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(A) **"Lease or rental"** does not include:

(i) *A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;*

(ii) *A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of One Hundred Dollars or one (1) percent of the total required payments; or*

(iii) *Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose*

of this unit, an operator must do more than maintain, inspect, or set-up the tangible personal property.

(B) **"Lease or rental"** does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined by 26 U.S.C. § 7701(h)(1).

(C) This definition shall be used for sales and use tax purposes if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Oklahoma Uniform Commercial Code (12A O.S. § 1-101 et seq.), or other provisions of federal, state, or local law.

"Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

"Sale" means *the transfer of either title or possession of tangible personal property for a valuable consideration regardless of the manner, method, instrumentality, or device by which the transfer is accomplished in this state.* All consideration received for the sale is included in gross receipts subject to tax.

(A) **"Sale"** does include but is not limited to:

(i) The exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property;

(ii) The disposition for consumption or use in any business or by any person of all goods, wares, merchandise, or property which has been purchased for resale, manufacturing, or further processing;

(iii) The sale, gift, exchange, or other disposition of admission, dues, or fees to clubs, places of amusement or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities;

(iv) The furnishing or rendering of services taxable under the Oklahoma Sales Tax Code; and

(v) Any use of motor fuel or diesel fuel by a supplier, as defined in Section 500.3 of this title, upon which sales tax has not previously been paid, for purposes other than to propel motor vehicles over the public highways of this state. Motor fuel or diesel fuel purchased outside the state and used for purposes other than to propel motor vehicles over the public highways of this state shall not constitute a sale within the meaning of this paragraph.

(B) **"Sale"** does not include sale and leaseback.

"Sales tax" means all applicable state, city and county sales tax.

"Sales value" means:

(A) In the case of a manufacturer, the sum of the manufacturer's cost of raw materials and the proportionate share of both the cost of machinery and equipment used and the cost of items consumed in the direct process of the manufacturing of the product, all of which were purchased exempt from sales tax for use in the process of manufacturing; or

- (B) In the case of a person holding a mixed beverage tax permit or other permit issued in accordance with 37A O.S. § 5-107, the total retail sales price for sales of alcoholic beverages only, calculated pursuant to *OAC 710:20-5-4*; or
- (C) In the case of sales of prepared food, the sales value of a free, reduced price, or complimentary meal is presumed to be the greater of the consideration received for the meal, if any, or the cost paid by the vendor of the food for the food items included in the free, reduced price, or complimentary meal; or
- (D) In the case where an inventory of goods, originally purchased exempt for resale, is being held for rental or leasing purposes, the regular rental charges which would be charged to the vendor's best customer, if the goods are to be returned to inventory. Where the goods are not to be returned to inventory held for rental or leasing purposes, the lesser of the original purchase price of the goods, or the current market price will be presumed to be the sales value; or
- (E) Otherwise, "**sales value**" means the larger of either the vendor's cost at the time the exempt purchase of goods was made, or the price at which it would be sold to the vendor's best customer in the ordinary course of business.

"Tangible personal property" means *personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses*. For purposes of the Oklahoma Sales Tax Code, "**tangible personal property**" includes *electricity, water, gas, steam and prewritten computer software*. [68 O.S. § 1352(24)] The term does not include real property, such as land and buildings, tangible personal property that loses its identity when it becomes an integral and inseparable part of the realty, or tangible personal property which is removable only with substantial damage to the premises. Property severed from real estate becomes tangible personal property. "**Tangible personal property**" does not include intangible personal property constituting mere rights of action and having no intrinsic value, such as contracts, deeds, mortgages, stocks, bonds, certificates of deposit, or uncanceled United States postage or revenue stamps sold for postage or revenue purposes. [See: 68 O.S. § 1352; 68 O.S. § 1354; See Also: 60 O.S. §§ 7, 8]

"Tax" means all state, applicable city and applicable county tax.

"Use tax" means all applicable state and city use tax.

"User" or **"consumer"** means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-1-3. Computation of sales and use taxes to be collected and remitted

(a) **Determination of tax rate.** To determine the amount of tax to be collected and remitted, the gross receipts or gross proceeds of each sale is to be multiplied by the applicable percentage. *The applicable percentage shall equal the combination of the state and any applicable municipal and county sales tax rates.*

(b) **Computation of tax.** *In computing the tax to be collected or remitted as the result of any transaction, the tax amount must be carried to the third decimal place when the tax amount is expressed in dollars. The tax must be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal*

place is greater than four. The vendor or direct payment permit holder may elect to compute the tax due on transactions on an item or invoice basis. [See: 68 O.S.Supp.2003, § 1362(B)]

[Source: Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-1-4. Presumption of taxability

(a) **Sales tax.** For the purpose of proper administration of the provisions of the sales and use tax laws, it is presumed that all gross receipts are subject to tax until they are shown to be tax exempt. The burden of proving that a sale of tangible personal property or enumerated service is an exempt sale is upon the vendor.

(b) **Use tax.** For consumer use tax purposes, it is presumed that tangible personal property sold, leased or rented by any person for delivery in this state is sold, leased or rented for storage, use or other consumption in this state. The burden of proving the contrary is on the purchaser. [See: 68 O.S. §1365]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-1-5. Unlawful to advertise that sales tax will be absorbed

Oklahoma Statutes, prohibits any retailer to advertise or hold out or state to the public or to any customer, either directly or indirectly, that the sales tax imposed under Oklahoma Statutes, will be absorbed or assumed by such retailer, or that such tax will be paid by the vendor for the consumer or user. [See: 68 O.S. §1361 (D)]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-1-6. "Tax-included" prices

(a) Certain vendors, in an effort to arrive at a sum for the tangible personal property being sold which may be conveniently handled as cash, have calculated the price of the property and collected a "**tax-included**" amount. In some cases the vendor has made signs, price lists, etc. on the premises advising that the prices include tax; in others no apparent mention of taxes has been made to the public.

(b) Although certainly desirable from an accounting and auditing standpoint, neither the statutes nor Commission rules require a vendor to state the sale price separately from the applicable tax. 68 O.S. 1361(B) provides that sales tax shall be added to the sales price, "*and when added such tax shall constitute a part of such price.*" Under present law, taxes collected as part of a tax-included price, if so charged and collected, may be "backed out" of the total receipts to arrive at the amount of gross receipts or gross proceeds subject to tax. [68 O.S. §1361(B)]

(c) Whether the vendor added and collected the tax or whether the vendor truly failed to collect any tax at all, is always a fact to be determined. Such factual determination must be made in light of all circumstances, documents, records and information available. No single factor will be relied on to the exclusion of other evidence. As always in tax matters, the burden of proving that the tax was added and collected is on the vendor. The vendor must keep sufficient documentary evidence, i.e. books, records, price lists, signs, to sustain this burden.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04]

710:65-1-7. Consumer/user defined; specific applications

"**Consumer**" or "**user**" means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

(1) Hospitals, sanitariums, nursing homes and emergency medical care.

Hospitals and sanitariums are primarily engaged in the business of selling services, and for the purposes of the Sales Tax Code are considered to be the consumers or users of all tangible personal property and services used in the operation of the institution. Thus, the gross proceeds derived from sales of tangible personal property and certain services to such institutions are subject to tax. This paragraph applies to all hospitals, sanitariums and nursing homes, including those owned or operated by churches, fraternities, cooperatives, or any other organization, except those operated by the Federal Government, the State, or a political subdivision thereof.

(2) Withdrawals from stock. If any business purchases tangible personal property for resale, manufacturing or further processing and that business withdraws tangible personal property, either from its inventory or after such inventory has been manufactured or processed for its own use or consumption, that business has made a taxable sale and the value of the property withdrawn is taxable at its "**sales value**", as defined in *OAC* 710:65-1-2. The business withdrawing tangible personal property from inventory should include the "**sales value**" of such property in gross receipts or gross proceeds on its sales tax report for the month the property was withdrawn.

(3) Contractors. Contractors are consumers or users, and must pay sales tax on all taxable services and tangible personal property, including materials, supplies, and equipment, purchased to develop and improve real property. Examples of contractors subject to this paragraph are: painting contractors, road contractors, grading and excavating contractors, electrical contractors, plumbing contractors, and other persons engaged in a contractual arrangement to make improvements on real property. A person working for a salary or wage is not considered a contractor. The Sales Tax Code limits the ability of contractors to make purchases exempt from sales tax based on the exempt status of another entity to the following situations: [See: 710:65-7-6 and 710:65-7-13]

(A) A contractor who has a public contract, or a subcontractor to that public contract, with an Oklahoma municipality, county, public school district, an institution of the Oklahoma System of Higher Education, a rural water district, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, the City of Tulsa-Rogers County Port Authority, the Broken Bow Economic Development Authority, the Muskogee City-County Port Authority, the Oklahoma Ordnance Works Authority, the Durant Industrial Authority, the Ardmore Development Authority, the Oklahoma Department of Veterans Affairs, the Central Oklahoma Master Conservancy District, or Department of Central Services only when carrying out a public construction contract on behalf of the Oklahoma Department of Veterans Affairs may make purchases of tangible personal property or services, which are necessary for carrying out the public contract, exempt from sales tax.

(B) A contractor who has entered into a contract with a private institution of higher education or with a private elementary or secondary institution, may make purchases of tangible personal property or services, including materials, supplies and equipment

used in the construction of buildings owned and used by the institution for educational purposes exempt from sales tax.

(C) A contractor who has contracted with an agricultural permit holder to construct a facility which will be used directly in the production of any livestock, including facilities used in the production and storage of feed for livestock owned by the agricultural permit holder, may make purchases of materials, supplies and equipment necessary to fulfill the contract, exempt from sales tax.

(D) A contractor may make purchases of materials, supplies and equipment necessary to fulfill a contract, exempt from sales tax, for use on campus construction projects for the benefit of institutions of the Oklahoma State System of Higher Education or private institutions of higher education accredited by the Oklahoma State Regents for Higher Education. The projects must be financed by or through the use of nonprofit entities which are exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(E) A contractor may make purchases of machinery, equipment, fuels, and chemicals or other materials, exempt from sales tax, which will be incorporated into and directly used or consumed in the process of treatment of hazardous waste, pursuant to *OAC 710:65-13-80*. Contractors claiming exemption for purchases to be used to remediate hazardous wastes should obtain a letter certifying the exemption status from the Tax Commission by following the procedures set out in *710:65-13-80*, and provide a copy of the letter to vendors, pursuant to subsection (f) of that rule.

(F) A contractor, or a subcontractor to such contractor, with whom a church has duly entered into a construction contract may make purchases of tangible personal property or services exempt from sales tax which are necessary for carrying out such construction contract.

(G) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property which is to be *consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative* exempt from sales tax.

(H) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services pursuant to a contractual relationship with a child care center, qualified for exemption pursuant 68 O.S. § 1356(69), for construction and improvement of buildings and other structures owned by the child care center and operated for educational purposes exempt from sales tax.

(I) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services exempt from sales tax pursuant to a contractual relationship with a manufacturer for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and equipment for use in a manufacturing operation classified under NAICS No. 324110

(Petroleum Refineries).

(4) **Repairmen.** Repairmen are persons engaged in the business of repairing tangible personal property. Parts incidental to the repair service which are consumed/used in making repairs are taxable to the repairman as a consumer/user. [See: 68 O.S. § 1352]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-1-8. Established place of business; maintaining a place of business

(a) "Established place of business" defined.

(1) An **"established place of business"** means a location at which:

(A) Any person regularly engages in, conducts, or operates a business:

- (i) in a continuous manner,
- (ii) for any length of time,
- (iii) that is open to the public during hours customary for the type of business; and

(B) Merchandise for resale is maintained, and not exempted by law from attachment, execution, or other species of forced sale barring any satisfaction of any delinquent sales tax liability.

(2) A location used in conducting a hobby is not considered an **"established place of business"** even though occasional taxable sales are made from the location; i.e., a garage set up as a wood working shop. The occasional sales are taxable and are to be reported by the seller on a sales tax report as casual sales.

(b) "Maintaining a place of business" defined. "Maintaining a place of business in this state" means and shall be presumed to include:

(1) Utilizing or maintaining in this state, directly or through subsidiary the operations outlined in (A) through (E) of this paragraph whether owned or operated by the vendor or any other person, other than a common carrier acting in its capacity as such.

- (A) an office (to include a home office),
- (B) a distribution house,
- (C) a sales house (such as a shop or store),
- (D) a warehouse (could be in a home's garage), or
- (E) any other physical place of business (a hot dog stand on wheels, a barbecue wagon parked on the roadside, or an ice cream truck traveling a route); or

(2) Having agents operating in this state such as salesmen, brokers, or wholesale buyers;

(A) Whether the place of business, or agent is within this state temporarily (traveling salesman, buyers for out-of-state firms) or permanently (shop or store in a mall); or

(B) Whether the person is authorized to do business within this state. Example: A broker, who is self-employed, operates his business from an office he has established in a spare bedroom of his home in this state. He does not have an "established place of business" but he does "maintain a place of business in this state." [See: 68 O.S. §§ 1352(10), (13); 1401(10)]

- (3) The presence of any person, other than a common carrier acting in its capacity as such, that has substantial nexus in this state and that:
- (A) sells a similar line of products as the vendor and does so under the same or a similar business name,
 - (B) uses trademarks, service marks or trade names in this state that are the same or substantially similar to those used by the vendor,
 - (C) delivers, installs, assembles or performs maintenance services for the vendor,
 - (D) facilitates the vendor's delivery of property to customers in the state by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in this state, or
 - (E) conducts any other activities in this state that are significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sale.
- (4) The presumptions in paragraphs (1) and (2) of subsection (b) may be rebutted by demonstrating that the person's activities in this state are not significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sales.

[Source: Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 34 Ok Reg 2089, eff 9-11-17]

710:65-1-9. Gross receipts, gross proceeds, and sales price

(a) **General provisions.** The gross proceeds, gross receipts, or sales price reported by the taxpayer must include the total receipts from all sources, including cash from sales, charge sales, credits, services, and property other than cash accepted as consideration. Sales tax reports are to be filed on an accrual accounting basis. Sales tax should be reported and remitted for the month that the sale is made regardless of whether payment is received, charged, deferred, or otherwise to be made in the future, and regardless of the time or manner of payment.

(b) **Scope of "gross receipts", "gross proceeds", or "sales price".** *"Gross receipts", "gross proceeds", or "sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:*

- (1) *The seller's cost of the property sold;*
- (2) *The cost of materials used, labor, or service cost;*
- (3) *Interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;*
- (4) *Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;*
- (5) *Delivery charges and installation charges, unless separately-stated on the invoice, billing, or similar document given to the purchaser; and,*
- (6) *Credit for any trade-in.*

(c) **Excluded items and transactions.** *"gross receipts", "gross proceeds", or "sales price" shall not include:*

- (1) *Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;*

- (2) *Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately-stated on the invoice, bill of sale, or similar document given to the purchaser; and,*
- (3) *Any taxes legally imposed directly on the consumer that are separately-stated on the invoice, bill of sale, or similar document given to the purchaser. [68 O.S. § 1352(12)]*

(d) **"Gross receipts", "gross proceeds", or "sales price"** shall include consideration received by the seller from third parties if:

- (1) *The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*
- (2) *The seller has an obligation to pass the price reduction or discount through to the purchaser;*
- (3) *The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*
- (4) *One of the following criteria is met:*
 - (A) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;*
 - (B) *The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, a "preferred customer" card that is available to any patron does not constitute membership in such a group; or*
 - (C) *The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.*

(e) **Examples and illustrations.** Examples and illustrations of common situations and transactions are set out in this subsection, with information as to how gross receipts, gross proceeds, or sales price should be determined in each instance:

- (1) **Trade-ins.** The value of trade-ins accepted by a taxpayer in lieu of money or other consideration may not be deducted from the gross proceeds.
- (2) **Sales value.** The gross proceeds must also include the sales value, as defined in *OAC 710:65-1-2*, of any goods, wares, merchandise or property withdrawn or used from the established place of business or from the stock in trade.
- (3) **Charge accounts.** Sales tax applies to credit sales at the time the sale is made, regardless of the time or manner in which payment is to be made. Sales tax is due upon transfer of title or possession regardless of method or time of payment.
- (4) **Conditional sales.** The tax applies to conditional sales of tangible personal property and taxable services. The gross proceeds reported by the taxpayer must include all conditional sales made during the month for which the report is filed.
- (5) **Coupons.** The procedure regarding the use of coupons used to purchase tangible personal property will be as follows:

(A) If the coupon is redeemable by a manufacturer or another third party, the original price of the item, before the allowance offered by the coupon, is subject to tax.

(B) If the coupon offering a reduced price is issued by the retailer, it is a method of promotion and the reduced price is subject to tax.

(C) The purchase of the right to receive specific manufacturer's coupons, which coupons can then be redeemed at a retailer when purchasing the item(s) described in the coupon, is not subject to sales tax.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-1-10. Initial use of property

Any item purchased for use or consumption by the purchaser is subject to sales or use tax at the time of purchase, even though the item may be resold later in either its original or altered form. Any exempt purchase is taxable in full at the time the purchaser first uses the item for a nonexempt purpose. For example, a rental company purchases a tractor exempt from sales tax for the purpose of renting the tractor to another person. If the rental company at some point determines it will withdraw the tractor from its inventory of items held for rental, and instead, will use the tractor for its own use in providing services, the "**sales value**" of the tractor is taxable at that point. The rental company must report the "**sales value**" of the tractor as a withdrawal from inventory on Line Two (2) of the sales tax report filed for the period when the determination was made and remit the applicable sales tax.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-1-11. Rentals and leases of tangible personal property

(a) **Rental or lease of tangible personal property taxable.** The gross receipts or gross proceeds derived from the rental or lease of tangible personal property are subject to sales tax.

(b) **"Rental" or "lease" defined. "Lease" or "rental",** as used in this Section, shall have the same meaning as set out in 710:65-1-2.

(c) **Computation of the tax.** The tax shall be computed on the gross amount without any allowance for service, laundering, cleaning, maintenance, insurance, property taxes, etc., whether paid by the lessor or lessee. However, if the rental or lease charge is based on the retail value of the property at the time of entering the lease agreement and the life expectancy of the property, and the rental charge is separately stated from the service in the bill or invoice delivered to the lessee, tax shall be due only on the rental amount.

(d) **Taxability of vendor payments for insurance and property taxes.** The tax must be computed on the gross amounts of any charges billed to the purchaser to reimburse the vendor for insurance premiums or for property taxes paid.

(e) **Taxability of charges for damage waivers.** An optional charge for a damage waiver or a similar instrument that acts as a waiver of the lessor's right to collect from the lessee for any damage to the property is not considered part of the gross lease or rental charge, if separately stated.

(f) **Payment of tax by a contractor or lessor on equipment subsequently leased or rented.** Payment of a sales or use tax by a contractor or other lessor on equipment purchased for his/her own use and so used does not exempt subsequent rentals or leasing of the equipment from the sales tax.

(g) **Furnishing equipment with an operator.** The furnishing for a charge of equipment with an operator shall be considered a service and not subject to sales tax. Persons purchasing equipment for the purpose of furnishing said equipment with an operator must pay sales or use tax at the time the equipment is purchased.

(h) **Purchases by a vendor for renting or leasing.** Purchases by a vendor of tangible personal property for purposes of renting or leasing same are exempt from sales tax. If such equipment purchased exempt from taxation is rented with an operator or the vendor uses such equipment to perform a service, but the equipment remains in the rental inventory, the vendor should pay sales tax on the "**sales value**", pursuant to *OAC 710:65-1-2*.

(i) **Purchases of repair parts.** Purchases of repair parts made by a vendor who is engaged in renting or leasing tangible personal property, where the parts are to be incorporated into the tangible personal property subsequently rented or leased, are considered purchases for resale and may be purchased exempt from sales tax. Items such as oil, filters, and the like, which are purchased by the lessor, and are incorporated into the property transferred to the lessee, whether as part of the rental or lease agreement, or as separately billed items, are also included in the exemption described in this subsection.

(j) **Time of incidence of tax on leases.**

(1) A lease of tangible personal property is a series of transactions in time units defined by the agreement of the parties. Gross receipts generated therefrom are taxable at the rate in effect at the time the payment must be or is made. The initial obligation to pay becomes fixed upon the transfer of possession of the tangible personal property unless the agreement specifically sets forth another time. Subsequent obligations to pay become fixed either by the terms of the agreement, trade practices of the lessor, or practice in a course of dealing.

(2) A lease of tangible personal property normally imposes upon the lessee multiple obligations. Each of these obligations may be treated separately by the agreement. The incidence of taxation upon each payment under the agreement will be determined by the obligation for which payment is made and the time at which such obligation to pay in fact arose.

(3) Some obligations to pay arise by the execution of an agreement while other obligations arise by reason of the voluntary activities of the parties during the term of the agreement. For example, the lease of an automobile for a fixed period of months may give rise to an unconditional obligation to pay a minimum monthly amount and an additional obligation to pay for all miles driven in excess of a specified amount. [See: 68 O.S. §§1352, 1354]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05]

SUBCHAPTER 3. REPORTS AND RETURNS; PAYMENTS AND PENALTIES; RECORDS

PART 1. GENERAL PROVISIONS

710:65-3-1. Reports, payments, and penalties

(a) **Monthly reporting.** Every vendor, except as noted in (b), (c) and (d) of this Section, shall file with the Commission on or before the 20th day of each month, a report on forms to be obtained from the Commission, covering sales for the

previous calendar month.

(b) **Semiannual reporting.** Any vendor who is classified as a Group Three vendor or whose total tax liability for any one (1) month does not exceed Fifty Dollars (\$50.00) must notify the Commission of its intent to file a semiannual return and remittance in lieu of a monthly return and remittance, provided the vendor qualifies.

(1) **Qualification.** To qualify, the vendor must substantiate that the vendor is in business making sales incidental to that business, or is seasonal or transient, or makes sales through peddlers, solicitors or other salesmen without an established place of business. Otherwise, to qualify, filing records will have to substantiate the fact that the vendor's sales tax liability, for the past six (6) consecutive months immediately preceding the date of the application, has not exceeded Fifty Dollars (\$50.00) in any one month. Requests to file semiannually should be directed to the Registration Section of the Business Tax Services Division, P.O. Box 269057, Oklahoma City, Oklahoma 73126-9057 or by FAX at (405) 521-3826.

(2) **Commencement of semiannual reporting.** It should be clearly understood that semiannual filing should not be commenced until the Commission notifies taxpayer, in writing, that Commission records have been amended to reflect semiannual filing status. Failure to follow this procedure may result in taxpayer receiving assessments, adjustments, etc. for the months of February through June and August through December.

(3) **Semiannual reporting due dates.** When the application for semiannual filing has been approved, returns shall be filed on or before the 20th day of January and July of each year for the preceding six (6) months' period.

(4) **Revocation of authorization.**

(A) Conditions that could cause revocation of the authorization to report semiannually are:

- (i) In the event that the vendor filing the return on a semiannual basis becomes delinquent in either the filing of the return or the payment of the taxes due thereon, or
- (ii) In the event that the liability of a vendor, who has been authorized to file returns and to make payments on a semiannual basis, exceeds Fifty Dollars (\$50.00) in sales tax for any one month, or
- (iii) In the event that the Commission determines that any semiannual filing or return or any payment of tax due thereon would unduly jeopardize the proper administration of the Oklahoma Sales Tax Law.

(B) If the Commission decides it is necessary to revoke the authorization to file semiannually in relation to any of the conditions in (A) of this paragraph, the taxpayer will be required to file returns and to pay the tax due on a monthly basis.

(c) **Semimonthly electronic reporting.** Persons owing an average of Two Thousand Five Hundred Dollars (\$2,500.00) or more, per month, in total sales taxes for the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

(1) For sales from the first (1st) day through the fifteenth (15th) day of each month, the tax shall be due and payable on the twentieth (20th) day of the month, and remitted to the Tax Commission by electronic funds transfer. A

taxpayer will be considered to have complied with the requirements of this paragraph if, on or before the twentieth (20th) day of each month, the taxpayer paid at least ninety (90) percent of the liability for that fifteen-day period, or at least fifty (50) percent of the liability incurred during the immediate preceding calendar year for the same month; and

(2) For sales from the sixteenth (16th) day through the end of each month, the tax shall be due and payable on the twentieth (20th) day of the following month, and remitted to the Tax Commission by electronic funds transfer; [See: 68 O.S. § 1365(D)(2)]

(d) Electronic reporting. Beginning June 1, 2007, all new sales tax registrants required to report and remit sales tax shall file their monthly sales tax report in accordance with the Tax Commission's electronic funds transfer and electronic data interchange program unless the vendor receives an exception to the electronic filing requirement pursuant to OAC 710:65-3-4(c).

(e) Electronic reporting; due dates; delinquency dates. Persons required to remit the tax due pursuant to subsection (c) and (d) shall file a monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth (20th) day of the month following that in which the sales occurred. Taxes not paid on or before the due dates specified in subsection (c) shall be delinquent from such dates.

(f) Payment. Remittances covering the sales tax liability reported shall accompany the sales tax return. Sales taxes will be considered delinquent and interest as provided by law will be charged, if payment is not received or postmarked by the date the return is due.

(g) Interest. Interest at the rate provided by law will be imposed on all liability not paid at the time when required to be paid. Said interest will be imposed and collected on the delinquent tax at the statutory rate from the date the tax is delinquent until paid.

(h) Audit; refund/credit for overpayment; assessment inclusive of interest due. When, in the course of an audit, it is found that the tax being audited was overpaid for any period included in the audit, and the taxpayer has not filed a verified claim for refund of the overpayment, the overpayment may be allowed as a credit against the total liability established during the audit. The overpayment shall be applied to the liability as of the date of the overpayment. Whenever an assessment is made for any delinquent tax, the amount of interest due thereon at the time the assessment is made shall be included in the assessment.

(i) Liability for tax, penalty, interest; interest computation. Any taxpayer responsible for the payment of any tax levied by any state tax law shall be liable for payment of interest at the rate set by statute on any amount of tax not paid before it becomes delinquent. Interest shall be computed for each day of delinquency from the date the tax becomes delinquent until it is paid.

(j) Penalty for failure to file and remit. Penalties - A vendor who fails to file a return and remit the full amount of the tax within fifteen (15) days after the tax is due shall be subject to a penalty of ten (10) percent of the amount of tax due.

(k) Penalty for failure or refusal to file after demand. In the case of failure or refusal to file within ten (10) days after written demand has been served upon the taxpayer by the Commission, a penalty of twenty-five (25) percent may be assessed and collected.

(l) Penalty for fraud. If any portion of the deficiency is due to fraud with intent to evade tax, a penalty of fifty (50) percent shall be added, collected, and paid.

(m) **Waiver of penalty; interest.** At the discretion of the Commission, the interest or penalty, or both, may be waived provided the taxpayer can demonstrate that the failure to pay the tax when due is satisfactorily explained, or that the failure resulted from a mistake by the taxpayer of either law or fact, or that the taxpayer is unable to pay the interest or penalty due to insolvency. Requests for waiver or remission must be made in writing and must include all pertinent facts to support the request. [See: 68 O.S. §§ 217, 1365, 1405]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-3-2. Timely mailing treated as timely filing and paying

(a) Any report, claim, tax return, statement or other document required or authorized to be filed with or any payment made to the Commission, which document or payment is transmitted through the United States mail, will be deemed to have been filed with and received by the Commission on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. If mailed but not received by the Commission, or if received but the cancellation mark is illegible, erroneous or omitted, or envelope unavailable, the document or payment will be deemed to have been filed on the date it was mailed if the sender establishes by competent evidence that the document or payment was deposited in the United States mail on or before the date due for filing. If the envelope or other wrapper bears a postmark made by a private postage meter in addition to a legible postmark made by the United States Postal Service, the postmark not made by the United States Postal Service shall be disregarded. In the event of the Commission's failure to receive a document or payment, the document or payment will be deemed to have been received by the Commission on time if the sender files with the Commission a duplicate within thirty (30) days after written notification is given to the sender by the Commission of its failure to receive such document or payment, provided proof is furnished that the original of the document was deposited in the United States mail on or before the date due for filing.

(b) If any report, claim, tax return, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certificate or certificates shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed, and the date of registration, certification or certificate shall be deemed to be the date of the postmark made by the United States Postal Service. [See: 710:1-3-30 through 710:1-3-32; 68 O.S. §1365]

710:65-3-3. Due date that falls on Saturday, Sunday or holiday

If a due date falls on Saturday, Sunday, a holiday, or dates when the Federal Reserve Banks are closed, such due date shall be considered to be the next business date. [See: 68 O.S. §1365]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-3-4. Contents of monthly sales report

(a) **General provisions.** Every vendor shall file a monthly report for sales made the preceding month stating the name of the seller, address, telephone number, and, sales tax number as it appears on the sales tax permit of the business and the period

(month and year) covered by the report. In instances where a business does not provide a sales tax number, the federal employer identification number (FEIN) or social security number (SSN) of the business is required to be included on the sales tax report. In addition, the report shall disclose the following:

- (1) Total gross receipts for the preceding month from sales, both taxable and non-taxable.
- (2) The "**sales value**" of all withdrawals from inventory of goods initially purchased exempt from sales tax, including all items withdrawn for gifts, donations, prizes or business or personal use. Included is the cost of all withdrawals from inventory of goods initially purchased on a tax deferred basis pursuant to a direct pay permit which are subsequently withdrawn for a taxable use.
- (3) Deductions allowed by law. Deductions not specifically delineated on the face of the return must be fully explained in the space provided.
- (4) The amount of tax due, including any city or county tax, or both, as described in (c) of this Section.
 - (A) The return should show the amount of interest (if any) that is due.
 - (B) The return should show the amount of penalty (if any) that is due.
- (5) Such other reasonable information as the Commission may require.
[See: 68 O.S. §1365]

(b) **Exception to the requirement to file electronically.** The vendor may apply in writing to the Business Tax Electronic Filing Coordinator, Oklahoma Tax Commission, Business Tax Services Division, 123 Robert S. Kerr Ave, Oklahoma City, OK 73102, for a determination that the vendor is unable to participate in the electronic funds transfer and electronic data interchange program, and if the application is approved, the vendor will be permitted to report on paper.

- (1) To determine whether a vendor is "unable" to file electronically, the following guidelines shall be utilized:
 - (A) The taxpayer does not have access to a computer or internet access at home or place of business; and,
 - (B) The taxpayer does not use a tax preparer that has a computer or one that does not have internet access.
- (2) Any exception to the electronic filing requirement will be granted for only twelve (12) months. At the end of the exception period the taxpayer's electronic filing capability may be reviewed.
- (3) An aggrieved taxpayer may protest the determination of the Commission as provided by 68 O.S. § 207 pursuant to *OAC 710:1-5-20* through *710:1-5-49*, the Rules of Practice and Procedure before the Office of the Administrative Law Judges.

(c) **Reporting for city and county taxes.**

- (1) The state tax is determined by applying the state rate to the amount of net taxable sales (all sales less deductions allowed by law).
- (2) The amount of city sales tax is determined by multiplying the amount of net taxable sales for each city by the rate for that city.
- (3) The amount of county sales tax is determined by multiplying the amount of net taxable sales for each county by the rate for that county.

(d) **Excess tax collected.** If the vendor has collected, in the aggregate, an amount of sales tax from its customers, larger than the amount which would result from multiplying the taxable sales by the tax rate, whether due to the use of the bracket

charts supplied by the Commission, the use of an electronic cash register that rounds up the tax, or any other reason, the vendor is responsible for remitting the total tax collected. The statement "**Excess Tax Collected**" should be written on the face of the report, under the line captioned "**Total Due.**"

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 28 Ok Reg 961, eff 6-1-11; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 35 Ok Reg 2102, eff 9-14-18; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-3-5. Signing of tax returns

The following shall apply to the signing of tax returns:

- (1) Returns must be signed by the president, vice president, secretary, treasurer, or other officer, or by the properly accredited agent, if the seller is a corporation.
- (2) The official title of the person signing a return shall be shown after his signature.
- (3) If the business is not a corporation but is individually owned, returns shall be signed by the owner of the business or by his duly authorized agent.
- (4) Individuals or employees who sign returns shall be deemed the authorized agent in the absence of documentation to the contrary.
- (5) If the business is owned by more than one person (partnership, joint stock company, etc.), but is not a corporation, returns shall be signed by an owner of the business or by a duly authorized agent. [See: 68 O.S. §1365(A)]

710:65-3-6. Verification of sales tax returns

Each return or notice required to be filed under the Sales Tax Code shall contain or be verified by a written declaration that it is made under the penalties of perjury. [See: 68 O.S. §1365]

710:65-3-7. Registrants must file a return for every reporting period

- (a) Vendors under the Sales Tax Code shall file a return for each reporting period, notwithstanding the fact that, during one or more of such reporting periods, the vendor did not receive any gross receipts rendering him liable for payment of sales tax. On the return for such a reporting period, the vendor should indicate that no gross receipts or proceeds were received and no tax is due for that reporting period.
- (b) Vendors under the Use Tax Code who hold direct payment permits shall file a return for each reporting period, despite the fact that the vendor may not have withdrawn any tangible personal property from an inventory purchased tax-deferred during the period reported.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97]

710:65-3-8. Change in tax period [REVOKED]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10; Revoked at 30 Ok Reg 2089, eff 7-25-13]

710:65-3-9. Final sales tax return when business is discontinued

A vendor who ceases doing business shall so indicate on the final sales tax report for the discontinued business, and surrender the sales tax permit to the

Commission for cancellation, together with a remittance for any unpaid or accrued taxes. Reporting and remitting for the final business period shall be done in the manner prescribed and by the applicable date set out in 68 O.S. § 1365, or by the twentieth day of the month following the discontinuance of the business, whichever is earlier. [See: 68 O.S. §§ 1364, 1365]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05]

710:65-3-10. Election to participate in electronic funds transfer and electronic data interchange programs

(a) In lieu of filing reports on the twentieth day of each month, as required by 710:65-1-3, tax remitters or taxpayers who agree to participate in the Tax Commission's electronic funds transfer and electronic data interchange programs may file as provided in this subsection.

(1) For sales from the first (1st) day through the fifteenth (15th) day of each month, the tax shall be due and payable on the twentieth (20th) day of the month, and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the requirements of this paragraph if, on or before the twentieth (20th) day of each month, the taxpayer paid at least ninety (90) percent of the liability for that fifteen-day period, or at least fifty (50) percent of the liability incurred during the immediate preceding calendar year for the same month; and

(2) For sales from the sixteenth (16th) day through the end of each month, the tax shall be due and payable on the twentieth (20th) day of the following month, and remitted to the Tax Commission by electronic funds transfer.

(b) Monthly sales tax reports filed pursuant to this Section shall be filed in accordance with the Tax Commission's electronic data interchange program on the twentieth (20th) day of the month following that in which the sales occurred. Taxes not paid on or before the due dates specified in subsection (a) shall be delinquent from such dates.

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 21 Ok Reg 2581, eff 6-25-04]

PART 3. RECORDS AND RECORDKEEPING

710:65-3-30. Books and records required; presumption of taxability; burden of proof

(a) Vendors shall keep records and books of all sales and all purchases of tangible personal property. Vendors must maintain complete books and records covering receipts from all sales and distinguishing taxable from nontaxable receipts.

(1) Such books and records must clearly document all the information (deductions as well as gross receipts) required for tax returns and shall, at all times during business hours of the day, be subject to inspection and audit by the Commission or its duly authorized agents and employees.

(2) Such books and records must be kept in the English language.

(3) Such books and records must be kept within Oklahoma except in instances where a business has several branches, with the head office being located outside Oklahoma, and where all books and records have been regularly kept outside the State at such head office. If books and records are kept outside Oklahoma, the vendor must, within a reasonable time after notification by the Commission, make all pertinent books, records, papers

and documents available at some point within Oklahoma for the purpose of inspection and audit or arrange for Commission personnel to inspect and audit the books and records of the vendor at a location outside Oklahoma.

(b) It shall be presumed that all sales of tangible personal property are subject to tax until the contrary is established, and the burden of proving that a transaction was not a taxable sale shall be upon the person who made the sale. [See: 68 O.S. §1365 (F)]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-3-31. What records constitute minimum requirement

(a) **Required records.** The following records constitute a minimum requirement for the purposes of the Sales Tax Code for vendors selling tangible personal property:

- (1) Sales journal or log of daily sales in addition to cash register tapes and other data which will provide a daily record of the gross amount of sales.
- (2) A record of the amount of merchandise purchased. To fulfill this requirement, copies of all vendors' invoices and taxpayers' copies of purchase orders must be retained serially and in sequence as to date.
- (3) A true and complete inventory of the value of stock on hand taken at least once each year.

(b) **Microfilm/microfiche records.** Records may be microfilmed or microfiched as long as such microfilmed and microfiched records are authentic, accessible and readable, and the following requirements are fully satisfied:

- (1) Reproductions of all original records must be produced upon request by the Commission or its authorized representatives.
- (2) Appropriate facilities are provided for preservation of the microfilm or microfiche for periods required.
- (3) Microfiche or microfilm records are indexed, cross-referenced and labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and are systematically filed to permit the immediate location of any particular record. A posting reference must be on each document and a control log or catalog of such documents must be maintained.
- (4) Taxpayers must make available a reader/printer upon request by Commission to review records.
- (5) When displayed or reproduced on paper, the material must exhibit legibility and readability. Legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognized as words or complete numbers.
- (6) The taxpayer retains the microfilm or microfiche copies so long as the contents thereof may be material in the administration of any audit by the Commission.

(c) **Automated systems.** An Automated Data Process Systems (ADP) tax accounting system may be used to provide the records required for the verification of tax liability. Such ADP system must include a method of producing legible and readable records which will provide the necessary information for verifying such tax liability. The following requirements apply to any taxpayer who maintains any such records on an ADP system:

(1) **Recorded or reconstructible data.** ADP records shall provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time they are processed, the systems must have the ability to reconstruct these transactions.

(2) **General and subsidiary books of account.** A general ledger with source references and subsidiary ledgers shall be written out to coincide with financial reports for tax reporting periods.

(3) **Supporting documents and audit trail.** The audit trail shall be designed so that the details underlying the summary accounting data such as sales invoices, purchase invoices, credit memoranda and like documents, are readily available to the Department upon request.

(4) **Program documentation.** A description of the ADP portion of the accounting system shall be made available. The statements and illustrations describing the system and scope of ADP operations being performed shall be sufficiently detailed to indicate the application being performed and the procedures employed in each application. Controls used to insure accurate and reliable processing should be noted along with the dates and nature of important changes.

(5) **Data storage media.** Adequate record retention facilities shall be available for storing tax and ADP records required for verification of tax liability. Records required would include data prepared for input in processing accounts payable, accounts receivable or any purchase or sales journal entries necessary for bookkeeping and tax reporting purposes. [See: 68 O.S. §1365]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-3-32. Authorization to destroy records sooner than would otherwise be permissible

In all cases, the Commission may, in writing, authorize the destruction of books and records and other papers prior to the expiration of the three year period of time which the taxpayer, except for such written authorization from the Commission, is required to keep his books and records. The Commission will not authorize destruction of records unless the records are preserved in microfilm, microfiche or ADP and meet conditions as prescribed. [See: 68 O.S. § 1365(F)]

[Source: Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-3-33. Records required to support deductions from gross receipts for purposes of calculating sales tax

(a) **Supporting records required.** Where the nature of a business is such that charge and time sales are made, or where the nature of the business is such that a portion of its sales are for resale, or are within the protection of the Commerce Clause of the Constitution of the United States, or consist of nontaxable services, or are exempt under any provision of the Oklahoma Sales Tax Code, then such records as will clearly indicate the information required in filing returns must be kept.

(b) **Complete and detailed records required.** To support deductions made on the tax return, the vendor's records for each transaction for which exemption is claimed shall be in detail sufficient to show:

- (1) The name and address of the customer,
- (2) The character of the transaction,
- (3) The date,

- (4) The amount of gross receipts or gross proceeds; and
- (5) Such other information as may be necessary to establish the nontaxable character of such transaction under the Sales Tax Code.

(c) **Purchaser resale number requirement.** Anyone claiming a sale for resale exemption shall also keep a record of the purchaser's resale number issued by the Commission. The failure to obtain and keep a record of the purchaser's resale number shall create a presumption that the sale is not a sale for resale. The vendor may, however, present other documentary evidence from its books and records to overcome this presumption. More detail regarding duties and liabilities may be found in Subchapter 7 of this Chapter. [See: 68 O.S. § 1365(F)]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-3-34. Administration of electronically-claimed exemptions

- (a) The vendor shall use the standard form adopted by the Commission for claiming an exemption electronically.
- (b) A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used.
- (c) The vendor shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.

[Source: Added at 21 Ok Reg 2581, eff 6-25-04]

SUBCHAPTER 5. AUDIT AND ASSESSMENT

710:65-5-1. Sales/use tax audits and auditors

- (a) **General investigative authority.** Any representative of the Commission holding a certificate of authority may make an examination or investigation of the place of business, tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any taxpayer.
- (b) **Financial institution limitation.** However, financial institutions are not required to release or permit the Commission to have access to customer financial information which reflects financial institutions' sales tax information without first reviewing and deleting any and all information which may divulge the identity of a particular customer and the customer's financial records. [See: 68 O.S. §§201 et seq.]
- (c) **Duty to make records/information available.** It shall be the duty of every taxpayer and every director, officer, or employee of every taxpayer to exhibit to the Commission, or to the employees or agents of such Commission, the items mentioned in (a) of this Section. [See: 68 O.S. §206]

710:65-5-2. Sales/use tax audits of sample periods

An auditor for the Commission may suggest a sample sales/use tax audit rather than a detailed audit. The auditor shall select the periods to sample and apply the results to all the periods of the audit. The auditor shall prepare forms to be signed by the taxpayer stating they agree with the periods and method chosen for the sample. [See: 68 O.S. §206]

710:65-5-3. Out-of-state tax audits [REVOKED]

[Source: Revoked at 20 Ok Reg 2175, eff 6-26-03]

710:65-5-4. Examination of tax return; adjustments, notices, and demands

If, upon examination of the books of account and records of the person filing the tax return, facts are obtained which, in the opinion of the Commission, warrant an adjustment of the tax liability reported, the following procedure shall be followed:

- (1) **Notice and demand.** A proposed assessment report will be prepared and mailed to the taxpayer. This report will contain an explanation of adjustments together with a recomputation of tax in accordance with such adjustments. The notice of adjustments and the demand for payment (if additional tax is due) or any other notice or demand upon the person filing the return required by law shall be sent to him at his last known address. In the alternative, the Commission may cause to be served upon such person a written statement of the computation of tax due.
- (2) **Acquiescence or failure to protest.** In the event the person filing the return acquiesces in the changes reflected on the proposed assessment, or fails to file a protest within the period specified in the letter of proposed assessment (or any extensions allowable by Statute that have been granted) the proposed assessment becomes final.
- (3) **Jeopardy assessment.** If the Commission has reason to believe that the collection of any tax due under the Sales and Use Tax Codes may be jeopardized, the Commission may immediately terminate the reporting period of the person required to pay such tax. Thereupon the Commission may assess a tax on the basis of information or knowledge available to him and demand immediate payment. If such payment is not immediately made, the Tax Commission may collect the tax by the use of any of the methods authorized law.
- (4) **Protest of assessment.** Where a person does not acquiesce in the proposed assessment, he may file a protest within the period specified in the letter of proposed assessment (or within any extensions allowable by Statute that have been granted).
- (5) **Review by taxing division; referral.** If, after a review of his protest the Division is unable to reach agreement with taxpayer, the taxpayer's file will be forwarded to the Office of the Administrative Law Judge where the taxpayer will have an opportunity to have a hearing before an Administrative Law Judge. The Administrative Law Judge subsequently will notify such person of the date set for the hearing.
- (6) **Determination of case without hearing available.** If the taxpayer does not desire a hearing, an order will be issued by the Commission within a reasonable time.
- (7) **Hearing; final determination.** If a hearing before the Administrative Law Judge is requested and granted, an order will not be issued until such time as the Administrative Law Judge has submitted Findings, Conclusions and Recommendations to the Commission and the Commission has made a final determination.
- (8) **Final determination; appeal** The issuance of an order by the Commission constitutes a final determination. The taxpayer aggrieved by the order is granted a period of thirty (30) days from the date of mailing to the taxpayer of a certified copy of the order in which to directly appeal to the Oklahoma Supreme Court.

[Source: Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 20 Ok Reg 2175, eff 6-26-03]

710:65-5-5. Issuance of sales tax assessments

Sales tax assessments will be issued against the legal entity as well as against other person(s) who may be liable for the tax pursuant to law. Any person shall be liable for the payment of sales tax if during the period of time for which the assessment was made the person was responsible for the collection and remittance of sales tax or had direct control, supervision or responsibility for filing returns and making payments of the tax due the State of Oklahoma.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 32 Ok Reg 1376, eff 8-27-15]

SUBCHAPTER 7. DUTIES AND LIABILITIES

710:65-7-1. Taxpayer's duty to obtain sales tax return form

Sales tax returns shall be filed on forms prescribed and furnished by the Commission. Failure to obtain forms will not be an excuse for failure to file returns when and as required by law. [See: 68 O.S. §1365]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-7-2. Vendor responsibility for collection of sales tax; treatment of sales tax by vendor

(a) The primary burden for operation of the sales tax system is upon the vendor of merchandise, the performer of taxable services, and the renter or lessor of property, and requires that they collect the tax from the purchaser, user or consumer. If a vendor fails or refuses to collect the tax, he not only becomes liable for payment of the tax, but also subjects himself to the possibility of being fined or imprisoned for a period of time.

(b) The vendor is required to add the tax to the selling price or charge. A vendor is specifically prohibited from advertising or holding out to the public in any way, directly or indirectly, that he will absorb all or any part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax. The vendor who violates this provision shall be fined or imprisoned, or both. For second or subsequent offenses, the penalty is doubled. [See: 68 O.S. §1361]

710:65-7-3. Personal liability for sales tax due

Sales tax is paid by the consumer/user to the vendor as trustee for the state. Any person required to collect sales tax as a trustee for the state will be held personally liable for the sales tax due. The decision as to whether an individual is personally liable for sales tax shall be made on an "individual case" basis. The standard to be applied is that of determining liability for payment of federal withholding tax pursuant to the Internal Revenue Code of 1986, as amended, or regulations promulgated pursuant to same. Once it is finally determined that a person is liable, a tax warrant which has the force and effect of a judgment or lien will be filed against that person individually for the full amount of the liability, i.e. tax, interest and penalty. [See: 68 O.S. § 253]

[Source: Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-7-4. Sales tax responsibility and liability of trustees, receivers, executors or administrators

Where trustees, receivers, executors or administrators (whether appointed by a Federal or a State court), by virtue of their appointment, continue to operate, manage or control the business and engage in the business of selling tangible personal property, they, in their fiduciary and not in their individual capacity, become liable for sales tax. This principle applies notwithstanding the fact that such trustees, receivers, executors or administrators may be engaged in liquidating the assets of the business, provided that such liquidation takes place by means of sales, and provided that such consists of tangible personal property. [See: 68 O.S. §1361]

710:65-7-5. Vendor's responsibility to obtain sales tax permits [REVOKED]

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Revoked at 11 Ok Reg 3521, eff 6-26-94]

710:65-7-6. Vendors' or certified service providers' relief from liability and duty to collect sales tax

(a) **Presumption of taxability.** All sales are presumed to be subject to sales tax unless specifically exempted by the Sales Tax Code. Vendors are liable for the sales tax collected as well as for tax that should have been collected.

(b) **When vendor or certified service provider may be relieved of liability.** A vendor or certified service provider shall be relieved of any liability for the tax and of the duty to collect imposed by Section 1361 of Title 68 of the Oklahoma Statutes if the vendor, in good faith, timely accepts from a consumer, properly completed documentation certified by the Oklahoma Tax Commission that such consumer is exempt from the taxes levied by the Oklahoma Sales Tax Code.

(c) **General requirements.** Three requirements must be met before the vendor or certified service provider is relieved of liability.

(1) **Vendor or certified service provider good faith.** Good faith requires that the vendor strictly comply with statutory requirements.

(2) **Timely acceptance from a consumer.** Timely acceptance from a consumer requires that documentation be in the possession of the vendor within ninety (90) days subsequent to the date of sale. In the case of continued sales to the same purchaser, the vendor must have, on file, a sales tax permit, card, or exemption letter for each renewal interval. If no renewal interval is provided by statute, the renewal period will be deemed three (3) years, except in the case of entities with specific statutory exemptions who have established eligibility as set out in 710:65-7-15 and 710:65-7-17 through 710:65-7-20.

(3) **Properly completed documentation certified by the Oklahoma Tax Commission.** Examples of properly completed documentation certified by the Oklahoma Tax Commission are described in 710:65-7-8 through 710:65-7-15 and 710:65-7-17 through 710:65-7-20.

(d) **When vendor or certified service provider may not be relieved of liability.** Relief from liability for the tax and of the duty to collect imposed by Section 1361 of Title 68 shall not apply to:

(1) a seller or certified service provider who fraudulently fails to collect tax;

(2) a seller who solicits purchasers to participate in the unlawful claim of an exemption; or

(3) a seller who accepts an exemption certificate when the purchaser claims an entity-based exemption when:

(A) the subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller; and

(B) the Tax Commission provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in this state.

(e) **Specific applications.** The items of information described in 710:65-7-8 through 710:65-7-15 and 710:65-7-17 through 710:65-7-20 shall constitute minimum requirements to establish "**properly completed documentation certified by the Tax Commission**" for each respective category of purchasers.

[Source: Added at 9 Ok Reg 3033, eff 7-13-92; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-7-7. Treatment of federal luxury tax for sales/use tax purposes [REVOKED]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Revoked at 18 Ok Reg 2823, eff 6-25-01]

710:65-7-8. Vendors' responsibility - sales for resale

In the case of sales for resale, written certification containing the purchaser's name, address, type of business, sales tax permit number, and the signature of the purchaser are required to establish **properly completed documentation**.

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 34 Ok Reg 2089, eff 9-11-17]

710:65-7-8.1. Vendor's responsibility-sales for resale for export outside the United States

For sales made within this State for export outside the United States, the vendor must maintain the export bill of lading or other documentation issued by the vendor or purchaser simultaneously on sales for export, indicating that the point of delivery of the property is for use and consumption in a foreign country and that the goods will not be used in the United States. [See OAC 710:65-13-90]

[Source: Added at 25 Ok Reg 2070, eff 7-1-08]

710:65-7-9. Vendors' responsibility - sales to a manufacturer

(a) In the case of sales to purchasers claiming exemption for manufacturing, the vendor must obtain a **copy** of the purchaser's manufacturer's exemption permit issued pursuant to 68 O.S. § 1359.2 (hereafter referred to as "Sales/Manufacturers Permit"), **or if unavailable**, the name, address, and Sales/Manufacturers Permit Number of the purchaser **or**, a statement that contains the information that would appear on the Sales/Manufacturers Permit. If a copy of the Sales/Manufacturers Permit is unavailable and if the information provided has not been previously verified, it must be verified by either calling the Taxpayer Resource Center or by reference to the sales tax permit list obtained pursuant to *OAC 710:65-9-6*.

(b) In the case of sales to purchasers claiming exemption pursuant to a contractual relationship with a manufacturer for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and equipment for use in a manufacturing operation which is classified NAICS 324110 (Petroleum Refineries) the vendor must obtain the following:

- (1) A copy of the Manufacturers Sales Tax Exemption card issued to the entity described in (b) of this Section;
- (2) Documentation indicating the contractual relationship between the contractor and the manufacturer; and,

(3) Certification by the purchaser, on the face of each invoice or sales receipt, setting out the name of the exempt entity, that the purchases are being made on behalf of the entity, and that they are necessary for the completion of the contract.

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-7-10. Vendors' responsibility - sales made pursuant to direct payment permit

In the case of sales made to purchasers claiming deferral pursuant to a direct payment permit, the vendor must obtain the items of information described in this Section:

- (1) A **copy** of the purchaser's Direct Payment Permit (DPP), or if unavailable, the purchaser's name, address, DPP number, and its date of expiration. If a copy of the Direct Payment Permit is unavailable and if the information provided has not been previously verified, it must be verified by either calling the Taxpayer Resource Center or by reference to the sales tax permit list obtained pursuant to *OAC* 710:65-9-6;
- (2) A statement that the permit-holder claims deferral of the payment of any applicable state and local sales or use taxes upon its purchases of taxable tangible personal property or services;
- (3) A statement that the articles purchased are for use in the purchaser's Oklahoma enterprises, and not for resale; and,
- (4) The signature of the purchaser or a person authorized to legally bind the purchaser, and date signed.

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-7-11. Vendors' responsibility - sales for agricultural purposes

In the case of a claimed agricultural exemption, the vendor must obtain the items of information set out in this Section:

- (1) A **copy** of the agricultural exemption permit card; and,
- (2) In the circumstances defined in (A) and (B) of this subparagraph, certification on the face of the invoice or sales ticket is required:
 - (A) From any person purchasing feed for horses, mules, or draft animals used directly in the production and marketing of agricultural products; **or**
 - (B) From any person who is making purchases of materials, supplies, or equipment to be used in the construction of livestock facilities, including facilities for the production and storage of feed, pursuant to a contract with an agricultural permit holder. [See: 68 O.S. § 1358(8) and 710:65-13-17]

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-7-12. Vendors' responsibility - sales to persons raising animals for resale

In the case of persons regularly engaged in the business of raising animals for resale, the vendor must obtain the items of information set out in this paragraph:

- (1) A **copy** of the purchaser's sales tax permit, **or if unavailable**, the purchaser's name, address, sales tax permit number, and its expiration date. If a copy of the Sales Tax Permit is unavailable and if the information

provided has not been previously verified, it must be verified by either calling the Taxpayer Resource Center or by reference to the sales tax permit list obtained pursuant to *OAC 710:65-9-6*;

- (2) A statement that the articles purchased are for use in raising animals;
- (3) The signature of the purchaser or a person authorized to legally bind the purchaser; and,
- (4) Certification on the face of the invoice, bill or sales receipt that states that the purchaser is "regularly engaged in the business of raising animal life for resale and that the items being purchased exempt from sales tax are solely for business use".

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-7-13. Vendors' responsibility - sales to contractors

(a) **General rule.** Contractors are defined by statute as consumer/users and must pay sales tax on all taxable services and tangible personal property, including materials, supplies, and equipment purchased to develop, repair, alter, remodel, and improve real property.

(b) **Limited exceptions.** A contractor may make purchases based upon the exempt status of another entity only in the statutorily-limited circumstances described in this paragraph.

(1) A contractor who has a public contract, or a subcontractor to that public contract, with an Oklahoma municipality, county, public school district, an institution of the Oklahoma System of Higher Education, a rural water district, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, the City of Tulsa-Rogers County Port Authority, the Broken Bow Economic Development Authority, the Muskogee City-County Port Authority, the Oklahoma Ordnance Works Authority, the Durant Industrial Authority, the Ardmore Development Authority, the Oklahoma Department of Veterans Affairs, the Central Oklahoma Master Conservancy District, or Department of Central Services only when carrying out a public construction contract on behalf of the Oklahoma Department of Veterans Affairs may make purchases of tangible personal property or services, which are necessary for carrying out the public contract, exempt from sales tax.

(2) A contractor who has entered into a contract with a private institution of higher education or with a private elementary or secondary institution, may make purchases of tangible personal property or services, including materials, supplies and equipment used in the construction of buildings owned and used by the institution for educational purposes exempt from sales tax. However, the institution must be registered or accredited with the Oklahoma State Regents for Higher Education, the State Board of Education, or the State Department of Education.

(3) A contractor who has contracted with an agricultural permit holder to construct a facility which will be used directly in the production of any livestock, including facilities used in the production and storage of feed for livestock owned by the agricultural permit holder, may make purchases of materials, supplies and equipment necessary to fulfill the contract, exempt from sales tax. [See: *OAC 710:65-7-11*]

(4) A contractor may make purchases exempt from sales tax for use on campus construction projects for the benefit of institutions of the Oklahoma State System of Higher Education or private institutions of higher education

accredited by the Oklahoma State Regents for Higher Education. The projects must be financed by or through the use of nonprofit entities which are exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code. Contractors claiming exemption for purchases to be used in a qualified campus construction project should obtain a letter certifying the exemption status from the Tax Commission by following the procedures set out in 710:65-13-210, and provide a copy of the letter to vendors, pursuant to subsection (g) of that rule. [See: 68 O.S. §1356(41)]

(5) A contractor may make purchases of machinery, equipment, fuels, and chemicals or other materials, exempt from sales tax, which will be incorporated into and directly used or consumed in the process of treatment of hazardous waste, pursuant to *OAC* 710:65-13-80. Contractors claiming exemption for purchases to be used to remediate hazardous wastes should obtain a letter certifying the exemption status from the Tax Commission by following the procedures set out in 710:65-13-80, and provide a copy of the letter to vendors, pursuant to subsection (f) of that rule.

(6) A contractor, or a subcontractor to such contractor, with whom a church has duly entered into a construction contract may make purchases of tangible personal property or services exempt from sales tax which are necessary for carrying out such construction contract.

(7) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property which is to be *consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative* exempt from sales tax. Contractors claiming exemption for purchases to be used in a qualified rural electric cooperative project shall follow the procedures set out in *OAC* 710:65-13-124.

(8) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services pursuant to a contractual relationship with a child care center, qualified for exemption pursuant 68 O.S. § 1356(69), for construction and improvement of buildings and other structures owned by the child care center and operated for educational purposes exempt from sales tax.

(9) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services exempt from sales tax pursuant to a contractual relationship with a manufacturer for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and equipment for use in a manufacturing operation classified under NAICS No. 324110 (Petroleum Refineries).

(c) **Documentation required for limited exceptions.** In the case of a sale to a contractor claiming exemption pursuant to subsections (b)(1), (b)(2), (b)(6), (b)(8), or (b)(9) of this Section, the vendor must obtain:

- (1) A **copy** of the exemption letter or card issued to one of the entities described in (b) of this Section;
- (2) Documentation indicating the contractual relationship between the contractor and the entity; and,
- (3) Certification by the purchaser, on the face of each invoice or sales receipt, setting out the name of the exempt entity, that the purchases are being made on behalf of the entity, and that they are necessary for the completion of the contract.

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-7-14. Vendors' responsibility - sales of trailers

In the case of a purchaser claiming partial exemption from sales tax on the purchase of a trailer pursuant to 68 O.S. § 1355(2), the vendor should obtain a statement, signed by the purchaser, or by a person who may legally bind the purchaser, that Oklahoma vehicle excise tax and state sales tax at the rate of 1.25% will be paid on the purchase of the trailer in accordance with the provisions of Articles 13 and 21 of Title 68 of the Oklahoma Statutes, and that if the taxes are not so paid, the purchaser will be responsible for the state sales tax at the 4.5% rate and any applicable local sales tax due.

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 35 Ok Reg 2102, eff 9-14-18]

710:65-7-15. Vendors' responsibility - sales to entities with other specific statutory exemptions

(a) **Sales to entities with other specific statutory exemptions.** In the case of sales to purchasers claiming exemption based upon specific statutory authority, the vendor must obtain the information described in this subsection:

- (1) A **copy** of the letter or card from the Oklahoma Tax Commission recognizing the entity as one which is statutorily exempt from sales tax on its purchases; and
- (2) A signed statement that the purchase is **authorized by, and being made by**, the exempt entity, with funds of the exempt entity, and **not** by the individual; and,
- (3) In the case of sales to **fire departments organized for unincorporated areas**, as defined in 18 O.S. § 592, certification on the face of the invoice or sales ticket is also required.
- (4) In the case of purchases made by the federal government, charged pursuant to the GSA SmartCard program, no letter or card from the Commission is required, and 710:65-13-130 should be consulted to determine the taxability of the transaction.

(b) **Examples and applications.** Types of entities which may receive letters or cards, certifying or confirming a specific statutory exemption include:

- (1) **Churches**; [See: 710:65-13-40]
- (2) **Youth camps, supported or sponsored by one or more churches**, members of which serve as trustees of the organization; [See: 710:65-13-33]
- (3) **Children's homes** where church members are trustees or where the home is on church-owned land or where 50% of the juveniles are court-adjudicated and the home receives less than 10% of its funding from state funds; [See: 710:65-13-33]
- (4) **Council organizations** of the Boy Scouts and Girl Scouts of America or Camp Fire USA; [See: 710:65-13-341]
- (5) **Public schools**; [See: 710:65-13-210]
- (6) Oklahoma System of **Higher Education**; [See: 710:65-13-210]
- (7) **Private schools** registered with the State Department of Education and private institutions of higher education accredited by the Oklahoma State Board of Regents for Higher Education; [See: 710:65-13-210]

- (8) **Federal governmental** units, institutions, and instrumentalities; [See: 710:65-13-130]
- (9) **Governmental entities** of the State of Oklahoma, including county and local units; [See: 710:65-13-130]
- (10) City and county **trust authorities**; [See: 710:65-13-550]
- (11) Federally chartered **credit unions**;
- (12) **Rural water districts**;
- (13) Facilities engaged in the remediation or processing to ameliorate **hazardous wastes**; [See: 710-65-13-80]
- (14) **Disabled American Veterans** Department of Oklahoma and its subordinate chapters; [See: 710:65-13-336]
- (15) **Museums** which are members of the American Alliance of Museums formally the American Museum Association; [See: 710:65-13-334]
- (16) **Rural Electric Cooperatives**;
- (17) Federally qualified **health care** facilities;
- (18) **Health care** facilities receiving reimbursement from the Indigent Care Revolving Fund;
- (19) **Community based health centers** providing primary care services at no cost to the patient;
- (20) **Cultural organizations** established to sponsor and promote educational, charitable, and **cultural events for disadvantaged children**; [See: 710:65-13-335]
- (21) Federally recognized **Indian Tribes**;
- (22) Leases or lease-purchases of tangible personal property or services to **municipalities, counties, or school districts**; [See: 710:65-13-210]
- (23) Sales of tangible personal property or services **to, or by,** a tax-exempt [26 U.S.C. § 501(c)(3)] organization, which is organized primarily to provide education and to conduct events related to **teacher training in robotics**, and affiliated with a comprehensive University within the Oklahoma System of Higher Education;
- (24) Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), in the course of conducting a **national championship sports event**, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i);
- (25) Volunteer fire departments organized pursuant to 18 O.S. § 592; [See: 710:65-13-340]
- (26) Parent-teacher associations and parent-teacher organizations that are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code; [See: 710:65-13-210]
- (27) The non-profit organization which operates the Oklahoma City National Memorial and Museum; [See: 710:65-13-330]
- (28) The first Fifteen Thousand Dollars (\$15,000.00) of sales of tangible personal property sold for fund raising purposes to or by a youth athletic team which is part of an athletic organization exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(4); [See: 710:65-13-343]
- (29) Tax exempt, nonprofit organizations which provide services during the day to homeless persons; [See: 710:65-13-344]

- (30) Motion picture or television production companies for certain eligible productions; [See: 710:65-13-194]
- (31) Child care centers providing on site universal pre-kindergarten education; [See: 710:65-13-220]
- (32) Tax exempt organizations which are shelters for abused, neglected, or abandoned children; [See: 710:65-13-355]
- (33) Tax exempt organizations providing funding for medical scholarships; [See: 710:65-13-357]
- (34) Nonprofit local public or private school foundations; [See: 710:65-13-210(m)]
- (35) Nonprofit foundations in support of NRA and other like organizations; [See: 710:65-13-359]
- (36) Grassroots fundraising programs in support of NRA; [See: 710:65-13-360]
- (37) Construction projects for organizations providing end of life care and hospice service. [See: 710:65-13-178]
- (38) Meals on Wheels, Mobile Meals; [See: 710:65-13-337]
- (39) Organizations which received federal funding pursuant to the Older Americans Act of 1965, for purposes of providing nutrition programs for the care and benefit of elderly persons; [See: 710:65-13-338]
- (40) Collection and Distribution Organization; [See: 710:65-13-339]
- (41) Council organizations or similar state supervisory organizations of Boy Scouts of America, Girl Scouts of U.S.A., and Camp Fire USA; [See: 710:65-13-341]
- (42) Organizations which take court-adjudicated juveniles for purposes of rehabilitation; [See: 710:65-13-342]
- (43) Tax exempt organizations which provide funding for the preservation and conservation of wild turkeys or preservation of wetlands or habitats for wild ducks; [See: 710:65-13-345]
- (44) Tax exempt organizations which are part of a network of community-based, autonomous member organizations providing job training and employment services; [See 710:65-13-346]
- (45) Qualified neighborhood watch organizations; [See: 710:65-13-348]
- (46) Specialized facilities, which provide services for physically and mentally handicapped persons; [See: 710:65-13-347]
- (47) Daughters of the American Revolution; [See: 710:65-13-350]
- (48) Veterans of Foreign Wars of United States, Oklahoma Chapters; [See: 710:65-13-351]
- (49) YWCA or YMCA organizations; [See: 710:65-13-352]
- (50) Organizations primarily engaged in providing educations services and programs concerning health-related diseases and conditions; [See 710:65-13-353]
- (51) Organizations whose purpose is to provide training and education to developmentally disabled persons; [See: 710:65-13-354]
- (52) Nonprofit Boys & Girl Clubs of America affiliates not affiliated with the Salvation Army; [See: 710:65-13-362]
- (53) National Guard Association of Oklahoma exempt from federal taxation pursuant to 26 U.S.C. 501(c)(19); [See: 710:65-13-363]
- (54) Marine Corps League of Oklahoma exempt from federal taxation pursuant to 26 U.S.C. 501(c)(4); [See: 710:65-364]

- (55) Nonprofit collaborative model organization connecting agencies to serve persons affected by violence; [See: 710:65-13-365]
- (56) Tax exempt organization who is an official member of the Fab Lab Network; [See: 710:65-13-366]
- (57) The American Legion; [See: 710:65-13-367]

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 33 Ok Reg 1094, eff 8-25-16; Amended at 37 Ok Reg 2234, eff 9-11-20]

710:65-7-16. Vendors' reliance on erroneous information

(a) Vendors shall be relieved of any liability for having charged and collected an incorrect amount of sales or use tax resulting from having relied on erroneous data provided by the Tax Commission as to tax rates, boundaries, or taxing jurisdiction assignments.

(b) For purposes of source telecommunications transactions, vendors shall not be relieved from liability for errors resulting from the reliance on the information provided pursuant to any "zip-code" database, if the Tax Commission has provided an address-based system which meets the requirements of the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 119. [See: 68 O.S. § 1354.32(7)]

[Source: Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-7-17. Vendors' responsibility - sales to disabled veterans receiving compensation at the 100% rate or surviving spouses of qualified deceased disabled veterans

In the case of a purchaser claiming exemption from sales tax pursuant to the exemption allowed by 68 O.S. §1357(34), the vendor must obtain either a copy of the exemption card issued the purchaser by the Tax Commission or the purchaser's name, address, and exemption number.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 30 Ok Reg 2089, eff 7-25-13]

710:65-7-17.1. Vendors' fine for refusal to accept sales tax exemption claims of 100% disabled veterans or surviving spouses of qualifying deceased disabled veterans

A vendor who willfully or intentionally refuses to honor the sales tax exemption afforded a 100% disabled veteran's or the unremarried surviving spouse of a deceased qualifying disabled veteran is subject to punishment by an administrative fine for the first offense. A second or subsequent violation constitutes a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) per offense.

[Source: Added at 28 Ok Reg 961, eff 6-1-11; Amended at 30 Ok Reg 2089, eff 7-25-13]

710:65-7-18. Vendor's responsibility - sales to, by, or for the benefit of, neighborhood watch organizations

In the case of sales made to purchasers claiming exemption because the purchases are made by, or for the benefit of a neighborhood watch association, the vendor must obtain the items of information described in this section:

- (1) A copy of the neighborhood watch association's sales tax exemption card that was issued by the Oklahoma Tax Commission pursuant to Section 710:65-13-348.

(2) A signed, dated statement by the purchaser listing the purchaser's name, address and telephone number which states that the purchase is being made by or for the benefit of the neighborhood watch organization. The statement shall also contain the name, address and telephone number of the person responsible for keeping a record of the purchases made by or for the benefit of the organization.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-7-19. Vendor's responsibility - sales to qualifying organizations providing services for developmentally disabled persons

In the case of sales made to organizations providing services for developmentally disabled persons and claiming exemption because the purchases are to be used exclusively for charitable or educational purposes, the vendor must obtain the items of information described in this Section:

- (1) A copy of the purchasing organization's sales tax exemption card that was issued by the Oklahoma Tax Commission pursuant to Section 710:65-13-354; and
- (2) A signed, dated statement by the purchaser listing the purchasing organization's name, address and telephone number which states that the purchases are to be used exclusively for charitable or educational purposes. The statement must also contain the name, title and signature of a person authorized to legally bind the purchaser.

[Source: Added at 25 Ok Reg 2070, eff 7-1-08]

710:65-7-20. Vendor's responsibility-sales to qualifying organizations providing funding for the preservation of wetland or habitats for wild ducks or preservation and conservation of wild turkeys

In the case of sales made to organizations claiming exemption because the purchases are to be used for events the principle purpose of which is to provide funding for the preservation of wetlands or habitats for wild ducks or preservation and conservation for wild turkeys, the vendor must obtain the items of information described in this Section:

- (1) A copy of the purchasing organization's sales tax exemption card that was issued by the Oklahoma Tax Commission pursuant to Section 710:65-13-345; and
- (2) A signed, dated statement by the purchaser listing the purchasing organization's name, address and telephone number which states that the purchases are to be used for events the principle purpose of which is to provide funding for the preservation of wetlands or habitats for wild ducks or preservation and conservation for wild turkeys. The statement must also contain the name, title and signature of a person authorized to legally bind the purchaser.

[Source: Added at 26 Ok Reg 2354, eff 6-25-09]

710:65-7-21. Streamlined Sales and Use Tax Exemption Certificate

The Streamlined Sales and Use Tax Exemption Certificate, SSTGB Form F0003, is a multistate form which may be used to claim any sales or use tax exemption provided under Oklahoma law. When issuing this certificate, purchasers should use caution, since it contains various exemptions that are not applicable in Oklahoma and only apply in other states. Purchasers are responsible for knowing if

they qualify for the exemption they are claiming in the state in which the exemption is being claimed. The purchaser will be held liable for any tax, interest, and penalties that result from the purchaser claiming an exemption for which they are not eligible.

[Source: Added at 27 Ok Reg 2308, eff 7-11-10]

710:65-7-22. [RESERVED]

[Source: Reserved at 27 Ok Reg 2308, eff 7-11-10]

710:65-7-23. [RESERVED]

[Source: Reserved at 27 Ok Reg 2308, eff 7-11-10]

710:65-7-24. Seller's relief from certain liability

Sellers and Certified Service Providers (CSPs) will be relieved from liability for having charged and collected the incorrect amount of sales or use tax resulting from the seller or CSP relying on erroneous data provided in the taxability matrix, available online at www.tax.ok.gov. If the taxability matrix is amended, sellers and CSPs are relieved from liability until the first day of the calendar month that is at least 30 days after notice of a change is submitted to the Streamlined Sales Tax Governing Board, provided the seller or CSP relied on the prior version of the taxability matrix.

[Source: Reserved at 27 Ok Reg 2308, eff 7-11-10; Added at 32 Ok Reg 1376, eff 8-27-15; Amended at 33 Ok Reg 1094, eff 8-25-16]

710:65-7-25. Purchaser's relief from certain liability

(a) A purchaser will be relieved from liability for penalty for having failed to pay the correct amount of sales or use tax in the following circumstances:

- (1) A purchaser's seller or CSP relied on erroneous data provided by the Tax Commission on tax rates, boundaries, taxing jurisdiction assignments or in the taxability matrix completed by the Tax Commission;
- (2) A purchaser holding a direct pay permit relied on erroneous data provided by the Tax Commission on tax rates, boundaries, taxing jurisdiction assignments or in the taxability matrix completed by the Tax Commission;
- (3) A purchaser relied on erroneous data provided by the Tax Commission in the taxability matrix completed by the Tax Commission; or
- (4) A purchaser using databases pursuant to subsections (F), (G) and (H) of Section 305 of the SSUTA (Local Rate and Boundary Changes) relied on erroneous data provided by the Tax Commission on tax rates, boundaries or taxing jurisdiction assignments. After providing adequate notice as determined by the Governing Board, the Tax Commission may provide an address-based database for assigning taxing jurisdictions pursuant to Section 305 of the SSUTA, subsection (G) or (H) and may cease providing liability relief for errors resulting from the reliance on the database provided by the Tax Commission.

(b) Except where prohibited by the Oklahoma Constitution, the Tax Commission will also relieve a purchaser from liability for tax and interest for having failed to pay the correct amount of sales or use tax in the circumstances described in (a) of this Section, provided that, with respect to reliance on the taxability matrix completed by the Tax Commission, such relief is limited to the Tax Commission's

erroneous classification in the taxability matrix of terms included in the Library of Definitions as "taxable" or "exempt," "included in sales price" or "excluded from sales price" or "included in the definition" or "excluded from the definition."

(c) For purposes of this Section, the term "penalty" means an amount imposed for noncompliance that is not fraudulent, willful or intentional, which is in addition to the correct amount of sales or use tax and interest.

[Source: Added at 27 Ok Reg 2308, eff 7-11-10]

SUBCHAPTER 9. PERMITS

710:65-9-1. Obtaining a sales tax permit to do business

(a) **General provisions.** Every person desiring to engage in a business within this state who will regularly and continuously make sales subject to taxation from an established place of business, will make taxable seasonal sales, or make taxable sales through peddlers, solicitors or other salesmen who have no established place of business in Oklahoma must secure from the Commission every three (3) years a written sales tax permit for a fee of Twenty Dollars (\$20.00) prior to engaging in such business in this state. Each such person shall file with the Commission an application for a permit to engage in or transact business in this state, setting forth such information as the Commission may require. The application shall be signed by an owner or authorized representative of the business, and, in the case of a corporation, by an officer thereof.

(b) **Probationary permits.** Every vendor who is making an "initial application" for a sales tax permit and who otherwise qualifies based on a review of the information contained in the application for a sales tax permit and who does not currently hold a sales tax permit, or does not qualify to receive a non-probationary permit as those qualifications are described in this Section, will be issued a probationary permit as allowed by 68 O.S. §1364(B) and implemented by the procedures set out in this Section. When issued, the probationary permit will be effective for six (6) months and will be automatically renewed for an additional thirty (30) months, unless the applicant is given written notice of Tax Commission's refusal to renew the permit.

(c) **Issuance upon receipt of an "initial application."** An "initial application" means the first application by an entity for a sales tax permit. Upon receipt of an initial application for a sales tax permit by a person required to obtain a sales tax permit, the Commission may issue a probationary sales tax permit, based on its records, after determining that the applicant appears to be in compliance with all of the tax laws of this state and has, or will be, required to secure a sales tax permit based on the information contained in the application which was submitted.

(d) **Post-issuance review of probationary permit-holder.** Once a probationary permit has been issued, the Commission may conduct a compliance visit at the taxpayers place of business or at the location of the books and records of the applicant in Oklahoma, as those locations are set out in the initial application.

(1) The compliance visit may be made by a telephone call to the offices of the applicant if the Collections Division Representative believes the information contained in the application may be verified in that manner or in the case where the applicant does not have an established place of business in Oklahoma or has an office located outside of Oklahoma.

(2) The purpose of the compliance visit is to determine if the applicant qualifies for a sales tax permit and will include:

(A) Establishing that the taxpayer is engaged in business as a group one or group three vendor, and that the applicant's business

activities are not solely those of a consumer-user and therefore the probationary permit should be automatically renewed.

(B) Determining that the applicant has maintained compliance with all tax laws of the state, rules of the Commission and recordkeeping requirements and offering assistance to aid the applicant in complying with the tax laws of the state, rules of the Commission and recordkeeping requirements where necessary.

(e) Refusal of the Commission to renew the permit; notice, options available upon refusal.

(1) If the compliance visit indicates that the applicant is ineligible; if the applicant fails to contact the Commission regarding a compliance visit, after attempted contact; if other circumstances indicate that the applicant does not qualify; or if the applicant is not complying with the tax laws of this state, rules of the Commission and recordkeeping requirements, the Commission shall, prior to the end of the sixth month of the probationary period, give notice that the applicant's probationary permit will not be renewed.

(2) The notice shall be in writing and shall allow the applicant to request a hearing to show why the permit should be issued.

(3) Upon receipt of a request for a hearing, the Tax Commission shall set the matter for a hearing and provide notice of the date, time and place of the hearing to the applicant, along with a statement of the reason for refusal. At the hearing the applicant shall appear, state its qualifications for a permit, and provide proof of compliance with all state tax laws. The hearing will not be held sooner than 10 days from the date the notice is mailed.

(4) Proceedings related to the refusal to issue a sales tax permit shall be governed by *OAC 710:1-5-100*.

(f) Compliance reviews not limited to probationary permits. Nothing in this Section shall be construed so as to prevent, or circumscribe in any fashion, the authority of the Oklahoma Tax Commission and its appointed agents and representatives, to examine and review the books and records of every taxpayer and business operation for compliance with the tax laws of this state, rules of the Commission and recordkeeping requirements. In all cases where a review results in a determination that the business may not be in compliance with the tax laws of this state, rules of the Commission and recordkeeping requirements a hearing to revoke or suspend any license or permit may be held pursuant to *OAC 710:1-5-100*, and any other action available by law to the Tax Commission to remedy the deficiency may be pursued.

(g) Sales / Manufacturers Permit. Each applicant who is engaged in manufacturing at a manufacturing site located in Oklahoma will be issued a Sales/Manufacturers Permit.

(h) Special event permits. Promoters or organizers of special events must apply for a special events permit at least twenty (20) days prior to the event, provide forms to special event vendors for reporting sales tax collections, collect the sales taxes from the vendors, and remit them, along with daily sales tax reports to the Tax Commission within fifteen (15) days following the conclusion of the special event, pursuant to 710:65-9-8. [See: 68 O.S. Section 1364.2]

[Source: Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-9-2. Commission may require security from vendor

(a) In order to assure payment of the sales tax due, the Commission may require that sufficient security be deposited with the Commission.

(1) When required, security may be in the form of:

- (A) corporate surety bond furnished by a surety licensed to do business in Oklahoma,
- (B) United States savings or Treasury bonds so registered that the proceeds will be made available to the Commission in the event that the necessity of recovering unpaid taxes arises,
- (C) cash, or
- (D) in any other form agreed upon by the Commission and the person required to remit the tax.

(2) The amount of security furnished by Group One Vendors who become delinquent shall not be more than three times the average quarterly liability. The Commission, from time to time, may increase or decrease the amount of security but in no event shall such increase result in total security in excess of the limitation stated in this paragraph.

(b) The Commission may remove the permit of any vendor who fails to furnish bond or security within ten (10) days after the mailing of the notice requiring same. [See: 68 O.S. §1368]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-9-3. Change in ownership of business; new sales tax permit

(a) When the ownership status of a business which holds a sales tax permit, changes from one type of business ownership, such as sole proprietor, partnership or corporation, to another type of business ownership, the former owner must turn in its sales tax permit pursuant to 710:65-3-9 and the new owner must apply for a new sales tax permit.

(b) A new sales tax permit and sales tax permit number is required for corporations which are sold or transferred only if ownership of the business is transferred to a different corporation or other owner.

(c) A new sales tax permit and number is required for partnerships if fifty percent (50%) of the partnership interest or any one of the general partners enters or leaves the partnership. The change of limited partners does not require a new permit. [See: 68 O.S. §1364]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-9-4. Denial of sales tax permit to a successor; successor liability

(a) The successor in business of any person who sells out a business or stock of goods, or ceases doing business, shall not be issued a sales tax permit to continue or conduct said business until all liability of the seller, i.e. payment of tax, adjustments to tax, penalties and interest has been paid. The term "**successor**" refers to any person who directly or indirectly purchases, acquires, or succeeds to the business or the stock of goods of any person quitting, selling, or otherwise disposing of a business or stock of goods. The purchase or acquisition of a business may give rise to the denial of permit to the successor whether the consideration is money, property, assumption of liabilities or cancellation of indebtedness.

(1) A person who purchases or acquires a portion of a business or stock of goods may be denied a sales tax permit as a successor where he purchases

or acquires substantially all of the business assets or stock of goods. The business assets include the assets of a business pertaining directly to the conduct of the business. Business assets include real property or any interest therein; tangible personal property, including fixtures, equipment and vehicles; and intangible property, including accounts receivable, contracts, business name, business goodwill, customer lists, delivery routes, patents, trademarks or copyrights.

(2) If any taxpayer operates more than one business at separate locations, each business location is a separate business and has a separate stock of goods for purposes of obtaining a sales tax permit. A successor of the business or stock of goods of any business location is subject to denial of a sales tax permit as a successor with respect to the tax attributable to that location even if he does not purchase the business or stock of goods of all the locations.

(3) The change in the form of a business will generally give rise to the possibility of denial of a sales tax permit, such as the incorporation of a sole proprietorship or partnership, the voluntary or involuntary dissolution of a corporation, the merger or consolidation of two or more corporations, the formation of a partnership from one or more sole proprietorships or corporations; or change in the name of a corporation.

(b) Denial of a sales tax permit to a successor will not arise in connection with sales or transfers pursuant to assignments for the benefit of creditors, deeds of trust, or security interest, statutory liens, judgment liens unless the previous owner receives purchase money from the transfer or sale.

(c) A successor may assume the predecessors liability and a permit may be issued when satisfactory arrangements to pay the liability of the seller have been made with the Commission. [See: 68 O.S. §1364]

710:65-9-5. Previously revoked or suspended sales tax permits

(a) A new sales tax permit will only be issued for a previously suspended or revoked permit if the vendor:

(1) Pays, or makes satisfactory arrangements to pay, all outstanding amounts, including the amounts of tax, penalties, interest and costs, if any costs were incurred.

(2) Files all returns due and outstanding.

(3) Pays the required fees for renewal or issuance of permits.

(4) Provides the security demanded to the full extent provided by law.

(5) Confirms in writing that he will henceforth comply with all of the provisions of the laws and the rules prescribed by the Commission.

(b) If the taxpayer becomes delinquent or otherwise fails to comply with the applicable statutes and regulations, the Commission may immediately initiate proceedings to revoke the newly issued permit.

(c) No previous holder of a sales tax permit which has been permanently revoked may be issued a sales tax permit without the express action of the Commission.

[See: 68 O.S. §1364]

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-9-6. Subscription to sales tax permit list

(a) The Commission will provide on a subscription basis the following information contained in the master Sales and Use Tax Files:

(1) Permit number.

- (2) Name in which permit is issued.
- (3) Name of business operation if different from ownership (DBA).
- (4) Mailing addresses.
- (5) Business addresses.
- (6) Business class, Standard Industrial Code (SIC) or classification under the North American Industry Classification System (NAICS).
- (7) Effective date and expiration or cancellation date.

(b) The fee for this service is One Hundred Fifty Dollars (\$150.00) per year. The lists will be updated periodically. It is to be used by the vendor for the purpose of determining the validity of sales tax permits presented to the vendor as proof of the purchaser's exemption as a reseller. [See: 68 O.S. §1364(N)]

[Source: Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 30 Ok Reg 2089, eff 7-25-13]

710:65-9-7. Information available to the prospective purchaser of an existing business

- (a) **Access limited to prospective purchaser.** The prospective purchaser of any business, or his authorized agent, may request information from the Commission relating to amounts due from the prospective seller of the business.
- (b) **Information available.** In addition to items which are deemed "public records" by other statutory provisions, information regarding liabilities, delinquencies, assessments, or warrants which have not been filed of record, established, or become final, that relate solely to the seller's business may be made available upon proper application.
- (c) **Application by prospective purchaser.** Requests for information made pursuant to this Section shall be made in writing, on a request form prescribed by the Commission. A written authorization between the parties and a copy of the purchase contract must be submitted along with the request.

[Source: Added at 12 Ok Reg 2635, eff 6-26-95]

710:65-9-8. Special event permits and reporting

- (a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:
 - (1) **"An event held on an irregular basis"**, for purposes of this Section, means any event that does not occur on a continuous and ongoing basis, even if there is some frequency or pattern of occurrences. Events held on "an irregular basis" may include, but are not limited to, events held once a week or only certain weeks, events that are held every weekend or only on particular weekends, events held once a month or for only certain months, and other events that are held on a periodic basis, as well as those which occur more sporadically.
 - (2) **"Person"** means any individual, company, partnership, joint venture, joint agreement, association, mutual or otherwise, limited liability company, corporation, estate, trust, business trust, receiver or trustee appointed by any state or federal court or otherwise, syndicate, this state, any county, city, municipality, school district, any other political subdivision of the state, or any group or combination acting as a unit, in the plural or singular number. [68 O.S. § 1352(18)]
 - (3) **"Promoter" or "organizer"** means any person who organizes or promotes a special event which results in the rental, occupation or use of any structure, lot, tract of land, sample or display case, table or any other similar items for the exhibition and sale of tangible personal property or

services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes by special event vendors. [68 O.S. § 1364.2]

(4) **"Special event"** means an entertainment, amusement, recreation, or marketing event that occurs at a single location on an irregular basis and at which tangible personal property is sold. **"Special event"** shall include, but not be limited to gun shows, knife shows, craft shows, antique shows, flea markets, carnivals, bazaars, art shows, and other merchandise displays or exhibits. **"Special event"** shall not include:

- (A) a county, district or state fair,
- (B) a public or private school or university-sponsored event,
- (C) an event sponsored by a church organization exempt from taxation pursuant to 501(c)(3) of the Internal Revenue Code,
- (D) an event sponsored by a city or town that includes less than ten special event vendors or
- (E) a registered farmers market which is a designated area where farmers, growers, or producers from a defined region gather on a regularly scheduled basis to sell at retail nonpotentially hazardous farm food products and whole-shell eggs to the public. [68 O.S. § 1364.2]

(5) **"Special event vendor"** means a person making sales of tangible personal property or services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes at a special event within this state and who is not permitted under Section 1364 of Title 68 of the Oklahoma Statutes. [68 O.S. § 1364.2]

(b) **Application for special event permit.** Every promoter or organizer of a special event shall file an application for a special event permit with the Business Tax Services Division, Oklahoma Tax Commission at least twenty (20) days before the beginning of the special event. If more than one special event is to be held at the same location during a single calendar year, all may be included in one application, and a separate permit will be issued for each event. Each permit will include the dates of the event to be held, and must be prominently displayed at the site of the event for its duration. If an applicant wishes to have permits issued for additional events after an application has been previously submitted, another supplemental application must be filed for the additional events. The application form for a special event permit may be obtained online at www.tax.ok.gov.

(c) **Fee.** There is a fee of fifty dollars (\$50.00) for each application filed, which must be remitted with the application.

(d) **Promoter or organizer to distribute vendors' reporting forms.** Special event promoters and organizations are required to provide sales tax report forms to special event vendors that will be selling tangible personal property and taxable services at the event.

(e) **Promoter or organizer to collect reports and tax from special event vendors.** At the end of the event, special event promoters are required to collect the sales tax reports, along with the sales tax due from each special event vendor.

(f) **Promoter or organizer to report and remit sales tax.** Promoters or organizers of special events must file sales tax reports and remit taxes collected from special events, as follows:

- (1) Promoters and organizers are required to file the sales tax reports within fifteen (15) days following the last day of a special event.
- (2) Payment of the total tax due is required at the time the sales tax report is filed. If not filed on or before the fifteenth (15th) day, the tax shall be

delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed; and,

(3) The organizer or promoter shall also submit a list of vendors at each event that hold a valid sales tax permit issued under 68 O.S. § 1364. The list shall include the vendor's name, address, telephone number, and sales tax permit number.

(4) Promoters and organizers are only liable for the failure to report and remit the sales taxes that have been collected by them from special event vendors.

(g) Limitation of responsibilities of promoters or organizers. Promoters or organizers of a special event that is held on an annual basis during the same thirty-day period each year may request that the Tax Commission limit their responsibilities to the following:

(1) Submitting an application for a special event permit as provided in (b) of this Section;

(2) Providing report forms to special event vendors as provided in (d) of this Section; and,

(3) Within fifteen (15) days following the conclusion of the special event, submitting a list of special event vendors at each event, including the vendor's name, address, and telephone number.

(h) Denial of limitation. Requests submitted pursuant to (g) of this Section may be denied by the Tax Commission for reasons including, but not limited to, failure by the promoter to comply with the requirements of this Section or failure by vendors of the promoter's previous special events to comply with the provisions of (i) of this Section.

(i) Vendor reporting and remitting pursuant to subsection (g). A special event vendor who has participated in a special event approved under subsection (g) shall remit the tax along with a sales tax report directly to the Tax Commission within fifteen (15) days following the conclusion of the special event. Sales taxes shall be considered delinquent and interest as provided by law will be charged if payment is not received or postmarked by the fifteenth (15th) day following the event.

(j) Reporting and remitting tax when event lasts thirty (30) days or longer. When the special event will last thirty (30) days or longer, a sales tax report is required to be filed for each calendar month by the fifteenth (15th) day of the following month.

[Source: Reserved at 14 Ok Reg 2711, eff 6-26-97; Added at 21 Ok Reg 44, eff 10-8-03 (emergency); Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 35 Ok Reg 2102, eff 9-14-18; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-9-9. Administration of the Streamlined Sales and Use Tax Agreement online database

(a) As part of the Streamlined Sales and Use Tax Agreement, the Oklahoma Tax Commission will participate in an online sales and use tax registration system. By registering to participate in the online system, the vendor agrees to collect and remit sales and use taxes for all taxable Oklahoma sales.

(b) Registration with this central registration system and the collection of sales and use taxes in Oklahoma will not be used as factor in determining whether the vendor has nexus with Oklahoma.

(c) A vendor registering with this System who has no legal requirement to register in Oklahoma, will not be required to pay registration fees or other charges provided

in Section 1364 of Title 68. A vendor who has a requirement to register in Oklahoma prior to utilizing the online System must provide additional information to complete the registration process and pay the registration fee.

(d) Oklahoma's withdrawal or revocation from the Agreement will not relieve a vendor of its responsibility to remit taxes previously or subsequently collected to behalf of Oklahoma.

[Source: Reserved at 14 Ok Reg 2711, eff 6-26-97; Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-9-10. Direct payment permits (DPP)

(a) **General provisions.** The holder of a valid Oklahoma direct payment permit may make purchases of taxable items, for use in its Oklahoma enterprises and not for resale, and defer the taxes imposed by the Oklahoma Sales and Use Tax Codes until such time as the items are first used or consumed in a taxable manner, if all requirements described in this Section are met. [See: 68 O.S. § 1364.1]

(b) **Qualification for direct payment permit.** To qualify for a direct payment permit, valid for three (3) years, an applicant must meet the requirement set forth in paragraph 1, 2, or 3.

(1) **Documentation for established businesses.** The applicant must be making purchases of \$800,000.00 annually in taxable items for the use in its Oklahoma enterprises, and not for resale and annual purchases of \$800,000.00 must be verifiable from the applicant's sales or use tax records.

(2) **Documentation for new or expanding businesses.** An applicant without any qualifying sales and use tax reporting history in Oklahoma must submit to the Commission along with its application, a sworn statement that "applicant shall purchase \$800,000.00 of taxable items and services annually for use in its Oklahoma enterprises and not for resale." Adequate records or documentation must be available to support the statement of projected purchases.

(3) **Documentation for healthcare providers.** The applicant must be making purchases of drugs for the treatment of human beings, medical appliances, medical devices and other medical equipment including but not limited to corrective eyeglasses, contact lenses, hearing aids, prosthetic devices, durable medical equipment, and mobility-enhancing equipment for administration or distribution by a practitioner, as defined in 68 O.S. § 1357.6(B), who is authorized by law to administer or distribute the referenced items and the cost of such items will be reimbursed under the Medicare or Medicaid programs.

(c) **Other qualifications.** In addition to any other conditions mandated by statute, all applicants for a direct payment permit must comply with all conditions, prerequisites and qualifications described in (1) through (4) of this subsection:

(1) **Overall compliance with tax provisions.** The applicant must be in compliance with all pertinent tax laws of the State of Oklahoma and with the respective rules of the Commission.

(2) **Applicant must establish reliability and accuracy of accounting methods.** All applicant(s) must be able to establish to the satisfaction of the Commission that the applicant is or will be using an accounting method which clearly distinguishes between taxable and nontaxable purchases. An explanation of the accounting procedures which will be used to determine the taxability of any purchase and to ensure that any tax due is correctly accrued and remitted must accompany the application for a direct payment permit. Additionally to substantiate the exempt purchase of medical

equipment pursuant to subsection (a) of 710:65-13-173, a healthcare provider holding a direct pay permit must maintain separate from confidential patient records the following information:

- (A) Patient case number or account number;
- (B) Type of insurance and
- (C) Item description or product number.

(3) **Compliance with reporting and remitting requirements.** The applicant must agree to accrue and pay all taxes imposed by the Sales or Use Tax Codes, on the applicable direct payment sales or use tax return, for items not specifically exempted. The applicant must agree to make the payments to the state on or before the 20th day of the month following the applicable reporting period in which the items become subject to the tax by reason of their consumption in this state. A written agreement to this effect, signed by an officer or other person authorized to legally bind the applicant must be furnished to the Commission along with the application for a direct payment permit.

(4) **Compliance with restrictions on purchases for resale.** The applicant must agree to give a resale certificate, rather than a direct payment permit, for any item that will be resold, as provided by the Sales or Use Tax Codes.

(d) **Application for direct payment permit.** Application for a direct payment permit may be made to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102.

(e) **Granting of permit discretionary; options available upon denial.** The Oklahoma Tax Commission shall be the sole judge of an applicant's qualifications and may deny an application or refuse to issue a direct payment permit. However, an applicant is not precluded from submitting an amended application or may submit a new application after a reasonable period of time from the date of the original application. For purposes of this subsection "**reasonable period of time**" means a period of time of not less than twelve (12) calendar months duration from the date of the Commission denial or refusal to issue the permit.

(f) **Issuance, scope, limitations of direct payment permit.** When a direct payment permit is issued to a particular legal entity, it will include all branches and divisions of that entity which are purchasing taxable items. A direct payment permit issued to a supplier by one branch or division shall apply to purchases made by all branches or divisions from the same supplier. For purposes of this Section, "**branches and divisions**" shall be limited to those subunits or groups associated with a single unique federal employer identification number. A direct payment permit-holder may not authorize any other person or entity to purchase any taxable items under the permit. Use by unauthorized persons may result in revocation of the permit.

(g) **Use of direct payment certification procedure with vendors.** A direct payment permit-holder must provide its vendors with the direct payment certification defined in this Section and a copy of its direct payment permit in order to make those purchases to which the permit is applicable.

(h) "**Direct payment certification**" described. "**Direct payment certification**" means the procedure by which a direct payment permit-holder provides a vendor with properly completed documentation and certification as to its deferred status. Properly completed documentation may consist of a copy of the direct payment permit, multi-state exemption certificate, or other document, so long as it contains the information described in (1) through (4) of this subsection.

- (1) A **copy** of the purchaser's Direct Payment Permit (DPP), or if unavailable, the name, address, and DPP number of the purchaser;

- (2) A statement that the permit-holder claims deferral of the payment of state, city and county sales or use taxes upon its purchases of taxable tangible personal property or services;
- (3) A statement that the articles purchased are for use in the purchaser's Oklahoma enterprises, and not for resale;
- (4) The signature of the purchaser or a person authorized to legally bind the purchaser, and date signed.

(i) **Limitations on use of direct payment procedure.** Direct payment certification procedures are not applicable to the purchase of materials or supplies used, transferred, or consumed by a third party in performing services for the direct payment permit-holder, regardless of whether the third party is a contractor, service provider, or other person.

(j) **Incidence of tax for purchases made pursuant to direct payment permit and stored in Oklahoma.** For taxable items purchased under a direct payment permit, the incidence of Oklahoma sales and use taxes to be accrued and remitted on items stored in Oklahoma is to be determined by reference to this subsection, as well as to the provisions of the Oklahoma Sales and Use Tax Codes. [See: 68 O.S. § 1361(C)]

(1) **Use tax to be accrued on items and goods purchased outside Oklahoma.** Items and goods purchased outside Oklahoma pursuant to an Oklahoma direct payment permit, which are intended solely for use in other states, but which are stored in the state pending shipment to such other states, or which are temporarily retained for the purpose of fabrication, repair, testing, alteration, maintenance, or other service, are not subject to Oklahoma use tax. However, if the items purchased out-of-state are first used or consumed in Oklahoma, then Oklahoma use tax and any applicable city use tax shall be accrued and remitted to the Commission by the direct payment permit-holder.

(2) **Sales tax to be accrued on items and goods purchased in Oklahoma.** Items and goods purchased in Oklahoma pursuant to a valid Oklahoma direct payment permit are subject to Oklahoma sales and applicable city and county sales taxes at the time they are first used or consumed in a taxable manner. Sales made to direct payment permit holders of tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service are not subject to Oklahoma sales tax.

(k) **Monthly reports required.** All direct payment permit-holders must file sales and use tax returns, in the manner set out in this subsection, whether or not they have either sales tax or use tax to report.

(1) Purchases made in Oklahoma, using the taxpayer's DPP, such that the sales tax otherwise due has been deferred, are to be reported monthly on the Sales Tax Report Form which bears taxpayer's Direct Payment Permit Number. This report is in addition to any Sales Tax Report which is required to be filed using taxpayer's Sales Tax Permit Number.

(2) Purchases made outside Oklahoma, using the taxpayer's DPP, such that the use tax otherwise due has been deferred, are to be reported monthly on the taxpayer's Use Tax Report Form, using the Use Tax Account Number.

(l) **Cancellation, suspension, revocation of permit.** A direct payment permit may be cancelled by the Commission if the annual purchases fall below the qualifying

threshold. Further, the Commission may revoke a permit upon information that the permit has been used by persons other than to whom it was issued. Finally, the Commission may suspend, cancel, or revoke a direct payment permit, at any time, for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a license or permit pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

(m) Procedure upon cancellation, revocation, or forfeiture. Any entity whose direct payment permit is either voluntarily forfeited, or is cancelled or revoked by action of the Commission, must immediately notify all vendors from whom purchases of taxable items are made advising them that any certification provided to them pursuant to the forfeited, cancelled or revoked direct payment permit is no longer valid.

[Source: Added at 14 Ok Reg 1089, eff 2-5-97 (emergency); Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 35 Ok Reg 2102, eff 9-14-18; Amended at 38 Ok Reg 1538, eff 9-1-21]

SUBCHAPTER 11. CREDITS AND REFUNDS

710:65-11-1. Sales tax credits and refunds

(a) Credits, other than for bad debts discussed below, may not be taken on the sales tax reporting form until or unless a valid letter of credit has been received from the Commission. The burden of establishing the right to, and the validity of, a credit or refund is on the vendor or purchaser claiming the credit or refund.

(b) Credit/refund requests submitted by a vendor shall include the information set out in paragraphs (1) through (8) of this subsection (if applicable). The application for credit may be obtained from the Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, OK 73102, or online at www.tax.ok.gov.

(1) A written detailed explanation of why the credit/refund is due. (Include exemption numbers and/or an explanation on exempt customers.)

(2) Amended reports detailing the correct figures that should have been reported. (A worksheet may be used in lieu of an amended report for each month involving an extended period.)

(3) Copies or a list of the sales tax reports on which the sales were originally reported.

(4) Copies of cancelled checks used to remit the tax paid.

(5) Copies of the original invoices on which the tax was originally charged. If the number of invoices exceeds twenty-five (25), the invoices must be accompanied by an electronic spreadsheet of the invoices associated with the refund claim that relates back to the tax amount requested on the application for credit. The required fields should accurately list the customer name, invoice date, invoice number, description of the items, the taxable amount, the sales/use tax requested, period the tax was remitted, permit number the tax was remitted under, and the jurisdiction(s) for which the tax was paid.

(6) Copies of the credit invoices or checks showing the tax collected or charged in error has been refunded to your customer.

(7) A recap of the credit/refunds by tax type, tax period, and taxing jurisdiction.

(8) Other documentation which may be pertinent to the requested credit/refund.

(c) Credit/refund requests submitted by a purchaser shall include the information set out in paragraphs (1) through (5) of this subsection (if applicable). The application for credit may be obtained from the Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, or online at www.tax.ok.gov.

(1) The name, address, telephone number of the contact person along with the name, address, telephone number and at least the last four digits of the purchaser's identification number.

(2) A written detailed explanation of why the credit/refund is due. Such explanation must contain sufficient factual information about the transaction and reason why the transaction is not subject to tax. (Include exemption number, if applicable)

(3) Copies of the original invoices included in the refund request, in chronological order, from the oldest to the most current. If the number of invoices exceeds twenty-five (25), the invoices must be accompanied by an electronic spreadsheet of the invoices associated with the refund claim that relates back to the tax amount requested on the application for credit. The required fields should accurately list the vendor name, invoice date, invoice number, description of the items, the taxable amount, the sales/use tax requested, period the tax was remitted, permit number the tax was remitted under, and the jurisdiction(s) for which the tax was paid.

(4) Additional documents which support the refund claim, for example: executed contracts, shipping documents or bills of lading, or documentation reflecting usage of tangible personal property, if not evident from the invoice description.

(5) If the amount of the credit/refund request exceeds \$10,000.00, the purchaser must also provide the following:

(A) A statement from each vendor to whom the purchaser paid the tax setting forth each invoice included in the claim,

(B) The amount of state, city and/or county tax collected from the purchaser and reported by the vendor and the local jurisdiction(s) for which the tax was paid,

(C) The date on which the tax was remitted to the Tax Commission, and

(D) A statement that the vendor has not, and will not, refund the tax to the purchaser.

[Source: Amended at 34 Ok Reg 2089, eff 9-11-17; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-11-2. Sales tax deduction for bad debt

(a) A vendor may take a deduction for bad debts on the return for the period during which the bad debt is written off as uncollectible in the vendor's books and records and is eligible to be deducted for Federal Income Tax purposes, if the vendor kept accounts on a cash basis, or could be eligible to be claimed if the vendor kept accounts on an accrual basis. For purposes of this Section a vendor who is not required to file Federal Income Tax Returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the vendor's books and records and would be eligible for a bad debt deduction if the vendor were required to file a Federal Income Tax Return.

(b) The fact that a deduction has been taken against the current month must be so indicated on the face of the sales tax report. If the accounts are thereafter collected,

the amount received shall be included in the gross receipts for the period in which the account is collected.

(c) The "bad debt" deduction is calculated based upon the federal definition provided in 26 U.S.C. § 166 and the amount should be adjusted to exclude:

- (1) *Financing charges or interest;*
- (2) *Sales or use taxes charged on the purchase price;*
- (3) *Uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid; and,*
- (4) *Expenses incurred in attempting to collect any debt and repossessed property.* [68 O.S.Supp.2003, § 1366(B)]

(d) The burden of establishing the right to, and the validity of a bad debt deduction is on the vendor. In order to verify each deduction taken for a bad debt, the vendor must retain and make available:

- (1) The name of the purchaser/debtor;
- (2) The date of the sale or sales giving rise to the bad debt;
- (3) The price of the property and the amount of sales tax charged thereon;
- (4) The amount of interest, finance and service charges charged to the debt or account;
- (5) Whether the property was retained by the vendor or repossessed;
- (6) Any amounts charged to the debt or account representing costs of collection;
- (7) The dates and amounts of any payments made on the debtor's account;
- (8) Any portion of the debt or account which represents a charge that was not subjected to the tax in the original transaction; and
- (9) Records documenting that the account has been or will be written off or could be eligible to be claimed if taxpayer kept accounts on a cash basis or could be eligible to be claimed if taxpayer kept records on the accrual basis on the Federal Income Tax Return for the year, or that the item was repossessed.

(e) The information in subsection (d) may be requested by the Commission at any time.

(f) The deduction for bad debts is limited to the amount shown on the invoice that is being or will be charged off as a bad debt. This tax deduction is allowable only to the person who remitted and reported the tax to the Commission. Subsequent recoveries of bad debts that have been taken as a deduction are to be reported in the month of the recovery. [See: 68 O.S. §1366]

(g) *When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the statute of limitations for refund claims provided in Section 227 of this title; however, the statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.*

(h) *Where filing responsibilities have been assumed by a certified service provider, the certified service provider may claim, on behalf of the seller, any bad debt allowance provided by this section. The certified service provider must credit or refund the full amount of any bad debt allowance or refund received to the seller.*

(i) *For the purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.*

(j) *In situations where the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the states which are*

members of the Streamlined Sales and Use Tax Agreement, the allocation will be permitted. [68 O.S.Supp.2003, § 1366]

[Source: Amended at 21 Ok Reg 2581, eff 6-25-04]

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 1. ADVERTISING IN MEDIA

710:65-13-1. Exemption for sales of certain types of advertising

(a) Gross proceeds from sales of advertising space in newspapers, periodicals, programs relating to sporting and entertainment events, and on billboards (including signage, posters, panels, marquees, or on other similar surfaces, whether indoors or outdoors), and any advertising via the Internet, electronic display devices, or through the electronic media, including radio, public address or broadcast systems, television (whether through closed circuit broadcasting systems or otherwise), and cable and satellite television, and the servicing of any advertising devices are exempt from sales tax.

(b) The purchase of materials and equipment to be used to produce an advertisement is a taxable purchase.

(c)

In order for the advertising in a newspaper or periodical to be exempt, the publication must be generally recognized as a newspaper or be a periodical as defined by state law. [See: 68 O.S. § 1357(4)]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 35 Ok Reg 2102, eff 9-14-18]

PART 3. AGRICULTURAL TRANSACTIONS

710:65-13-15. "Agricultural production" defined; taxable and exempt transactions

(a) **Definitions.** For the purposes of this Section:

(1) "**Agricultural production**" and "**production of agricultural products**" is limited to what would ordinarily be considered a farming or ranching operation undertaken for profit. The term refers to the raising of food crops or livestock for sale. Included within the meaning of "**agricultural production**" and "**production of agricultural products**" are ranches, orchards, and dairies. Also included is any feedlot operation, whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned by persons conducting the feedlot.

(2) "**Farmers**" means persons engaged in agricultural production or production of agricultural products.

(3) "**Farming**" or "**ranching**" means the production, harvesting or processing of agricultural products.

(4) "**Livestock**" means cattle, horses, sheep, goats, asses, mules, swine and also chickens, turkeys, and other domesticated fowl. It also includes American bison, emus, ostriches and llamas.

(b) **Examples of persons engaged in farming, ranching or agricultural production.** Besides the persons defined as farmers and ranchers above, the law recognizes persons engaged in the following types of activities, whose aim is the making of a profit, to also be engaged in farming, ranching or agricultural

production:

(1) Wholesale divisions of nurseries are considered to be farmers and the planting, growing, cultivation and harvesting of shrubs, flowers, trees and other plants for sale in the wholesale division of a nursery operation are defined to be farming operations.

(2) Persons who plant, cultivate, and harvest sod for commercial sale are also considered to be farmers.

(c) Examples of persons who are not engaged in farming, ranching, or agricultural production. The following activities **do not** qualify as farming, ranching, or agricultural production:

(1) Operation of commercial greenhouses;

(2) Operation of plant nurseries, except their wholesale divisions;

(3) Catfish raising;

(4) Ownership of livestock solely for one's own use for pleasure riding, trail riding, performance riding, participation in horse shows, or racing; and,

(5) The raising of cats, dogs, other fur-bearing animals not included in the definition of livestock, or non-domesticated fowl.

(d) Sales of feed, fertilizers, biologicals, and pharmaceuticals. The statute provides an exemption from sales tax for sales of certain items, such as feed, fertilizer, pharmaceuticals, biologicals, seeds, plants, and pesticides, when sold to a person regularly engaged in farming or ranching, for profit, and the items are to be used and in fact are used in agricultural production. Sales of agricultural fertilizer, pharmaceuticals and biologicals sold to a person engaged in the business of applying such materials on a contract or custom basis are specifically exempted from sales and use tax.

(e) Sales to persons other than farmers or ranchers. Sales of tangible personal property are subject to the sales or use tax under this rule, if the sales are to persons other than a farmer or rancher, regularly engaged in business for profit, or if the sales are made to a farmer or rancher, but the property is used or consumed for a purpose other than the production of agricultural products for sale.

(f) Sales for personal use. Sales to a farmer or rancher of fuel, clothing, and all other tangible personal property for personal living or human consumption or use are taxable. Sales of tangible personal property are taxable when the property is used in producing food or other products for personal consumption and not for sale. Similarly, sales of seed, fertilizer, equipment, etc. to anyone for use on homes, gardens, lawns, parks and golf courses or for use by landscape gardeners are taxable.

(g) Farm machinery. Sales of farm machinery used directly on a farm or ranch in the production of agricultural products are exempt. Such machinery is also exempt if sold to a custom harvester, baler, producer or planter performing service on a farm or a ranch.

(1) "**Farm machinery**" includes:

(A) Expendable supplies, such as baling wire, and binders twine, hand tools, and implements such as fence stretchers, picks, posthole diggers, scoops and shovels;

(B) Lubricants for farm machinery;

(C) Repair or replacement parts for machinery used directly on a farm or ranch in production of agricultural products;

(D) Fencepost, cattle guards, gates and chutes;

(E) Buildings and structures which are essentially an item of equipment or machinery for agricultural production if the structure

is specifically designed for such use and the structure cannot be economically used for any other purpose, for example: an automated laying house or farrowing house.

(2) "**Farm machinery**" does **not** include any motor vehicle licensed for highway use.

(h) **Exemption limited to use in agricultural production.** The fact that an item is purchased for use on a farm or ranch, or that a piece of equipment is convenient, does not necessarily make the purchase exempt from sales tax. The items purchased must be directly used on the purchaser's farm or ranch in the production of agricultural products. "To be directly used by the purchaser on a farm or ranch in the production of food or agricultural products" requires that the property in question must have a direct effect on the article being produced.

(i) **Examples of taxable items.** The following is a partial list of taxable items:

- (1) Water supply systems for personal use.
- (2) Repair parts for all motor vehicles (licensed with a farm tag or any other tag).
- (3) Household appliances.
- (4) Garden and lawn equipment.
- (5) Personal apparel.
- (6) Pets and their supplies.
- (7) All equipment, supplies and tools to maintain personal home and/or vehicle/ equipment storage buildings.
- (8) Electricity for non-agricultural use.
- (9) LPG storage tanks for fuels used for domestic purposes.
- (10) Livestock, not including horses, but including cattle, mules or other domestic or draft animals except those sold for resale to a person who holds a valid sales tax permit or those sold by the producer by private treaty or at a special livestock sale.
- (11) All computers and software, except that which is to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands.
- (12) Home and or office furnishings and supplies.
- (13) Groceries and purchases of meals and beverages at restaurants.

(j) **Examples of items not commonly exempt, except when used in agricultural production.** The following items are taxable, unless used directly in agricultural production:

- (1) Liquefied petroleum gas (LPG).
- (2) Communication radios.
- (3) Building materials, including:
 - (A) Roofing cement.
 - (B) Lumber.
 - (C) Electrical wiring.
 - (D) Nails, staples, and other fasteners.

(k) **Examples of exempt items.** The following items are **exempt** if used directly in agricultural production, or as otherwise stated:

- (1) Electric fence insulators.
- (2) Electric fence chargers.
- (3) Cattle electric water warmer & tank.
- (4) Cattle water tank.
- (5) Cattle squeeze chute.

- (6) Welding machines and associated equipment, including the lease or rental of both the equipment and the cylinders used to store the gases used in welding. Welding rod, oxygen, acetylene are exempt, providing welding machine with which they are used is qualified for the exemption.
- (7) Sprays for control of flies & lice, insect repellent.
- (8) Pinkeye patches, livestock wormers.
- (9) Disinfectants (alcohol, iodine).
- (10) Breeding supplies (includes semen, biostate sales & liquid nitrogen for storage).
- (11) Drugs for disease or bacteria control such as penicillin, milk fever medicines, mastitis treatment.
- (12) Supplies for administering drugs to farm animals for production (syringes, needles).
- (13) Vaccines for preventive disease.
- (14) Bottles, nipples & mixing containers for feeding calves.
- (15) Farm tractors.
- (16) Combines.
- (17) Hay balers, mowers, rakes & loaders.
- (18) Cultivators.
- (19) Harrows, disks, planters, drills.
- (20) Windmills (except for domestic use).
- (21) Spray machines.
- (22) Mechanical brush cutters, ensilage cutters.
- (23) Grain grinders.
- (24) Electric milking machines & separators.
- (25) Standby generators (except those for domestic use).
- (26) Silo unloaders, silage distributor.
- (27) Augers-power take off.
- (28) Bale loaders.
- (29) Crust busters.
- (30) Diamond packers
- (31) Rotary hoes.
- (32) Bulk milk tanks & pipeline milkers.
- (33) Power take off post hole diggers.
- (34) Motor chain saw (to clear land).
- (35) Repair parts for farm equipment (includes tires, batteries, oil filters, belts, air filters & other parts).
- (36) Diesel & special fuels (for agricultural use).
- (37) Antifreeze (for agricultural use).
- (38) Oil & grease (for agricultural use).
- (39) Stock tanks.
- (40) Grain storage bins.
- (41) Stock trailers.
- (42) Wire fencing.
- (43) Fence posts.
- (44) Air conditioner (for agricultural use).
- (45) Feed racks.
- (46) Bulk feed bins & associated equipment.
- (47) Silo loading chutes.
- (48) Farm wagons, farm plows, truck unloaders.
- (49) Fertilizer spreading equipment.

- (50) All farm animals for production.
- (51) Containers used to package farm products for sale.
- (52) Cattle chutes.
- (53) Hay wire or twine, hay hooks.
- (54) Ear tags, neck tags for cattle.
- (55) Seeds, plants.
- (56) Fertilizers.
- (57) Insecticides.
- (58) Packaging materials, such as sacks, wrappers, and crates, for use in packing, shipping or delivering of agricultural products. This exemption shall not apply to any packaging material which can be used more than once or which is ordinarily known as a returnable container, except those specifically noted under 68 O.S. § 1359(3), 68 O.S. § 1359(4), and 68 O.S. § 1359(14).
- (59) *"Returnable cartons, crates, pallets, and containers used to transport mushroom products from a farm for resale to the consumer or processor."*
See: 68 O.S. § 1359(14)]
- (60) Salt blocks (for agricultural use).
- (61) Irrigation equipment (for agricultural use).

(l) **Examples not exhaustive.** Activities and items enumerated in this Section as examples and illustrations are not intended to be exclusive or exhaustive.

(m) **Purchases of taxable personal property or services by a contractor.**

Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for a farmer may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to a farmer. However, sales of materials, supplies, and equipment may be made exempt from sales tax to any person who has contracted to construct facilities which are or will be **used directly** in the production of any livestock. For purposes of this subsection, "**used directly in the production of any livestock**" includes facilities used in the production and storage of feed for livestock owned by the permit holder. To receive the exemption, the contractor must follow the applicable requirements of Section 710:65-13-17.

(n) **The exemption as it pertains to horses, ranching, and ranches.**

- (1) The exemption is allowed only to those persons breeding or raising horses for marketing.
- (2) The exemption is not extended to persons who own horses for personal use or who are solely engaged in activities such as boarding horses, giving riding lessons, or providing horses for recreational riding.

(o) **The exemption as it extends to feed and similar products for livestock, including horses.** The holder of an agricultural exemption permit may purchase generally recognized animal feeds, stock tonics, water purifying products, stock sprays, disinfectants, and other such agricultural supplies subject to the following limitations:

- (1) The purchaser must obtain an Agricultural Permit; and
- (2) The purchaser must follow the applicable requirements of Section 710:65-13-17.

710:65-13-16. Sales and use tax exemption for salt and salt blocks sold for consumption by livestock and poultry [REVOKED]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Revoked at 29 Ok Reg 542, eff 5-11-12]

710:65-13-17. Certification required for sales tax exemption for certain agricultural transactions

(a) **Feed for draft animals.** Certification on the face of the invoice or sales ticket is required to purchase feed for horses, mules or draft animals used directly in the production and marketing of agricultural products. The certification must contain the information set out in subsection (b) and be signed by the purchaser at the time of purchase.

(b) **Certification for use when purchasing feed for draft animals.** The following or equivalent thereof shall be executed by the purchaser when purchasing feed:

(1) **Statement under oath.** "Purchaser certifies under penalty of perjury that the feed purchased will be fed only to horses, mules or draft animals used directly in agricultural production."

(2) **Identifying number.** "The qualifying Oklahoma Agricultural Exemption Number is _____".

(c) **Material purchased for the construction of livestock facilities.** Certification on the face of the invoice or sales ticket is required from any person acting pursuant to a contract with the permit holder on purchases of materials, supplies, and equipment to be utilized in the construction of a livestock facility, being used or to be used in the production of any livestock, including facilities for the production and storage of feed. The certification must contain the information set out in subsection (d) and be signed by the purchaser.

(d) **Certification for use when purchasing materials for construction of livestock facilities.** The following or equivalent thereof shall be executed by the contractor when purchasing materials pursuant to 68 O.S. §1358(8).

(1) **Statement under oath.** "Purchaser certifies under penalty of perjury that the items are purchased pursuant to contract and are for use in the construction of a livestock facility owned by the agricultural permit number holder identified herein."

(2) **Identifying number.** "The qualifying Agricultural Exemption Permit Number is _____ and is issued to _____".

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-18. Proof of agricultural tax exemption

In order to qualify for the exemptions provided in 68 O.S. §1358, the purchaser must provide proof of eligibility to the vendor.

(a) Proof of eligibility is based on the issuance of an agricultural exemption permit, which is obtained in the following manner:

(1) All persons, regardless of residency, who are engaged in farming or ranching operations in this state, may obtain an agricultural exemption permit by listing personal property used in the farming or ranching operation with the county assessor each year, as provided by law. If the assessor determines that the personal property is correctly listed and assessed for ad valorem taxation and the county treasurer certifies that the person has no delinquent accounts appearing on the personal property tax

lien docket in the county treasurer's office, the assessor shall certify the assessment upon a form prescribed by the Commission. One copy shall be retained by the assessor, one copy shall be forwarded to the Oklahoma Tax Commission, and one copy shall be given to the person listing the personal property. Upon verification that the applicant qualifies for the exemptions authorized by Section 1358, and that the applicant has no delinquent accounts appearing on the personal property tax lien docket in the office of the county treasurer, a permit shall be issued as prescribed by this paragraph. The permit shall be renewable every three years.

(2) A person who does not otherwise qualify for an agricultural exemption permit shall file an application with the Commission providing proof of eligibility for the sales tax exemptions. The application shall be certified by the applicant that such applicant is engaged in custom farming operations or in the business of farming or ranching. If the applicant is a corporation, the application shall be certified by a legally constituted officer thereof.

(3) If the application does not contain sufficient information to show that the applicant is engaged in farming, ranching, or agricultural production for profit, the Commission may request additional information from the taxpayer, from a division, another agency, or from any other source, in order to determine eligibility.

(4) If the application is denied, the applicant has a right to a hearing, in conformity with Section 710:1-5-100.

(b) Use of the agricultural exemption permit is subject to the provisions set out in this Subsection:

(1) To establish eligibility for the sales tax exemption, residents of other states who are engaged in custom farming operations in this state must provide the vendor with proof of residency; the name, address, and telephone number of the person engaging the custom farmer; and certification on the face of the invoice, under the penalty of perjury, that the property purchased will be used in agricultural production.

(2) If an agricultural exemption permit-holder purchases tangible personal property from a vendor on a regular basis and has previously established eligibility, the vendor may make subsequent sales without requiring proof of eligibility for each sale. However, the permit-holder must notify the vendor of all purchases which are not exempt from sales tax and remit the applicable tax.

(3) A purchaser who uses an agricultural exemption permit or provides proof of eligibility to make exempt purchases of items not authorized by law shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00).

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2708, eff 6-25-00]

710:65-13-19. Sales at or from the farm and sales at farmers markets

(a) The sale of agricultural products by the producer at or from the producer's agricultural property to the consumer or user, including transactions where those products are sold and shipped directly to the consumer or user, is not subject to sales tax. As used in this Section "**agricultural property**" means the location at which the agricultural products were grown or where the animals from which the agricultural products are derived were raised or milked.

(b) This exemption does not apply to sales by florists, nurserymen, or chicken hatcheries. Dairy products are exempt only if offered for sale by the owner of all of the cows from which the dairy products were produced. [See: 68 O.S. §1358(A)]

(c) Transactions exempted by this Section include sales of agricultural products produced in Oklahoma by farmers who sell their products directly to consumers at farmers markets, roadside stands, festivals/fairs or other similar venues. However, agents of agricultural producers and other third parties may not sell agricultural products exempt from sales tax pursuant to this Section.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2708, eff 6-25-00; Amended at 33 Ok Reg 1094, eff 8-25-16]

PART 5. ITEMS SUBJECT TO OTHER TAXES

710:65-13-30. Exemption for the sale of tangible personal property subject to other taxes

(a) **Aircraft, boats, boat motors, and low-speed/medium-speed electrical vehicles.** Sales and use tax does not apply to the sale of airplanes, boats, boat motors, and low-speed/medium-speed electrical vehicles, which are subject to the "Oklahoma Aircraft Excise Tax Act" [See: 68 O.S. § 6002], the "Oklahoma Vessel and Motor Registration Act" [See: 63 O.S. § 4107], or the "Oklahoma Vehicle Excise Tax Act" [See: 68 O.S. § 2106]. These excise taxes are levied on all aircraft, small vessels, watercraft, sailboats, motors greater than ten (10) horsepower, motorboats, or low-speed/medium-speed electrical vehicles, and also the optional equipment and accessories attached at the time of the sale and included in the purchase price or manufacturer statement of origin.

(b) **Motor vehicles.** Sales of motor vehicles on which the Oklahoma vehicle excise tax levied in Section 2101 et seq. of Title 68 has been, or will be paid, are subject to sales/use tax at the rate of 1.25% of the gross receipts of such sales. (See 710:65-19-215). The provisions of this subsection do not apply to low-speed/medium-speed electrical vehicles.

(c) **Accessories, optional equipment, and parts.** Sales tax is due on accessories, optional equipment, or parts which are not attached and sold as part of the purchase price on the sale of aircraft, motors greater than ten (10) horsepower, vessels, motorboats, motor vehicles and low-speed/medium speed electrical vehicles.

(d) **Boats motors.** The sale of boat motors in excess of ten (10) horsepower is subject to boat and motor excise tax. [See: 63 O.S. §§ 4003(B)(1), 4107] The sale of boat motors ten (10) horsepower or less is subject to sales/use tax. [See: 68 O.S. § 1355]

(e) **Leases of aircraft.** Leases of aircraft are not subject to sales tax if either the aircraft excise tax has been paid on the lease transaction or an exemption applies to the transfer from the lessor to the lessee, pursuant to 68 O.S. §§ 1355(9) and 6001(4).

(f) **Sales of crude petroleum, natural or casinghead gas, and other products.** *Sales of crude petroleum, natural or casinghead gas, and other products subject to gross production tax pursuant to 68 O.S. §1001 et seq. and 68 O.S. §1101 et seq. are not subject to sales tax. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas.* [See: 68 O.S. § 1355(3)]

(g) **Sales from coin-operated vending devices.** Sales from coin-operated vending devices on which the fee imposed by 68 O.S. §§1501-1512 has been paid are not

subject to sales tax.

(h) **Leases of motor vehicles.** Leases of motor vehicles are exempt from sales tax provided that the lease is for a term of twelve (12) months or more and the vehicle excise tax levied by Section 2103 of Title 68 of the Oklahoma Statutes has been paid.

(i) **Sales of charity game equipment.** Sales of charity game equipment on which a tax is paid pursuant to the Oklahoma Charity Games Act, (3A O.S. § 401 et seq.), are not subject to sales tax. Additionally charity games equipment is exempt from sales tax when sold to the following entities: or which is sold to

(1) a veterans' organization exempt from taxation pursuant to the provisions of Section 501(c)(4),(7),(8),(10), or (19) of the Internal Revenue Code; or which is sold to

(2) a group home for mentally disabled individuals exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code are not subject to sales tax; and

(3) charitable healthcare organizations exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

(j) **Sales of cigarettes and tobacco products.** Sales of cigarettes and tobacco products are exempt from sales tax in the following instances:

(1) Sales to a federally-recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of 68 O.S. § 346(C) or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid;

(2) Sales to a federally-recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied by 68 O.S. § 349 or 426 has been paid; or,

(3) From and after January 1, 2005, sales of cigarettes on which the tax levied in 68 O.S. § 301 et seq. or tobacco products on which the tax levied in 68 O.S. § 401 et seq. has been paid. [See: 68 O.S. § 1355(11)]

[Source: Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 22 Ok Reg 357, eff 1-1-05 (emergency); Added at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 33 Ok Reg 1094, eff 8-25-16; Amended at 35 Ok Reg 2102, eff 9-14-18]

710:65-13-30.1. Unmanned aerial vehicles

Unmanned aerial vehicles including drones meeting the definition of aircraft pursuant to Section 6001 of Title 68 which are required to be registered with the Federal Aviation Administration (FAA) are subject to aircraft excise tax upon the transfer of legal ownership of any such aircraft or the use of any such aircraft within this state. If not subject to FAA registration requirements, the sale of the referenced items are subject to sales tax. In the case of a purchaser claiming exemption from sales tax because of a requirement that aircraft excise tax is due on the transaction, the vendor should obtain a statement, signed by the purchaser, or by a person who may legally bind the purchaser, that Oklahoma Aircraft Excise Tax will be paid on the purchase of the item in accordance with the provisions of 68 O.S. § 6003, and that if the excise tax is not so paid, the purchaser will be responsible for the sales tax due.

[Source: Added at 33 Ok Reg 1094, eff 8-25-16]

710:65-13-31. Exemption for motor vehicle leases [REVOKED]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 6. CHARITABLE DISTRIBUTION OF FOOD AND HOUSEHOLD PRODUCTS

Editor's Note: In 1997, Parts 6 and 7 were combined into an expanded Part 7 [see 14 Ok Reg 2711, effective 7-26-97]. Sections previously in Part 6 (710:65-13-37 through 710:65-13-39) were moved into Part 7.

PART 7. CHURCHES

710:65-13-33. Children's homes and youth camps

(a) **Qualification for the exemption for children's homes located on church-owned property.** The sale of tangible personal property or services to children's homes located on church-owned property and operated by a qualified organization is exempt from sales tax. "**Qualified organization**" means, for purposes of this Section, an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. Section 501(c)(3). [See: 68 O.S. § 1357(15)]

(b) **Qualification for the exemption for certain children's homes supported by one or more churches.** The sale of tangible personal property or services to children's homes supported or sponsored by one or more churches, whose members serve as trustees of the children's home, is exempt from sales tax. [See: 68 O.S. § 1356(27)]

(c) **Qualification for the exemption for certain youth camps.** The sale of tangible personal property or services to youth camps supported or sponsored by one or more churches, whose members serve as trustees of the youth camp, is exempt from sales tax. [See: 68 O.S. § 1356(29)]

(d) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with the applicable documentation set forth in (e) of this Section.

(e) **Supporting documentation required.**

(1) **Children's homes on church property.** Children's homes on church property must submit the following documentation:

(A) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(B) Documentation evidencing church ownership of the property where the children's home is located.

(2) **Children's homes supported by churches.** Children's homes supported or sponsored by churches must submit the following documentation:

(A) The name(s) of the church(es) which support or sponsor the home;

(B) The names of the members who serve as trustees of the home; and

(C) The amount that each church contributes each year.

(3) **Youth camps.** Youth camps must submit the following documentation:

- (A) The name(s) of the church(es) which support or sponsor the camp; and
- (B) The names of the church members who serve as trustees of the camp.

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-34. Exemption for qualified museums [RENUMBERED]

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Renumbered to 710:65-43-334 at 22 Ok Reg 1561, eff 6-11-05]

710:65-13-35. Limited exemption for organizations which sponsor and promote educational, charitable, and cultural events for disadvantaged children [AMMENDED AND RENUMBERED TO 710:65-13-335]

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended and renumbered to 710:65-43-335 at 22 Ok Reg 1561, eff 6-11-05]

710:65-13-36. Exemption for Disabled American Veterans, Department of Oklahoma, Inc. and subordinate chapters [RENUMBERED]

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Renumbered to 710:65-43-336 at 22 Ok Reg 1561, eff 6-11-05]

710:65-13-37. Qualifications for "Meals on Wheels" exemption [RENUMBERED]

[Source: Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 17 Ok Reg 2677, eff 6-25-00; Renumbered to 710:65-43-337 at 22 Ok Reg 1561, eff 6-11-05]

710:65-13-38. Qualifications for "Older Americans Act" exemption [RENUMBERED]

[Source: Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 17 Ok Reg 2677, eff 6-25-00; Renumbered to 710:65-43-338 at 22 Ok Reg 1561, eff 6-11-05]

710:65-13-39. Qualifications for "Collection and Distribution Organization" exemption [RENUMBERED]

[Source: Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Renumbered to 710:65-43-339 at 22 Ok Reg 1561, eff 6-11-05]

710:65-13-40. Sales by churches; sales to churches

(a) **Sales "by" churches.** Sales by churches are not subject to sales tax when it can be said that such selling is noncompetitive with business establishments.

(1) The following are tests for determining that such selling is noncompetitive:

(A) The transactions are conducted by members of the church and not by any franchisee or licensee.

(B) All of the proceeds must go to the church organization.

(C) The transaction must not be a continuing one but rather should be held whether annually or a reasonably small number of times within a year. The test of reasonableness would be an administrative decision, to be made by the Commission.

(D) The reasonably ascertainable dominant motive of most transferees of the items sold must be the making of a contribution,

with the transfer of property being merely incidental and secondary to the dominant purpose of making a gift to the church.

(2) In addition, there are these further considerations as guides to the resolution of questions raised by each individual situation:

(A) The nature of the particular item sold. All other things being equal, the decision as to candy might well be different from the decision as to refrigerators.

(B) The character of the particular sale, and the real practical effect upon putative competition. [See: 68 O.S. § 1356(7)]

(b) **Sales "to" churches.** Generally, sales made directly to a church are exempt from sales and use tax. Only sales purchased by the church, invoiced to the church, and paid for by funds or check directly from the church, will qualify for the exemption. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of *OAC* 710:65-7-6 and 710:65-7-15.

(c) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor with whom a church has duly entered into a construction contract, or to any subcontractor to such construction contract, are exempt provided they are necessary for carrying out the contract. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of subsection (c) of *OAC* 710:65-7-13.

(d) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation which shows that the church consists of a body of believers which holds religious services and public notification of the place and time of those services such as a copy of a newspaper or yellow pages ad, newsletter or bulletin sent to regular attendees or distributed during a service.

[Source: Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-41. Exemption for Council organizations or similar state supervisory organizations of Boy Scouts of America, Girl Scouts of U.S.A., and the Campfire Girls and Boys [RENUMBERED]

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Renumbered to 710:65-43-341 at 22 Ok Reg 1561, eff 6-11-05]

710:65-13-42. Qualifications for "Juvenile Rehabilitation" exemption [RENUMBERED]

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Renumbered to 710:65-43-342 at 22 Ok Reg 1561, eff 6-11-05]

710:65-13-43. Exemption for tax-exempt, independent, nonprofit biomedical research foundations [AMMENDED AND RENUMBERED TO 710:65-13-174]

[Source: Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended and renumbered to 710:65-13-174 at 18 Ok Reg 2823, eff 6-25-01]

710:65-13-44. Exemption for tax-exempt, independent, nonprofit community blood banks headquartered in this state [AMMENDED AND RENUMBERED TO 710:65-13-175]

[Source: Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended and renumbered to 710:65-13-175 at 18 Ok Reg 2823, eff 6-25-01]

710:65-13-45. Exemption for coal mining [RENUMBERED]

[Source: Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Renumbered to 710:65-13-55 at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-46. Exemption for organizations supported or sponsored by church(es) [REVOKED]

[Source: Added at 15 Ok Reg 2827, eff 6-25-98; Revoked at 16 Ok Reg 2653, eff 6-25-99]

710:65-13-47. Exemption for sales by 501(c)(3) organizations on behalf of churches

Sales made on behalf of or at the request of churches are exempt from sales tax if the following conditions are met:

- (1) The sales are made by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
- (2) The sales are made not more than once each calendar year for a period not to exceed three (3) days; and,
- (3) The proceeds of the sale are used either by the church or churches, or by the organization for charitable purposes.

[Source: Added at 20 Ok Reg 2175, eff 6-26-03]

PART 9. COMPUTERS; DATA PROCESSING; TELECOMMUNICATIONS

710:65-13-50. Sales and use tax exemption for qualified purchasers of computers, data processing, and telecommunication services and equipment [REVOKED]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Revoked at 12 Ok Reg 2635, eff 6-26-95]

710:65-13-51. Exemption for sales of computers, data processing, telephonic and certain related equipment and services to a qualified aircraft maintenance or manufacturing facility

(a) Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility are exempt from sales and use tax.

- (1) For purposes of this exemption, "**qualified aircraft maintenance or manufacturing facility**" is defined as any new or expanded business which adds at least Two Hundred Fifty (250) new full-time-equivalent employees, as certified by the Employment Security Commission. In order to qualify for the exemption, the construction cost of the new or expanded facility must exceed Five Million Dollars (\$5,000,000.00).
- (2) For purposes of this exemption, the following will apply:
 - (A) "**Computer**" means an electronic device *that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S. § 1352]
 - (B) "**Data processing equipment**" includes machines which perform work using programmed instruction, and which singly or

collectively have capabilities of memory, logic, arithmetic and/or communication and all machines used in support of machines possessing those capabilities;

(C) **"Related peripheral"** means input, output, processing, storage, software and communication facilities which are connected or related to a device in a system or network; and

(D) **"Telecommunications"** includes data transmission between a computing system and remotely located devices.

(3) The exemption shall include, but shall not be limited, to the following:

- (A) Computer
- (B) Terminal
- (C) Modem
- (D) Printer
- (E) Disk Drive
- (F) Video Display Terminal
- (G) Memory
- (H) Removable Disk
- (I) Fixed Disk
- (J) Bar Code Reader
- (K) Key Punch
- (L) CRT
- (M) Plotter
- (N) Card Reader/Punch
- (O) Tape Drive
- (P) Monitor
- (Q) Software
- (R) Telephone equipment
- (S) Telephone service
- (T) Telegraph equipment
- (U) Telegraph service
- (V) Dedicated lines

(4) The exemption shall not apply to the following:

- (A) Supplies, such as:
 - (i) Diskettes
 - (ii) Tape
 - (iii) Paper
 - (iv) Pens
 - (v) Ribbons
 - (vi) Print Wheels
 - (vii) Media Storage
 - (viii) Storage Case
 - (ix) Cleaning Product
 - (x) Cleaning Kit
 - (xi) Template
 - (xii) Print-out Ruler
 - (xiii) Label
- (B) Furniture, such as:
 - (i) Desk
 - (ii) Chair
 - (iii) Table
 - (iv) Rack

- (v) Stand
- (vi) Acoustical Protector
- (vii) Shelving
- (C) Accessories, such as:
 - (i) Surge Protector
 - (ii) Filter
 - (iii) Radiation Shield
 - (iv) Dust Cover
 - (v) Static Dissipator
 - (vi) Security System

(b) No exemption shall be granted if the qualified aircraft maintenance or manufacturing facility fails to file the documentation required below with the Commission within thirty-six (36) months of the date of purchase and the required certification issued by the Employment Security Commission within sixty (60) months of the date of first purchase.

(c) Pursuant to statute, the exemption for sales to an aircraft maintenance or manufacturing facility outlined above will be administered as a refund for state and local taxes paid by the aircraft maintenance or manufacturing facility to the vendor or, in the case of use tax, self-remitted to the State of Oklahoma.

(d) All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specifications of the new or expanded facility, a complete description of the maintenance repair or manufacturing that will take place within the facility, and other information requested by the Commission. Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the Application will be forwarded to the Employment Security Commission for establishment of the entity's base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) For each purchase made, the entity who believes that it will be certified shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

- (1) Invoice indicating the amount of state and local taxes billed to the aircraft maintenance or manufacturing facility;
- (2) Affidavit of the vendor of the tangible personal property that state and local sales tax reflected on that invoice has not been credited, rebated, or refunded to the aircraft maintenance or manufacturing facility, but rather, that the sales tax charged has been collected by the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;
- (3) All additional documentation required to be submitted by the Commission.

(f) At the option of the entity who believes it will be certified as a qualified aircraft maintenance or manufacturing facility, the documentation required in (e) of this Section can be filed monthly, quarterly, semi-annually, or annually. However, all documentation must be filed no later than thirty-six (36) months after the item is purchased. The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will

be notified by the Commission as to the reason for denial. The entity submitting the documentation will similarly be notified that a claim has been approved.

(g) Each month, the Commission shall transfer from sales tax collected, to an account designated by the Commission, the estimated amount of claims approved the previous month.

(h) Upon completion of the new or expanded business and the addition of the employees as required by statute, the entity believing it falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the total cost of construction exceeded the sum of Five Million Dollars (\$5,000,000.00) required by law. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.

(1) The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The qualified aircraft maintenance or manufacturing facility will also receive accrued interest upon the principal amount of the refund made as provided for by statute. [See: 68 O.S. §1357(16)]

(2) The following shall apply when a request for certification is denied:

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or a duly authorized agent setting out:

- (i) a statement of denial as determined by the Commission;
- (ii) a statement of the applicant's disagreement with such denial, and
- (iii) supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission, shall become final and no appeal will be entertained.

(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing. The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested certification.

(D) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [NOTE: For further information the applicant should refer to the Rules of Practice and Procedure before the Office of the

Administrative Law Judges (710:1-5-21 through 710:1-5-49). [See: 68 O.S. §§ 225, 1357.5, 1404.4]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-13-52. Sales of computers, data processing equipment, related peripherals, and telephone, telegraph, or telecommunications service and equipment to a qualified purchaser primarily engaged in computer services and data processing or research and development

(a) **Definitions.** In addition to the definitions found in the Oklahoma Research and Development Act, 68 O.S. §54001 et seq., the following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Computer"** means an electronic device *that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S.Supp.2003, § 1352]
- (2) **"Data processing equipment"** means machines which perform work using programmed instruction, and which singly or collectively have capabilities of memory, logic, arithmetic and/or communication and all machines used in support of machines possessing those capabilities.
- (3) **"Primarily engaged in"** means that at least seventy-five percent (75%) of the gross revenues of the new or expanding business must come from such activities.
- (4) **"Qualified purchaser"** means any new or expanded business or facility which adds at least ten (10) new in-state full-time-equivalent employees, as certified by the Employment Security Commission, for a period of at least thirty-six (36) months at an average annual salary of at least Thirty-five Thousand Dollars (\$35,000.00) per year per employee. In addition, at least fifty percent (50%) of the annual gross revenues must be derived from sales of a product or service to an out-of-state buyer or consumer.
- (5) **"Qualified purchases"** means computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment.
- (6) **"Related peripheral"** means input, output, processing, storage, software and communication facilities which are connected or related to devices in a system or network.

(b) **Qualification.** Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications services and equipment sold to a qualified purchaser by a qualified vendor are exempt from sales and use tax.

(c) **Exempt items.** Exempt items shall include, but shall not be limited, to the following:

- (1) Bar code reader
- (2) Card reader/punch
- (3) Computer
- (4) CRT
- (5) Dedicated lines
- (6) Disk drive
- (7) Fixed disk

- (8) Key punch
- (9) Memory
- (10) Modem
- (11) Monitor
- (12) Plotter
- (13) Printer
- (14) Removable disk
- (15) Software
- (16) Tape drive
- (17) Telegraph equipment
- (18) Telegraph service
- (19) Telephone equipment
- (20) Telephone service
- (21) Terminal
- (22) Video display terminal

(d) **Non-exempt items.** The exemption shall not apply to the following:

- (1) Supplies, such as:
 - (A) Cleaning product
 - (B) Cleaning kit
 - (C) Diskettes
 - (D) Media storage
 - (E) Paper
 - (F) Pens
 - (G) Print wheels
 - (H) Print-out label
 - (I) Print-out ruler
 - (J) Ribbons
 - (K) Storage case
 - (L) Tape
 - (M) Template
- (2) Furniture, such as:
 - (A) Acoustical protector
 - (B) Acoustical shelving
 - (C) Chair
 - (D) Desk
 - (E) Rack
 - (F) Stand
 - (G) Table
- (3) Accessories, such as:
 - (A) Dust cover
 - (B) Filter
 - (C) Radiation shield
 - (D) Security system
 - (E) Static dissipater
 - (F) Surge protector

(e) **Qualified purchaser explained.** Specifically exempted from sales and use taxes are sales of qualified purchases to a qualified purchaser primarily engaged in computer services and data processing as defined under Industrial Group Number 7372 (prepackaged software), Industrial Group Number 7373 (computer integrated system design), Industrial Group Number 7374 (computer processing and data preparation and processing services) and Industrial Group Number 7375

(information retrieval services). In order to qualify for this exemption under Industrial Group 7374 a qualified purchaser must have a minimum of One Hundred Thousand Dollars (\$100,000.00) in qualified purchases yearly. In order to qualify for this exemption, a new or expanding business can not include the existing employee positions of any business enterprise that is directly or beneficially owned by a corporation, trust, joint venture, proprietorship, or partnership doing business in this state as of January 1, 1992.

(f) **Out-of-state sales.** Eligibility to receive the exemption provided for in 68 O.S. §54003(1) as a business which derives at least fifty percent (50%) of its annual gross revenues from sales of a product or service to an out-of-state buyer or consumer shall be established, subject to review by the Oklahoma Tax Commission on an annual basis, by an affidavit that the business qualifies for such exemption. The Oklahoma Tax Commission may require additional information as required to ensure that the business qualifies for such exemption. All sales to the federal government shall be considered to be sales to an out-of-state buyer or consumer.

(g) **Limitations.** No exemption shall be granted if the qualified computer services and data processing or research and development facility fails to file the documentation required by Subsection (j) of this Section with the Commission. Additionally, the required certification issued by the Employment Security Commission must be filed with the Tax Commission within thirty-six (36) months of the date of first purchase.

(h) **Administration.** Pursuant to statute, the exemption for sales to a qualified computer service and data processing or research and development facility outlined in this Section will be administered as a refund for state and local taxes paid by the qualified computer services and data processing or research and development facility to the vendor or, in the case of use tax, self-remitted to the State of Oklahoma.

(i) **Application process.** All persons who believe that they fall within the exemption shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as an attachment, specifications of the new or expanded facility, a complete description of the computer services and data processing or research and development that will take place within the facility, and other information requested by the Commission. Upon receipt of the application, the application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the application will be forwarded to the Employment Security Commission for establishment of the entity's base line employment. The applicant will be notified of any action taken regarding the application by the Commission.

(j) **Claims process.** For each purchase made, the entity who believes that it will be certified shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(1) **Invoices** indicating the amount of state and local taxes billed to the qualified computer services and data processing or research and development facility.

(2) **An affidavit** of the vendor of the tangible personal property that state and local sales tax reflected on that invoice has not been credited, rebated, or refunded to the qualified purchasing facility, but rather, that the sales tax charged has been collected by the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached.

(3) All additional documentation required to be submitted by the Commission.

(k) **Filing claims.** At the option of the entity who believes it will be certified as a qualified computer services and data processing or research and development facility, the documentation required by Subsection (j) of this Section can be filed monthly, quarterly, semiannually, or annually. The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for denial. The entity submitting the documentation will similarly be notified that a claim has been approved.

(l) **Fiscal procedure.** Each month, the Commission shall transfer from sales and use tax collected, to an account designated by the Commission, the estimated amount of claims approved the previous month.

(m) **Certification process.**

(1) **Application review.** Upon completion of the new or expanded business and the addition of the employees as required by statute, the entity believing it falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the total annual purchases exceeded the sum of One Hundred Thousand Dollars (\$100,000.00) required by law. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.

(2) **Approval.** The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The qualified computer services and data processing or research and development facility will also receive accrued interest upon the principal amount of the refund made as provided for by statute. [See: 68 O.S. § 54005(C)]

(3) **Denial.** The following procedure shall apply when a request for certification is denied:

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the Applicant or a duly authorized agent setting out:

- (i) A statement of denial as determined by the Commission;
- (ii) A statement of the applicant's disagreement with such denial; and,
- (iii) Supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within sixty (60) days, then the denial, without further action of the Commission, shall become final and no appeal will be entertained.

(4) **Protest of denial of certification.** The following procedure shall apply to protests of any denial of certification.

(A) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing. The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested certification.

(B) The Commission will issue an order in each case. That order is directly appealable to the Oklahoma Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [See: 710:1-5-21 through 710:1-5-49 / 68 O.S. §§225, 1357.4, 1404.3]

[Source: Added at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-53. Limitation on credits

No qualified establishment, nor its contractors or subcontractors, receiving an incentive payment pursuant to the Oklahoma Quality Jobs Program Act, 68 O.S. §§3603-3609, shall be eligible to receive the credit or exemption described in 710:65-13-51 or 710:65-13-52. [See: 68 O.S. § 3607]

[Source: Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 19 Ok Reg 1859, eff 6-13-02]

710:65-13-54. Exemption for sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Computer**" means an electronic device *that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S. § 1352]

(2) "**Data processing equipment**" means machines which perform work using programmed instruction, and which singly or collectively have capabilities of memory, logic, arithmetic or communication and all machines used in support of machines possessing those capabilities.

(3) "**Equipment**", for purposes of this Section, means any independent device or tool, separate from any machinery, but essential to use of the machinery, or any sub-unit or sub-assembly comprising a component of any machinery or auxiliary, adjunct, or attachment, to parts of machinery.

"**Equipment**" also specifically includes "**computers**" and "**data processing equipment**", as defined in this Section.

(4) "**Machinery**", for purposes of this Section, means major mechanical, electrical, or electronic machines or major components of such machines.

(5) "**Qualified purchaser**" means an establishment primarily engaged in computer services and data processing:

(A) Which is defined under Industrial Group Numbers 7372 (prepackaged software) and 7373 (computer integrated system

design) of the Standard Industrial Classification (SIC) Manual, latest version, and which derives at least fifty percent (50%) of its annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, or

(B) Which is defined under Industrial Group Number 7374 (computer processing and data preparation processing services) of the SIC Manual, latest version, which derives at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

(6) **"Related peripheral"** means input, output, processing, storage, software, and communication facilities which are connected or related to a device in a system or network.

(b) **General provisions.** The sale of machinery and equipment, including computers, data processing equipment, and related peripherals, to a qualified purchaser primarily engaged in computer services and data processing as defined by (a) of this Section is specifically exempt from the levy of sales or use tax. For purposes of determining "qualified purchaser" status, all sales to the federal government shall be considered sales to an out-of-state buyer or consumer.

(c) **Examples of exempt items.** Exempt items include, but are not limited to:

- (1) Bar code reader
- (2) Card reader/punch
- (3) Computer
- (4) CRT
- (5) Disk drive
- (6) Fixed Disk
- (7) Key punch
- (8) Memory
- (9) Modem
- (10) Monitor
- (11) Plotter
- (12) Printer
- (13) Removable disk
- (14) Software
- (15) Tape drive
- (16) Telegraph equipment
- (17) Telegraph service
- (18) Telephone equipment
- (19) Telephone service
- (20) Terminal
- (21) Video display terminal

(d) **Examples of non-exempt items.** The exemption shall not apply to:

- (1) Cleaning products
- (2) Paper
- (3) Pens
- (4) Print-out labels

(e) **Application.** Application for exemption may be made by filing a signed, sworn affidavit with the Commission, stating:

- (1) The name, address, and federal employer's identification number of the applicant and the name and title of the person signing for the applicant;
- (2) A complete description of the computer services and data processing that will take place within the establishment;

(3) A statement of the establishment's annual gross revenues, and the percentage of the annual gross revenues derived from sales made to out-of-state buyers and consumers, determined for the most recently completed income tax year;

(4) A statement that the applicant is primarily engaged in the activities appropriate to SIC Code classification number 7372, 7373 or 7374, as applicable;

(5) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and

(6) Such additional information as the Commission may require to confirm eligibility.

(f) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying the exemption allowed the establishment will be forwarded to the applicant.

(g) **Issuance, scope, limitations of direct payment permit.** The letter of certification issued by the Commission will become effective, commencing July 1st following the ending date of the income tax year on which the statement required by subsection (e) was calculated, for a period of twelve (12) months, and may be renewed, subject to annual review and recertification of the applicant's eligibility by the Commission.

(h) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 32 Ok Reg 1376, eff 8-27-15]

PART 10. COAL

710:65-13-55. Exemption for coal mining

(a) **Qualification in general.** Sales of machinery, electricity, fuels, explosives and materials, excluding chemicals, used in the mining of coal in this state are exempt from sales or use tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) The applicant's name, mailing address and federal identification number; and

(2) A statement that the entity is engaged in mining coal in Oklahoma and setting out any coal mining permit numbers issued to the entity or, if the applicant is a contractor to a mine owner, the coal mining permit numbers issued to the mine owner, by the Oklahoma Department of Mines or other applicable regulatory agency.

(c) **Exemption limited to eligible, properly-documented transactions.** Only those purchases actually purchased by the qualifying entity, invoiced to that entity

and paid for by funds or check directly from the qualifying entity will be eligible for the exemption described in this Section.

[Source: Renumbered from 710:65-13-45 at 17 Ok Reg 2677, eff 6-25-00; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-56. Exemption for certain leases of rail transportation to haul coal

As of January 1, 1991, the lease of rail transportation cars to haul coal to coal-fired electric generating plants located in this state is exempt from sales tax.

[Source: Amended at 17 Ok Reg 2677, eff 6-25-00]

PART 11. CONTAINERS

710:65-13-60. Exemption for containers

(a) The gross proceeds derived from the sale of containers, to persons regularly engaged in reselling empty or filled containers, are exempt from sales tax. Also exempt are sales to persons packaging raw products of farm, garden, or orchard, for resale to the consumer or processor.

(b) Sales of returnable soft drink bottles, crates, pallets, cartons, and containers used to transport returnable soft drink bottles are not taxable. Transfers of title or possession to returnable oil and chemical drums to any person not regularly engaged in the business of selling such returnable "oil drums" are exempt from taxation. Deposits on other "returnable containers" such as barrels, drums, pallets, and wire spools are subject to sales tax. Refundable deposits made for returnable cartons, crates, pallets, and containers used to transport cement and cement products are not taxable.

(c) Gross receipts derived from the sale of or transfer of title to or possession of any returnable container which does or will contain water for human consumption are specifically exempt from taxation. Also specifically exempt are the charges made for cartons, crates, pallets, and containers to transport such returnable containers that do or will contain water for human consumption. [See: 68 O.S. §§ 1357 (10) and 1359(4), (13)]

(d) The deposits, rent or other charges made for returnable cartons, crates, pallets, and containers used to transport mushrooms or mushroom products from a farm for resale to the consumer or processor shall be exempt from sales tax.

[Source: Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 12. AIRCRAFT

710:65-13-63. Exemption for aircraft repair, modification and replacement parts

Beginning July 1, 2005, sales tax does not apply to sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, or sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint. [See: 68 O.S. § 1357(28)]

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 13. CONTRACTORS REFUND; CHANGE OF RATES

710:65-13-70. Refund to contractor due to change of sales tax rate

(a) **Terms and limitations.** Any contractor who becomes liable for additional sales tax because of an increase in the rate of state, municipal, or county sales tax subsequent to the date a contract is executed is entitled to a refund of the additional sales taxes paid on property, equipment and services necessary to complete the contract due to the increase in rate. Provided however:

- (1) The contractor must have a contract for the development or improvement of real estate which requires the purchase of materials, supplies, and equipment by the contractor to complete the contract.
- (2) The contract must be a lump sum contract rather than a contract which provides for or permits the pass through of the additional tax to contracting entity.
- (3) Subsequent to the date the contract was executed a state law increasing the rate of sales tax imposed by Sales Tax Code or an ordinance increasing the sales tax levy of a political subdivision becomes effective.
- (4) The contractor makes purchases of materials, supplies and equipment required under the contract paying the increased rate of sales tax.
- (5) Only those purchases of materials, supplies and equipment required to be made to complete the contract and affixed to or used to improve the real estate will qualify for the refund.

(b) **Rates in effect.** The rates in effect at the time the contract is entered will be applicable to purchases made pursuant to the contract or any change order under the contract until the earlier of:

- (1) The contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order; or
- (2) Two (2) years from the date on which the contract was entered.

(c) **Application.** In order to receive a refund within the time prescribed in subsection (f), the contractor must file the "Contractor's Application for Sales Tax Refund" on forms available from the Commission. The form may be submitted on an annual basis for purchases made the preceding year or upon completion of the contract. The following documentation must be supplied:

- (1) A copy of the contract which qualifies the contractor for the lower sales tax rate.
- (2) A separate schedule for each vendor detailing purchases made by invoice date, number, amount, and distribution of tax paid certified by the vendor.
- (3) A summary sheet certified by the contractor which details those invoices on which the higher sales tax rate was paid.

(d) **Computation.** All vendor's remittances will be considered timely filed, therefore, the contractor's refund will be reduced by the remuneration in effect at the time the sale was made.

(e) **Documentation, forms, certification.** Before the Commission will process any refund due to change of rate, the contractor must supply all forms and documentation required by the Commission. Each vendor must complete the certification for property, materials and supplies the vendor sold to the contractor. The contractor must complete the certification pertaining to all purchases to which the refund provisions are applicable. [See: 68 O.S. § 1354(21)]

(f) **Time limitations.** The contractor shall file a claim for said refund before the expiration of three (3) years from the date of completion of the contract or five (5)

years after the contract was entered into, whichever date is earlier.

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 34 Ok Reg 2089, eff 9-11-17]

PART 14. ESTATE SALES

710:65-13-78. Exemption for certain estate sales

The gross proceeds of sales made at estate sales are exempt from sales tax providing that:

- (1) The sale is not held for more than three days;
- (2) The sale is conducted within six (6) months of the date of death of the decedent;
- (3) The property to be sold was part of the decedent's estate; and,
- (4) The sale is conducted on the premises of the former residence of the decedent by a person that is not required to be licensed pursuant to 19 O.S. Section 1601, the Transient Merchant Licensing Act, or who is not otherwise required to hold a sales tax permit.

[Source: Added at 20 Ok Reg 2175, eff 6-26-03]

PART 15. HAZARDOUS WASTES

710:65-13-80. Exemption for purchases to reduce hazardous waste

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Directly used or consumed in the process of treatment"** means either the tangible personal property is:
 - (A) **"Directly used"** in the step-by-step processes by which hazardous waste is treated. Any tangible personal property or any services which are only indirectly related to the process of treatment are not included; or
 - (B) **"Consumed"** as in destroyed, used up, or worn out to the degree or extent that such property cannot be repaired, reconditioned, or rendered fit for further use. **"Consumed"** does not mean or include mere obsolescence.
- (2) **"Equipment"** means the implements used in the direct process of treatment.
- (3) **"Hazardous waste"** means waste materials and by-products, either solid or liquid, which are to be discarded by the generator, and which are toxic to human, animal, aquatic or plant life and which are generated in such quantity that they cannot be safely disposed of in properly operated, state-approved sanitary landfills, waste or sewage treatment facilities. Hazardous waste may include, but is not limited to, explosives, flammable liquids, spent acids, caustic solutions, poisons, containerized gases, sludge, tank bottoms containing heavy metallic ions, toxic organic chemicals, infectious materials, and materials such as paper, metal, cloth or wood which are contaminated with hazardous waste, and excludes domestic sewage. For purposes of the sales and use tax exemption, the term **"hazardous waste"** may include low-level radioactive waste.
- (4) **"Incorporated into"** means directly used or consumed in the process of treatment.

(5) "**Machinery**" means mechanically, electrically, or electronically operated devices used for performing the tasks of remediation of hazardous waste.

(6) "**Other materials**" means other items of tangible personal property which are used in the direct process of treatment of hazardous waste, but which are not machinery, equipment, fuel, or chemicals. For purposes of this Section, electricity is included in the category "**other materials**".

(b) **Exemption limited to eligible, properly documented transactions.** Only purchases of machinery, equipment, fuel, and chemicals or other materials incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume of harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Hazardous Waste Management Act and operated at the place of waste generation, or facilities approved by the Department of Environmental Quality for the cleanup of a site of contamination are exempt. Only purchases made by persons engaged in the process of treatment, invoiced to those persons, and paid for by such persons are exempt.

(c) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A written description of the process in which the person will be engaged;
- (2) Information regarding the permit or approval under which the person is operating;
- (3) Documentation that any nonresident contractor or subcontractor is in compliance with the registration requirements found at 68 O.S. § 1701 et. seq.; and
- (4) Such additional information as the Commission may require to confirm eligibility.

(d) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying the exemption allowed will be forwarded to the applicant.

(e) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

(f) **Use of letter certifying eligibility for the exemption.** Persons claiming exemption under this Section should provide their vendors with a copy of the certification letter issued by the Commission and a signed statement that the purchase is being made exempt from sales tax. If purchases will be made from a vendor on a regular basis, the vendor may make subsequent sales without requiring proof of eligibility for each sale, providing the person to whom the exempt sales are being made has agreed in writing to notify the vendor of any and all purchases which may be made to which the exemption would not apply. Vendors may accept the certification set out in this subsection in the same manner as any other letter certifying to a specific statutory exemption as set out in 710:65-7-6 and 710:65-7-

15.

(g) **Limitations.** Any letter certifying an exemption issued under this Section is valid only for use by the addressee and is not transferable. The exemption may **not** be used by any other entity, even if that entity claims to be an agent, administrator, party to a contract or other relationship. Each entity desiring to obtain a letter certifying an exemption must make application in its own name.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 38 Ok Reg 1538, eff 9-1-21]

PART 16. ELECTRONIC GOODS - REFITTING, REFURBISHING OR REPAIRING

710:65-13-85. Exemption for refitting, refurbishing, or repairing of consumer electronic goods

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Qualified devices"** means certain electronic consumer goods including but not limited to cell phones, compact disc players, personal computers, MP3 players, digital devices for the storage and retrieval of information through hard-wired or wireless computer or Internet connections.
- (2) **"Qualified purchaser"** means an entity primarily engaged in the repair of consumer electronic goods which purchases from the original manufacturers qualified devices for refitting, refurbishing or repairing and subsequently sells these devices to either retail customers or to businesses primarily engaged in the sale of the enumerated qualified devices.
- (3) **"Qualified purchases"** means only tangible personal property and services directly related to the activity of refitting, refurbishing, and repairing consumer electronic goods purchased from the original manufacturer of the qualified items for subsequent sale or resale. Qualified purchasers may not make exempt purchases for their regular consumer repair business, for other facets of their business or for the refitting, repairing, or refurbishing of consumer electronic goods purchased or acquired from sources other than the original manufacturer of the qualified devices.

(b) **General provisions.** Effective July 1, 2007, Section 1357(40) of Title 68 provides for a sales tax exemption for sales of tangible personal property or services to a business primarily engaged in the repair of consumer electronic goods if the devices are sold to the business by the original manufacturer of such devices and the devices are repaired, refitted, or refurbished for sale by the entity qualifying for the exemption directly to retail customers or if the devices are sold to another business entity for sale to retail customers.

(c) **Application.** Application for exemption may be made by filing a signed, sworn statement with the Business Tax Services Division of the Oklahoma Tax Commission, which includes:

- (1) The name, address, and federal employer identification number of the applicant and the name and title of the person signing for the applicant;
- (2) A complete description of the repair, refitting or refurbishing activities that will take place at the business location;

- (3) A statement that applicant is primarily engaged in the repair of consumer electronic goods;
- (4) Identification of the original manufacturers of the electronic consumer goods from which the applicant purchases qualified devices;
- (5) A statement that applicant, once the consumer electronic goods are refitted, repaired or refurbished, will hold these devices for sale either directly to retail customers or to businesses regularly engaged in selling the qualified devices;
- (6) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and
- (7) Copies of written documentation substantiating the purchase of the consumer electronic goods from the original manufacturers of those items along with such additional information as the Business Tax Services Division may require to confirm eligibility.

(d) **Review and determination.** Upon receipt of the application, the Business Tax Services Division will review and make a determination as to the applicant's eligibility. Upon approval, certification in the form of a letter or card, of the exemption allowed will be forwarded to the applicant.

(e) **Issuance, scope, limitations of exemption certification.** The certification issued by the Business Tax Services Division will be effective for a period of twelve (12) months, and may be renewed, subject to annual review and recertification of the applicant's eligibility by the Business Tax Services Division.

(f) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

[Source: Added at 25 Ok Reg 2070, eff 7-1-08; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 38 Ok Reg 1538, eff 9-1-21]

PART 17. EXPORT

710:65-13-90. Sales tax exemption on sales for export

(a) A sale made within this State for export outside the United States, is exempt as a sale for resale so long as the following conditions are met:

- (1) The vendor issues, simultaneously with the sale, an export bill of lading; or
- (2) If the vendor is not in the business of shipping its goods and products, the purchaser issues an export bill of lading or other documentation showing that the point of delivery of the property is for use and consumption in a foreign country and that the goods will not be used in the United States.

(b) Vendors are responsible for retaining copies of export bills of lading or other documentation verifying that the delivery point was actually outside the United States.

(c) The sale will be considered to be sales taxable at the location where title and/or possession are transferred to the purchaser in the absence of the documentation in (1) and (2) of subsection (a). [See: 68 O.S. §1352(23)(c)]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 18. PRECIOUS METALS

710:65-13-95. Exemption for sales of gold, silver, platinum, palladium or other bullion items

(a) **General provisions.** The sale of gold, silver, platinum, palladium or other bullion items such as coins and bars and legal tender of any nation, which legal tender is sold according to its value as precious metal or as an investment is exempt. "Bullion" for purposes of this Section means any precious metal, including, but not limited to, gold, silver, platinum and palladium, that is in such a state or condition that its value depends upon its precious metal content and not its form.

(b) **Eligibility.** Transactions eligible for the exemption outlined in subsection (a) of this Section include:

- (1) Sales of gold, silver, platinum or palladium in the form of coins, bars, ingots, blanks, rounds, and medallions.
- (2) Sales of bullion that is or was at one time used as currency or a medium of exchange in the United States or a foreign country when:
 - (A) sold for an amount based on its value as a precious metal or
 - (B) sold or purchased as an investment.

(c) **Exclusions.** The exemption outlined in Subsection (a) does not apply to the following:

- (1) Fabricated metals that have been processed or manufactured for artistic use or as jewelry,
- (2) Jewelry or other accessory items such as belt buckles and money clips,
- (3) Paper currency, and
- (4) Bonds, certificates, and stocks.

[Source: Amended at 32 Ok Reg 1376, eff 8-27-15]

PART 19. COUNTY, DISTRICT AND STATE FAIRS

710:65-13-100. Fairs, circuses, carnivals, and other public exhibitions; sales tax exemption for county, district and state fair authorities; purchases by contractors

(a) Persons conducting games of chance or skill at fairs, carnivals, circuses, expositions, celebrations, bazaars, picnics and similar places and delivering merchandise as prizes are deemed consumers of such articles. All sales to them of tangible personal property, including merchandise, devices, apparatus, furnishings and other equipment are taxable. Credit cards and extension of credit in any form, given as prizes, will be deemed merchandise and taxable, unless the tax is paid at the time the credit is exchanged for merchandise. Concessionaires at fairs, circuses, carnivals, etc., must collect, report and remit the sales tax on all their sales. The Commission reserves the right to require a concessionaire to file a report and pay the tax at the close of any business day or period during which he operates.

(b) However, specifically exempted from sales tax are sales made upon the premises of a county, district or state fair authority when said sales are made directly by the county, district or state fair authority and the sales are made solely for the benefit of the fair authority.

- (1) For purposes of this exemption, "*fair authority*" means:
 - (A) Any county, municipality, school district, public trust or any other political subdivision of this state, or

(B) Any not-for-profit corporation acting pursuant to an agency, operating management agreement which has been approved or authorized by the governing body of any of the entities specified in (1)(A) of this subsection which conduct, operate or produce a fair commonly understood to be a county, district or state fair.

(2) "*Sales made directly by the county, district or state fair authorities*" for purposes of this exemption requires that all persons making sales be employees of the authority or contract labor employed by the fair authority.

(3) "*For the sole benefit of the fair authority*" for purposes of this exemption requires that all proceeds of sales made go to the fair authority. Sales made under a proceeds splitting arrangement or pursuant to a contract requiring payment to persons or groups based on a percentage of sales do not qualify for this exemption. [68 O.S. §1356 (4)]

(c) Provided further, sales of admissions to fairs or fair events made at any location other than the premises of the fair in this state that is authorized by the fair authority are subject to sales tax only with respect to any portion of an admission price that is not retained by or distributed to the fair authority. "**Fair event**" shall be limited to an event held on the premises of the fair authority in conjunction with and during the time period of a county, district, or state fair. [See: 68 O.S. § 1356(4)]

(d) Persons operating or sponsoring a fair, circus, carnival, etc., shall be held liable, as the principal, for the tax upon the sale or use of tangible personal property sold, given as prizes or otherwise disposed of by a person engaged in business without a sales tax license at such exhibition, unless the tax is paid by the dispenser of such property.

(e) Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for a county, district or state fair authority may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax.

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 21. FOOD STAMPS

710:65-13-110. Sales tax exemption for food stamps

(a) Sales tax does not apply to food or food products for home consumption purchased in whole or in part with food coupons ("**food stamps**") issued by the U.S. Department of Agriculture under the Food Stamp Program as authorized by 7 U.S.C.A. §§ 2011 - 2029.

(b) The exemptions set forth in (a) of this Section, applies only to food or food products actually purchased with food coupons. Thus, all other purchases by food coupon participants that are not paid for with food coupons are subject to the tax.

(c) This exemption shall be inapplicable upon the effective date of any federal law that allows the State of Oklahoma to participate in the federal food stamp program without the requirement of this exemption. [See: 68 O.S. §1357 (12)]

[Source: Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 23. GAS AND ELECTRICITY

710:65-13-120. Sales tax exemption for residential use

(a) **Definition.** The sale of natural or artificial gas and electricity, when sold exclusively for residential use is exempt from state sales tax, but remains subject to any applicable municipal and county sales taxes in effect at the time of sale. The term "**residential use**" means the use of gas or electricity by the individual customer exclusively for domestic purposes such as lighting, refrigeration, cooking, water, heating, space heating and air conditioning, in a private home or individual living unit served through a single meter or a master metered multi-unit apartment, condominium, or townhouse used exclusively for domestic purposes. Residential use includes service to buildings appurtenant to the residence, including garages, barns, and other minor buildings, for use of the residents served through the residential meter. Residential use does not include use in travel trailers, motor homes or other recreational vehicles.

(b) **Private homes or individual living units.** Users in a private home or individual living unit, such as apartments, condominiums and townhomes, who are served through a single meter and whose rate has been classified by statute or regulations as residential are automatically exempt.

(c) **Multiple unit dwellings.** Users in multi-unit apartments, mobile trailer home parks or condominium and townhouse associations who are billed through a master meter, i.e. a single meter for the entire complex, and are taking service under a commercial rate may nevertheless qualify for this exemption providing the gas or electricity is used exclusively for residential use as defined in (a) of this Section. [See: 68 O.S. § 1357(8); 68 O.S.Supp.2004, § 1354]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-121. [RESERVED]

[Source: Reserved at 14 Ok Reg 2711, eff 6-26-97]

710:65-13-122. Exemption for sales of electricity for use in a reservoir dewatering project

(a) **General provisions.** Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for approved reservoir dewatering projects and associated operations shall be exempt from the levy of sales tax.

(b) **Where to apply.** To qualify for the exemption, the operator of the reservoir dewatering project must apply in writing to the Director's Office, Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, requesting an exemption letter.

(c) **Contents of the application letter.** The letter of application must set out the name of the operator, the physical location of the project, the federal identification number of the operator, the date the project commenced, and the electric service account number associated with services provided to the project. A copy of the Oklahoma Corporation Commission Order approving the designation of the area and reservoir as a "reservoir dewatering project" or a "reservoir dewatering unit" must accompany the application letter.

(d) **Review and approval procedure.** Upon review and approval, a letter of exemption shall be issued to the operator, who must forward the exemption letter to the electricity utility, to document the sales tax exemption on their purchases of electricity. The letter, when provided to the utility along with a statement by the operator that the purchases of electricity are exempt, shall constitute "properly

completed documentation certified by the Oklahoma Tax Commission" as that phrase is used in 710:65-7-6.

(e) **Limitations.** The exemption shall apply to the electricity used in reservoir dewatering projects and associated operations which commenced after June 30, 2003. The exemption shall not apply to the transportation or distribution of the oil or gas once it has been produced.

[Source: Reserved at 14 Ok Reg 2711, eff 6-26-97; Added at 20 Ok Reg 2175, eff 6-26-03; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-123. Exemption for sales of electricity for use in enhanced recovery methods of oil production

(a) **General provisions.** Beginning July 1, 2006, sales of electricity to the operator of a spacing unit or lease where oil is produced or is attempted to be produced using enhanced recovery methods shall be exempt from the levy of sales tax. Enhanced recovery methods include but are not limited to *increased pressure in a producing formation through the use of water or saltwater if the electrical usage is associated with and necessary for the operation of equipment required to inject or circulate fluids in a producing formation for the purpose of forcing oil or petroleum into a wellbore for eventual recovery and production from the wellhead.*

(b) **Where to file for exemption.** To qualify for the exemption, the operator of the enhanced recovery methods on a spacing unit or lease must apply in writing to the Director's Office, Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, requesting an exemption letter.

(c) **Supporting documentation required.** The request must set out the name of the operator, the physical location of the project, the federal identification number of the operator, the date the project commenced, and the electric service account number associated with services provided to the project and the Production Unit Number and Merge Number of the project. A copy of the application [Form 1535] filed with and approved by the Oklahoma Corporation Commission must accompany the request.

(d) **Review and approval procedure.** Upon review and approval, a letter of exemption shall be issued to the operator, who must forward the exemption letter to the electric utility, to document the sales tax exemption on their purchases of electricity. The letter, when provided to the utility along with a statement by the operator that the purchases of electricity are exempt, shall constitute "properly completed documentation certified by the Oklahoma Tax Commission" as that phrase is used in 710:65-7-6.

(e) **Eligibility.** In order to be eligible for the exemption set forth in this Section, the total content of oil recovered after the use of the enhanced recovery methods must not exceed one percent (1%) by volume.

(f) **Limitations.** The exemption shall apply only to the state sales tax rate and not to any county or municipal sales tax rate.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-124. Rural electric cooperatives

(a) **General Rule.** Purchases by rural electric cooperatives and foreign corporations transacting business under the Rural Electric Cooperative Act of tangible personal property or taxable services are exempt from sales tax.

(b) **Sales related to the construction of a facility for a rural electric cooperative.** *Sales of tangible personal property consumed or incorporated in the*

construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative are exempt from sales tax. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a rural electric cooperative for construction or expansion of a facility shall be considered sales made to a rural electric cooperative are also exempt.

(c) Documentation required on sales to a contractor or subcontractor with a rural electric cooperative. In the case of a sale to a contractor or subcontractor claiming exemption pursuant to subsection (b) of this Section, the vendor must obtain:

- (1) Documentation indicating the contractual relationship between the contractor or subcontractor and the rural electric cooperative; and
- (2) Certification, by the purchasing contractor or subcontractor, as the case may be, setting out the name of the rural electric cooperative, and stating that the purchases are being made pursuant to a contract with that rural electric cooperative and that they are necessary for construction or expansion of a facility owned by that rural electric cooperative.

[Source: Added at 24 Ok Reg 2397, eff 6-25-07]

PART 25. GOVERNMENTAL ENTITIES

710:65-13-130. Sales to and by the government; taxable and exempt transactions

(a) Sales "to" governmental entities. Sales of tangible personal property or services to this State, its institutions or political subdivisions, and to the United States, including its agencies and instrumentalities are exempt from sales tax. Sales to other states' governments, political subdivisions, institutions, or agencies are not exempt, unless the state is one which borders Oklahoma and grants a like exemption from taxes on similar sales of items to Oklahoma or its political subdivisions.

(1) Records required. The books and records of the vendor must show that the purchase was billed to and paid by the government agency.

(2) Sales to government employees. Sales to individuals who are employees of this State, its institutions and subdivisions, or of the United States government, are not exempt from tax unless the sale is billed directly to the appropriate government agency or the purchase is by means of properly completed government purchase order or credit card. Sales made on credit cards bearing an employee's name and the name of the government agency for which the employee works will qualify for exemption only if the card is issued to the Federal Government, rather than to the individual, and is paid directly by the Federal Government. The credit cards that currently meet these criteria are those issued through the GSA SmartPay card program:

(A) Fleet cards. All Federal Government **fleet cards** are centrally-billed. This means that all charges are billed directly to the Federal Government and paid directly by the Federal Government. Charges made using an authorized **fleet card** are therefore, exempt from the levy of Oklahoma sales tax. Authorized **fleet cards** must meet all the requirements set out in this paragraph:

- (i) The fleet card prefix (first 4 digits) must be 4486, 4614, 4716, 5565, 5568 or 8699;

(ii) The fleet card platform must be Voyager, MasterCard, Wright Express, or Visa; and

(iii) The Voyager fleet card must be issued by Citibank, or U.S. Bank; the MasterCard fleet card must be issued by Citibank, JP Morgan Chase or U.S. Bank; the Wright Express fleet card must be issued by Citibank.

(B) Purchase cards. All Federal Government **purchase cards** are centrally-billed. This means that all charges are billed directly to the Federal Government and paid directly by the Federal Government. Charges made using an authorized **purchase card** are therefore, exempt from the levy of Oklahoma sales tax. Authorized **purchase cards** must meet all the requirements set out in this paragraph:

(i) The purchase card prefix (first 4 digits) must be 4486, 4614, 4716, 5565 or 5568;

(ii) The purchase card platform must be Visa or MasterCard; and

(iii) The Visa purchase card must be issued by Citibank, JP Morgan Chase or U.S. Bank; The MasterCard purchase card must be issued by Citibank, JP Morgan Chase, or U.S. Bank;

(C) Travel cards. Federal Government **travel cards** may be centrally-billed or individually billed. Individually-billed charges are billed to and paid by the federal **employee**, and then reimbursed by the Federal Government. Individually-billed charges made using a **travel card** are **subject to** the levy of Oklahoma sales tax. Only centrally-billed charges made using an authorized **travel card**, because they are billed directly to and paid directly by the Federal Government, are exempt from the levy of Oklahoma sales tax. Authorized **travel cards** must meet all the requirements set out in this paragraph:

(i) The travel card prefix (1st four (4) digits) must be 4486, 4614, 5565 or 5568;

(ii) The sixth (6th) digit of the account numbering structure will denote whether the travel card is centrally-billed or individually-billed:

(I) A sixth digit of 0, 6, 7, 8, or 9 denotes that the travel card is centrally-billed;

(II) A sixth digit of 1, 2, 3, or 4 indicates that the travel card is individually-billed;

(iii) The travel card platform must be Visa or MasterCard; and

(iv) The travel card, whether Visa or MasterCard, must be issued by Citibank, U.S. Bank, or JP Morgan Chase.

(D) Integrated cards. Federal Government **integrated cards** may include **fleet, travel, or purchase card** functionality and offer the Federal Government a single card for all purchases. All **fleet and purchase type transactions** made on an **integrated card** are centrally-billed, and therefore exempt from the levy of Oklahoma sales tax, regardless of the sixth digit on the card. **Travel card** type functionality may be centrally-billed or individually-billed. Authorized **integrated cards** must meet all the requirements set out

in this paragraph:

- (i) The prefix (first four (4) digits) of an integrated card must be 4486, 4614, 4716, 5565 or 5568;
- (ii) For travel functionality only, the sixth digit of the integrated card will denote whether the card is centrally or individually billed:
 - (I) A sixth digit of 0, 6, 7, 8, or 9 denotes that the integrated card being used for travel functionality is centrally-billed;
 - (II) A sixth digit of 1, 2, 3, or 4 indicates that the integrated card being used for travel functionality is individually-billed;
- (iii) The integrated card platform must be Visa or MasterCard; and
- (iv) The integrated card, whether Visa or MasterCard, must be issued by Citibank, U.S. Bank or JP Morgan Chase.

(3) **Sale to contractors.** Sales to contractors in connection with the performance of any contract with the United States government are not exempt unless the ownership and possession of the property purchased by the contractor or agent transfers immediately to the United States government. [See: 68 O.S. §§1356(1), 1356(2)]

(4) **Sales to foreign diplomats, consular mission and mission employees.** Foreign diplomats and consular missions and their personnel and eligible family members who have been issued a *Diplomatic Tax Exemption Card* by the United States Department of State, Office of Foreign Missions may make eligible purchases exempt from sales tax. Qualifying Diplomatic Tax Exemption Cards may also be issued by the American Institute in Taiwan. Each category of tax exemption card bears an animal image indicating the purchases eligible for sales tax exemption by the cardholder as follows:

- (A) **Owl image card** exempts the cardholder from sales tax on all official mission purchases.
- (B) **Buffalo image card** exempts the cardholder from sales tax on all official mission purchases subject to the restrictions listed on the card. For example, the card may read: "Exempt from tax on purchases over \$300; not valid for hotels."
- (C) **Eagle image card** exempts the cardholder from sales tax on all personal purchases.
- (D) **Deer image card** exempts the cardholder from sales tax on personal purchases, subject to the restrictions listed on the card. For example, the card may read: "Exempt from tax on purchases over \$150; not exempt for hotels, restaurants, and services."

(5) **Transferability.** The Eagle and Deer exemption cards used for personal purchases are not transferable. The exempt use of the Owl and Buffalo cards is not restricted to the individual pictured on the card.

(6) **Exemption requirements.** To qualify for exemption, official mission purchases made with either an Owl or Buffalo Card must be invoiced to the cardholder and payments made with mission check or mission credit card. For personal purchases made pursuant to an Eagle or Deer Card to qualify for the exemption, they must be invoiced to the cardholder and payment may be in any form including cash, check, or credit card.

(b) Sales by a lease or lease-purchase agreement with a municipality or county.

The sale of tangible personal property or services pursuant to a lease or lease-purchase agreement executed between a vendor and a school district is exempt from sales tax.

(c) Sales "by" governmental entities. Except as specifically exempt by statute, the State of Oklahoma, its agencies and instrumentalities, all counties, townships, and municipal corporations, their respective agencies and instrumentalities, and all other state governmental entities and subdivisions, including state colleges and universities, shall collect, report and remit sales tax on taxable sales of tangible personal property and services. For example, sales of city maps, sales of gifts and souvenirs, sales of food from city operated concessions at stadiums, ballparks, auditoriums, etc., are subject to tax.

(d) Purchases by contractors. Except where specifically authorized by statute, purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for a governmental entity may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to a governmental entity.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 33 Ok Reg 1094, eff 8-25-16]

710:65-13-131. Sales to U.S. government contractors; taxable and exempt transactions

Sales of tangible personal property to agents of the United States government are exempt from sales tax if ownership and possession of such property transfers immediately to the United States government. Sales to contractors who are improving real property for the United States government are not considered to be sales in which ownership transfers immediately to the United States government and are therefore taxable. [See: 68 O.S. §1356(1),(2),(3)]

[Source: Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-132. Sheriff's purchases; taxable and exempt transactions

Purchases by a county sheriff or county sheriff's office, as agent for the county, of food to be used in feeding prisoners are exempt from sales tax. Purchases made by a county sheriff personally or on behalf of a prisoner are subject to tax. [See: 68 O.S. §1356 (10)]

[Source: Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-133. State parks

(a) General provisions. Sales of tangible personal property or services, directly used in or for the benefit of a state park, and made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., § 501(c)(3) and organized primarily for the purpose of supporting one or more state parks located in this state, are exempt from sales tax.

(b) Application process. Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Letter from the Internal Revenue Service recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and
- (2) A written description stating the activities of the organization, as evidenced by copies of:
 - (A) Articles of Incorporation;
 - (B) By-laws;
 - (C) Brochure; or
 - (D) Notarized letter from the President or Chairman of the organization.

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-134. Sales under public contract with the Oklahoma Tourism and Recreation Department

(a) The sale of tangible personal property or services to any person with whom the Oklahoma Tourism and Recreation Department has entered into a public contract and which is necessary for carrying out such contract to assist the Department in the development and production of advertising, promotion, publicity and public relations programs is exempt from sales tax.

(b) In the case of a sale to a person claiming exemption pursuant to subsection (a) of this Section, the vendor must obtain:

- (1) A copy of the exemption letter or card issued to the Oklahoma Tourism and Recreation Department; and
- (2) Documentation indicating a contract to develop/produce advertising, promotion, publicity and/or public relations programs between the person claiming exemption and the Oklahoma Tourism and Recreation Department.

[Source: Added at 35 Ok Reg 2102, eff 9-14-18]

PART 26. SPACE INDUSTRIES [RESERVED]

710:65-13-135. [RESERVED]

[Source: Reserved at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-136. [RESERVED]

[Source: Reserved at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-137. [RESERVED]

[Source: Reserved at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-138. [RESERVED]

[Source: Reserved at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-139. [RESERVED]

[Source: Reserved at 17 Ok Reg 2677, eff 6-25-00]

PART 27. TRUST AUTHORITIES

710:65-13-140. Trust authority transactions [AMMENDED AND RENUMBERED TO 710:65-13-550]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended and renumbered to 710:65-13-550 at 18 Ok Reg 2823, eff 6-25-01]

PART 29. MANUFACTURING

710:65-13-150. Manufacturing exemption; taxable and exempt transactions [REVOKED]

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Revoked at 15 Ok Reg 4315, eff 9-16-98 (emergency); Revoked at 16 Ok Reg 2653, eff 6-25-99]

710:65-13-150.1. Manufacturing exemption; taxable and exempt transactions

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Administration"** means activities performed in the areas of general management, communications, security, employee training, personnel administration, including time-keeping, general accounting and purchasing, employee benefit activities and employee recognition, legal services, public relations, and the establishment, maintenance, billing and collection of accounts.

(2) **"Distribution"** means those activities involved in the movement of manufactured items by vehicles, aircraft, watercraft, railroads or pipelines from a manufacturing site to a customer's location.

(3) **"Incidental use"** means that the property or service is used infrequently or for a minor portion of the total time it is used.

(4) **"Manufacturing"** means and includes the activity of converting or conditioning tangible personal property by changing the form, composition, or quality of character of some existing material or materials, including natural resources, by procedures commonly regarded by the average person as manufacturing, compounding, processing or assembling, into a material or materials with a different form or use. **"Manufacturing"** does not include extractive industrial activities such as mining, quarrying, logging, and drilling for oil, gas and water, nor oil and gas field processes, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration and compression. [68 O.S.S § 1352(14)]

(5) **"Manufacturing operation"** means the designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site. **"Manufacturing operation"** does not include administration, sales, distribution, transportation, site construction, or site maintenance. Extractive activities and field processes shall not be deemed to be a part of a manufacturing operation even when performed by a person otherwise engaged in manufacturing. [68 O.S. § 1352(15)]

(6) **"Manufacturing site"** means a location where a manufacturing operation is conducted, including a location consisting of one or more buildings or structures in an area owned, leased, or controlled by a

manufacturer. [68 O.S. § 1352(16)] It is not required that the building or structures owned, leased, or controlled by a manufacturer be located on a single tract of land or on contiguous tracts of land.

(7) "**Predominant or predominantly**" means the most frequent or for the most part.

(8) "**Sales**" means the activities involved in selling a manufacturer's goods to others, and includes advertising or marketing, printing, preparation, and distribution of catalogs and flyers, and product exhibition and promotion.

(9) "**Site construction**" means the construction of buildings and other structures and improvements to real property. The term includes land preparation, new construction, reconstruction, remodeling, renovation, repair, upgrading and making alterations and additions to the real property, whether the work is done by the manufacturer or by other firms.

(10) "**Site maintenance**" means the provision of facilities support services as defined in the North American Industry Classification System, Code 561210. "**Site maintenance**" does not include items used in the manufacturing operation, as defined in this Section, or in waste disposal activities resulting from the manufacturing operations.

(11) "**Transportation**" means to move or carry tangible personal property to a manufacturing site, prior to the time it enters into the manufacturing process, and to move or carry, tangible personal property from a manufacturing site, after such property leaves the manufacturing operation. The term "transportation" includes the purchase, maintenance, repair, overhaul, rebuilding, storage and operation of vehicles and transportation equipment.

(b) **Activities included in manufacturing operations.** Purchases by a manufacturer of tangible personal property or services for use in a manufacturing operation are exempt from sales and use taxes in Oklahoma. Operations performed by a sub-contractor to the manufacturer may also qualify as a manufacturing operation if the contractor is performing sub-assembly work leading to completion of the finished product. Activities included in a manufacturing operation include the following:

(1) **Product development.** Examples of property used in product development include raw materials, machinery, and equipment utilized in designing and making prototypes.

(2) **Production.** Production includes those processes and activities consisting of manufacturing, compounding, processing, assembling, or preparing of articles for sale as tangible personal property.

(A) **Production supplies.** Examples of production supplies include items used in the production process, such as:

(i) Raw materials.

(ii) Coal, fuel, oil, electricity, natural gas, artificial gas, steam and refrigeration, when used in the production process or when used to generate power or to create or maintain a temperature necessary for the production process.

(iii) Miscellaneous supplies that are consumed in the production process, such as lubricating oils and greases used on machinery and equipment.

(B) **Manufacturing supplies.** Examples of manufacturing supplies include items used to service and operate manufacturing equipment,

such as:

- (i) Work clothing, such as coveralls and uniforms; safety goggles; face masks; helmets, gloves, aprons, shoe and sleeve protectors.
- (ii) Static mats.
- (iii) Surge protectors.

(C) **Manufacturing tools.** Manufacturing tools eligible for exemption when purchased for use in a manufacturing operation are those tools used in the manufacturing process, such as:

- (i) Scales to measure raw materials.
- (ii) Knives, staple guns, tape guns.
- (iii) Hand tools used on the product or in the maintenance of exempt machinery.

(D) **Manufacturing equipment and machinery.** Examples of manufacturing equipment and machinery eligible for exemption when purchased by a manufacturer include:

- (i) Manufacturing equipment, machinery, and associated repair or replacement parts.
- (ii) Dust collector equipment.
- (iii) Paint booths.
- (iv) Conveyors.
- (v) Forklifts.

(3) **Testing or quality control.** Equipment and supplies used in testing or quality control, or both, may qualify for the exemption when purchased by a manufacturer for use in a manufacturing operation.

(4) **Production waste disposal.** Equipment and supplies purchased by a manufacturer to be used in production waste disposal at a manufacturing site may qualify for the exemption.

(5) **Warehousing supplies and equipment.** Examples of warehousing supplies and equipment eligible for exemption when purchased by a manufacturer include:

- (A) Flow racks.
- (B) Tables.
- (C) Storage units.
- (D) Wrapping, packing, or packaging supplies, used to further the sale of a product.
- (E) Labels and label-makers.
- (F) Inventory control items.

(6) **Shipping.** Examples of shipping supplies eligible for exemption when purchased by a manufacturer include:

- (A) Boxes, scales, inserts.
- (B) Tape dispensers.

(c) **Non-exempt uses.** The following items and uses will result in the taxability of the transaction:

(1) Items purchased for use, or manufactured and withdrawn from inventory and used, in the areas of administration, distribution, sales, site construction, site maintenance, or transportation, are subject to sales tax if the items are purchased or withdrawn from an inventory in Oklahoma. If tangible personal property is purchased or withdrawn from inventory outside Oklahoma, to be used in Oklahoma for these non-exempt purposes, it is subject to use tax. The amount of tax due is computed based upon the

"sales value," of the goods withdrawn, as defined in *OAC 710:65-1-2*.

(2) *Goods, wares, merchandise, property, machinery and equipment, used in a non-manufacturing activity or process as set forth in paragraph 13 of Section 1352 of Title 68 of the Oklahoma Statutes shall not be eligible for the exemption described in this Section by virtue of the activity or process being performed in conjunction with or integrated into a manufacturing operation.* [68 O.S.Supp.2003, § 1359(1)]

(d) **Predominant use.** Incidental use of otherwise qualifying items or machinery **predominantly** used in the manufacturing operation will not result in disqualification:

(1) Where an item is predominantly used in the manufacturing operation, any non-exempt use will be considered incidental, and will not disqualify the item from the exemption.

(2) Where electricity or natural gas is metered through a single meter, and the predominant use is in the manufacturing operation, any remaining usage will be considered incidental, and will be exempt.

(e) **Applicability of examples.** Items enumerated in (b) and (c) of this Section are examples and illustrations only, and are not intended to be exclusive or exhaustive.

[Source: Added at 17 Ok Reg 2712, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-151. Use of manufacturer's limited exemption certificate; guidelines to determine if exemption applies [REVOKED]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Revoked at 15 Ok Reg 4315, eff 9-16-98 (emergency); Revoked at 16 Ok Reg 2653, eff 6-25-99]

710:65-13-152. Manufactured goods transported out of Oklahoma [REVOKED]

[Source: Revoked at 11 Ok Reg 3521, eff 6-26-94]

710:65-13-152.1. Manufactured goods transported out of Oklahoma

(a) A manufacturer may sell tangible personal property it manufactures, exempt from sales tax, to a person who immediately takes the manufactured item outside Oklahoma for immediate and exclusive use outside Oklahoma. Provided however, that sales at a retail outlet shall not qualify for the exemption.

(b) In order to qualify for this exemption, the purchaser must give a written statement to the manufacturer-seller that the property will leave the State and will not be used in Oklahoma.

(c) For purposes of this section, "**retail outlet**" means any place where sales of tangible personal property are made in small quantities to ultimate consumers to meet personal needs, rather than for commercial or industrial uses of the articles sold. [See: 68 O.S. §1359(5)]

[Source: Added at 11 Ok Reg 4695, eff 8-15-94 (emergency); Added at 12 Ok Reg 2635, eff 6-26-95; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-13-153. Exemption for "qualified manufacturers"

(a) **Qualification.** Sales of construction materials to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility are exempt from sales and use tax. For purposes of this exemption, sales made to a contractor or sub-contractor who has previously entered into a contractual relationship with a qualified manufacturer for construction or

expansion of a manufacturing facility shall be considered sales made to the qualified manufacturer.

(1) **"Manufacturing facility"** for purposes of this exemption, means buildings and land improvements used in manufacturing as defined in Section 1352 of Title 68 of the Oklahoma Statutes, except that up to ten percent (10%) of the square feet of such building may be devoted to office to provide clerical support for the manufacturing operation and shall also mean building and land improvements used for the purpose of packing, packaging, repackaging, labeling or assembling for distribution to market, if at least seventy percent (70%) of the product is made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. Retail outlets will be included only if the retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility.

(2) **"Qualified manufacturer"** for purposes of this exemption, means:

(A) Any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and the new or expanded facility adds at least One Hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission, and such employees are maintained for a period of at least thirty-six (36) months, upon completion of the facility.

(B) If the cost of construction exceeds Ten Million Dollars (\$10,000,000.00) and the combined cost of construction material, machinery, equipment, and other tangible personal property exceeds Fifty Million Dollars (\$50,000,000.00), the required number of new full-time-equivalent employees to be added and maintained to be a **"qualified manufacturer"** is Seventy-five (75).

(C) If the total cost of construction exceeds the sum of Three Hundred Million Dollars (\$300,000,000.00) the **"qualified manufacturer"** must maintain an employment level of at least 1,750 full time equivalent employees.

(3) **"Total costs of construction" defined.** For purposes of this Section, **"total cost of construction"** means and includes building and construction materials, and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility, but shall not include attorney fees. For purposes of (a)(2)(C) of this Section the **"total cost of construction"** shall also include the cost of qualified depreciable property, as defined by Section 2357.4 of Title 68 of the Oklahoma Statutes, and labor services performed in the construction of a new or expanded facility.

(4) **The employment requirement.** The employment requirement described in this Section can be satisfied by a portion of the required new full-time-equivalent employees being employed at a manufacturing facility related to or supported by the new or expanded business, so long as both or all facilities are owned by the same person.

(b) **Limitations.**

(1) The exemption pertains only to sales of tangible personal property consumed or incorporated in the construction of a new manufacturing facility or the expansion of an existing facility made after June 1, 1988. The exemption applies to sales made to a contractor or sub-contractor to be

consumed or incorporated in the construction of a new or expanded manufacturing facility pursuant to a contract with a qualified manufacturer as well as to sales made to a qualified manufacturer.

(2) The exemption applies only to tangible personal property that becomes a part of the facility or that is directly consumed in the construction process.

(3) No exemption shall be granted if the qualified manufacturer fails to file both the documentation required in (e)(1) of this Section and the required certification issued by the Employment Security Commission with the Commission.

(c) **Administration.** Pursuant to statute, the exemption for sales to a qualified manufacturer outlined in this Section will be administered as a refund for state and local taxes paid by the qualified manufacturer to the vendor or, in the case of use tax, self-remitted to the state of Oklahoma.

(d) **Application process.**

(1) **Application.** All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specification of the new or expanded manufacturing facility a complete description of the product to be manufactured, and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the application will be forwarded to the Employment Security Commission for establishment of the entities base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) **Claims process.**

(1) **Records required for claim.**

(A) For each purchase made, the entity who believes that it will be certified as a qualified manufacturer shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(i) Invoice indicating the amount of state and local taxes billed to the qualified manufacturer;

(ii) Affidavit of the vendor of the construction materials reflected on the invoice that state and local sales tax reflected on that invoice has not been audited, rebated, or refunded to the qualified manufacturer but rather the sales tax charge has been collected to the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the state and local sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with a qualified manufacturer, the qualified manufacturer shall file with the Commission the following:

(i) Invoices indicating the amount of state and local sales taxes billed;

(ii) An affidavit from the contractor or sub-contractor who made the purchase of construction materials reflected on the invoice stating that the sales tax reflected on the attached invoice and claimed by the qualified manufacturer is based on state and local sales tax paid by the contractor or sub-contractor on construction materials to be consumed or incorporated in a construction of new or expanded manufacturing facility and that the amount of state and local sales tax claimed was paid by the contractor or sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;

(iii) Additional documentation required by the Commission.

(2) **Filing claims.** At the option of the entity who believes it will be certified as a qualified manufacturer, the documentation can be filed monthly, quarterly, semi-annually, or annually. Certification issued by the Employment Security Commission must be filed within thirty-six (36) months of the date of first purchase.

(3) **Review.** The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for denial. The person who submitted the documentation will similarly be notified that a claim has been approved.

(f) **Fiscal procedure.** Each month, the Commission shall transfer from sales tax collected the estimated amount of claims approved by the Commission the previous month.

(g) **Certification process.**

(1) **Application review.** Upon completion of the new or expanded facility and the addition of the employees as required by statute, the person who believes he falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the thresholds required by law have been met. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Commission will notify the applicant of the approval or denial of the certification requested.

(2) **Approval.** The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The applicant will also receive accrued interest upon the principal amount of the refund made. [See: 68 O.S. § 1359.1(C)]

(3) **Assessment.** If at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission the number of full-time-equivalent employees drops below one hundred

(100) such employees, any use or sales tax and interest previously refunded to the taxpayer will be assessed against the taxpayer receiving such refund and interest.

(4) Denial of certification; protest procedure.

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or his duly authorized agent setting out:

- (i) a statement of denial as determined by the Commission;
- (ii) a statement of the applicant's disagreement with such denial; and
- (iii) supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission shall become final and no appeal will be entertained.

(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing.

(D) The burden of proving that the denial of certification was erroneous is on the applicants. The applicant can present testimony, evidence and argument in support of the requested certification.

(E) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [See: 68 O.S. § 225]

(F) For further information the applicant should refer to the Rules of Practice and Procedure before the Office of the Administrative Law Judges (710:1-5-21 through 710:1-5-49). [See: 68 O.S. §§ 1359.1, 1404.1]

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-13-154. Limitation on credits

No qualified establishment, nor its contractors or subcontractors, receiving an incentive payment pursuant to the Oklahoma Quality Jobs Program Act, 68 O.S. § 3601 et seq., shall be eligible to receive the credit described in 710:65-13-153 or 710:65-13-155. [See: 68 O.S. § 3607]

[Source: Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-155. Exemption for sales of tangible personal property to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility

(a) **Qualification.** Sales of tangible personal property to a qualified aircraft maintenance or manufacturing facility to be consumed or incorporated in a new facility or to expand an existing facility are exempt from sales and use tax. For purposes of this exemption, sales made to a contractor or sub-contractor who has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of a facility shall be considered sales made to the qualified aircraft maintenance or manufacturing facility.

(1) For purposes of this exemption "**facility**" is defined as buildings and land improvements used in maintaining or manufacturing aircraft, except that up to ten percent (10%) of the square feet of such building may be devoted to office space used to provide clerical support for the manufacturing operation.

(2) For purposes of this exemption, "**aircraft maintenance or manufacturing facility**" is defined as any enterprise whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least Two Hundred Fifty (250) new full-time-equivalent employees, as certified by the Employment Security Commission, upon completion of the facility.

(b) **Limitations.**

(1) The exemption pertains only to sales of tangible personal property made after the effective date of the statute. The exemption applies to sales of tangible personal property made to a contractor or sub-contractor to be consumed or incorporated in the construction of a new or expanded facility pursuant to a contract with an aircraft maintenance or manufacturing facility, as well as to sales of tangible personal property made to an aircraft maintenance or manufacturing facility.

(2) No exemption shall be granted if the aircraft maintenance or manufacturing facility fails to file both the documentation required below with the Commission within thirty-six (36) months of first purchase and the required certification issued by the Employment Security Commission within sixty (60) months of first purchase.

(c) **Administration.** Pursuant to statute, the exemption outlined above will be administered as a refund for state and local taxes paid to the vendor or, in the case of use tax, self-remitted to the State of Oklahoma.

(d) **Application process.**

(1) **Application.** All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specifications of the new or expanded facility, a complete description of the maintenance, repair or manufacturing that will take place within the facility, and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the Application will be forwarded to the Employment Security Commission for establishment of the entity's base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) **Claims process.**

(1) **Records required for claim.**

(A) For each purchase made, the entity who believes that it will be certified shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

- (i) Invoice indicating the amount of state and local taxes billed to the aircraft maintenance or manufacturing facility;
- (ii) Affidavit of the vendor of the tangible personal property that state and local sales tax reflected on that invoice has not been credited, rebated, or refunded to the aircraft maintenance or manufacturing facility, but rather, that the sales tax charged has been collected by the vendor and remitted to the Tax Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;
- (iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the state and local sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with an aircraft maintenance or manufacturing facility, the aircraft maintenance or manufacturing facility shall file with the Commission the following:

- (i) Invoices indicating the amount of state and local sales taxes billed;
- (ii) An affidavit from the contractor or sub-contractor who made the purchase of tangible personal property stating that the sales tax reflected on the attached invoice is based on state and local sales tax paid by the contractor or sub-contractor on tangible personal property to be consumed or incorporated in a construction of new or expanded aircraft maintenance or manufacturing facility and that the amount of state and local sales tax claimed was paid by the contractor or sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;
- (iii) Additional documentation required by the Commission.

(2) **Filing claims.** At the option of the entity who believes it will be certified as an aircraft maintenance or manufacturing facility, the documentation can be filed monthly, quarterly, semi-annually, or annually. However, all documentation must be filed no later than thirty-six (36) months after first purchase is made.

(3) **Review.** The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for the denial. The person who submitted the documentation will similarly be notified that a claim has been approved.

(f) **Fiscal procedure.** Each month, the Commission shall transfer from sales tax collected, to an account designated by the Commission, the estimated amount of

claims approved by the Commission the previous month.

(g) Certification process.

(1) **Application review.** Upon completion of the new or expanded facility and the addition of the employees as required by statute, the person who believes he falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the total costs of construction for such facility exceeded the sum of Five Million Dollars (\$5,000,000.00) required by law. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.

(2) **Approval.** The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The applicant will also receive accrued interest upon the principal amount of the refund made as provided for by statute. [See: 68 O.S. §1357.5(C)]

(3) Denial of certification; protest procedure.

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or a duly authorized agent setting out:

- (i) a statement of denial as determined by the Commission;
- (ii) a statement of the applicant's disagreement with such denial, and
- (iii) supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission, shall become final and no appeal will be entertained.

(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing.

(D) The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested certification.

(E) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [See: 68 O.S. §225]

(F) **Additional information.** For further information the applicant should refer to the Rules of Practice and Procedure before the Office of the Administrative Law Judges (710:1-5-21 through

710:1-5-49). [See: 68 O.S. §§1357.5, 1404.4]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 34 Ok Reg 2089, eff 9-11-17]

710:65-13-156. Exemption for "qualified distributor" [REVOKED]

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 32 Ok Reg 1376, eff 8-27-15; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-157. Exemption for persons engaged in the extraction and manufacturing crushed stone and sand

(a) **General rule.** The extraction and manufacturing of crushed stone and sand are manufacturing operations and the persons engaged in these operations, upon application will be issued Manufacturer Exemption Permits which will allow them to make purchases exempt from sales or use tax of tangible personal property or services to be used or consumed in all phases of the extraction and manufacturing of crushed stone and sand.

(b) **Activities included in exempt operations.** The exemption includes but is *not limited to site preparation, dredging, overburden removal, explosive placement and detonation, onsite material hauling and/or transfer, material washing, screening and/or crushing, product weighing and site reclamation.*

(c) **Administration.** Persons claiming exemption from sales or use tax under this Section should claim exemption from sales or use tax from their vendors when making purchases and provide their vendors a copy of their Manufacturer Exemption Permit as set out in *OAC 710:65-7-9* to support their claimed exemption.

[Source: Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-158. Sales of rolling stock

On or after July 1, 2019, and prior to July 1, 2024, sales or leases of rolling stock when sold or leased by the manufacturer, regardless of whether the purchaser is a public services corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by a common carrier directly in the rendition of public service are exempt from sales tax. For purposes of this Section, "rolling stock" means locomotives, autocars and railroad cars and "sales or leases" includes railroad car maintenance and retrofitting of railroad cars for their further use only on the railways.

[Source: Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 37 Ok Reg 2234, eff 9-11-20]

PART 31. MEDICINE, MEDICAL APPLIANCES, AND HEALTH CARE ENTITIES AND ACTIVITIES

710:65-13-169. Definitions

The following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:

"Drug" means a compound, substance or preparation, and any component of a compound, substance or preparation:

(A) *Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;*

(B) *Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or,*

(C) *Intended to affect the structure or any function of the body.* [68 O.S. § 1352(8)]

"Durable medical equipment" means equipment, *including repair and replacement parts for same*, which is used in the home; can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and *is not worn in or on the body*. **"Durable medical equipment"** does not include *"mobility enhancing equipment"*. [68 O.S. § 1357.6(E)]

"Medical appliance, device, or equipment" includes corrective eyeglasses, hearing aids, contact lenses, prosthetic devices, durable medical equipment, and mobility-enhancing equipment.

"Mobility-enhancing equipment" means equipment, *including repair and replacement parts for same*, which:

(A) *Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;*

(B) *Is not generally used by persons with normal mobility; and,*

(C) *Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.*

"Mobility-enhancing equipment" does not include **"durable medical equipment"** as defined in this Section. [68 O.S. Supp. 2003, § 1357.6(E)]

"Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R., Section 201.66. The over-the-counter-drug label includes:

(A) *A "Drug Facts" panel, or*

(B) *A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.*

[68 O.S. § 1352(17)]

"Practitioner" means a physician, osteopathic physician, allopathic physician, surgeon, podiatrist, chiropractor, optometrist, pharmacist, psychologist, ophthalmologist, nurse practitioner, clinical nurse specialist, audiologist or hearing aid dealer or fitter who is licensed by the state as required by law.

"Prescription" means *an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed "practitioner"*, as defined by 68 O.S. § 1357.6. [68 O.S. § 1352(19)]

"Prosthetic device" means *a replacement, corrective or supportive device, including repair and replacement parts for same, worn on or in the body to:*

(A) *Artificially replace a missing portion of the body;*

(B) *Prevent or correct physical deformity or malfunction; or,*

(C) *Support a weak or deformed portion of the body.*

"Prosthetic device" shall not include *corrective eyeglasses, contact lenses, or hearing aids.* [68 O.S. §§ 1357(22), 1357.6(D)]

[Source: Added at 9 Ok Reg 4073, eff 9-21-92 (emergency); Added at 10 Ok Reg 3847, eff 7-12-93; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 37 Ok Reg 2234, eff 9-11-20]

710:65-13-170. Medicines, drugs, hospitals, nursing homes, practitioners, and medical equipment and appliances, generally

(a) **Drugs.** Sales of drugs, except for over-the-counter drugs, prescribed for the treatment of human beings by a person licensed to prescribe the drugs are exempt from sales tax. Ocular lenses, if permanently implanted through medical surgery, and sales of insulin and medical oxygen are also exempt from sales tax. [68 O.S. § 1357(9)]

(b) **Prosthetic devices.** Sales of prosthetic devices as defined in 710:65-13-169 for use by an individual are exempt from sales tax.

(c) **Medical equipment, appliance, or device.** Except as set forth in 710:65-13-171 and 710:65-13-173, the sale or rental of medical equipment, appliances or devices is taxable. Examples of these taxable items are: syringes, replacement joints, bandages, oxygen regulators and tanks, crutches and wheelchairs.

(d) **Sales to hospitals, nursing homes and practitioners.** Notwithstanding the provisions outlined in subsection (b), sales of medical appliances, medical devices and other medical equipment to hospitals, infirmaries, sanitariums, nursing homes, and similar institutions, and practitioners are taxable when such items are furnished to their patients as part of the services provided. The institutions, companies and practitioners are considered to be the users or consumers. In-state vendors collect and remit the tax on sales of such property to the institutions, and use tax is due on out-of-state purchases. These institutions and practitioners primarily render services and are not liable for sales tax on receipts from meals, bandages, dressings, x-ray photographs, and other tangible personal property when used in rendering medical service to patients, regardless of whether the tangible items are billed separately.

(e) **Sales to medical benefits recipients, generally.** Unless otherwise prohibited by federal or state law, if a vendor of medical equipment and devices makes a sale to an individual, the sale is not considered to be made to a governmental agency or insurance company, even if the individual assigns the proceeds of an insurance policy to the vendor and the vendor receives payment directly from the insurance company or the governmental agency via the assignment.

(f) **Sales tax refund claims.** Under circumstances where hospitals, nursing homes, similar institutions and practitioners dispense or provide medical appliances, medical devices or medical equipment to Medicare or Medicaid patients, a refund may be claimed by the institution or practitioner for the sales taxes previously paid by the institution or practitioner on such items.

(g) **Direct payment permits (DPP).** Health care providers may qualify for a direct payment permit, valid for three (3) years, pursuant to the provisions of Section 710:65-9-10 of this Chapter.

[Source: Amended at 9 Ok Reg 4073, eff 9-21-92 (emergency); Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 34 Ok Reg 2089, eff 9-11-17; Amended at 37 Ok Reg 2234, eff 9-11-20]

710:65-13-171. Sales of prosthetic devices, durable medical equipment and mobility-enhancing equipment

(a) **General provisions.** Sales of prosthetic devices, durable medical equipment and mobility-enhancing equipment when administered, distributed or prescribed by a practitioner who is authorized by law to administer, distribute or prescribe such items are exempt from sales tax.

(b) **Documentation required to be maintained by the vendor.** The documentation set out in (1) and (2) of this subsection must be obtained by the vendor and maintained as part of the vendor's records to substantiate the exemption claimed:

- (1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
- (2) A copy of the prescription or work order.

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 34 Ok Reg 2089, eff 9-11-17; Amended at 37 Ok Reg 2234, eff 9-11-20]

710:65-13-172. Exemption for health centers, indigent health care clinics, certain community-based health care centers, and community mental health centers

(a) Qualification for the exemption for health centers, indigent health care clinics, certain community-based health care centers and community mental health centers. Sales tax does not apply to the sale of tangible personal property or taxable services when sold to:

- (1) Any health center as defined in Section 254b(a) of Title 42 of the United States Code;
- (2) Any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes;
- (3) Any community-based health center which provides primary care services at no cost to the recipients, **and** is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3). For purposes of this Section, "**primary care services**" means health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians, and where appropriate, physician assistants, nurse practitioners, or other licensed medical professionals; or
- (4) Any community mental health center as defined in Section 3-302 of Title 43A of the Oklahoma Statutes. For purposes of this Section, "**community mental health center**" means *a facility offering:*
 - (A) *A comprehensive array of community-based mental health services, including, but not limited to, outpatient treatment, emergency evaluation and care, consultation, education, rehabilitation services, and aftercare, and*
 - (B) *Certain services at the option of the center, including, but not limited to, inpatient treatment, training programs, and research and evaluation programs.*

(b) Application process. Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with the applicable documentation set forth in (c) of this Section:

(c) Supporting documentation required.

- (1) **Health centers.** Health centers must submit the letter of notification from the U.S. Department of Health and Human Services, recognizing that the center qualifies under Section 254b(a) of Title 42 of the United States Code.
- (2) **Clinics receiving disbursements of state monies from the Oklahoma Indigent Health Care Revolving Fund.** Clinics receiving disbursements of state monies from the Oklahoma Indigent Health Care Revolving Fund must submit a copy of the letter or disbursement voucher from the Fund,

showing the date the funds were disbursed.

(3) **Community-based health centers.** Community-based health centers must submit the documentation described in (A) through (C) of this paragraph:

(A) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(B) A written description of the primary care services provided must be submitted, stating the activities of the organization, and evidenced by copies of the following, as applicable:

(i) By-laws;

(ii) An audit or other financial statement, showing the types and amounts of revenue received; and

(iii) Intake documents or other forms used to obtain information from clients and which specifically reflect that the primary care services were being provided at no cost to the recipients.

(C) For the purposes of this paragraph, "**at no cost to the recipient**" means at no cost to either the recipient or any unit of government, or any insurance company, or any other person or entity. Centers which provide primary care services on a "sliding scale" fee schedule do **not** qualify for the exemption.

(4) **Community mental health centers.** Community mental health centers must submit to the Commission, as part of its application, proof of recognition by the Oklahoma Department of Mental Health and Substance Abuse Services that applicant qualifies as a Community Mental Health Center, along with a written description of the comprehensive array of community-based mental health and other optional services the facility offers, as may be evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(d) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property and services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying health care organizations exempt from sales tax.

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 28 Ok Reg 961, eff 6-1-11; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-173. Exemption for medical appliances, medical devices and other medical equipment furnished to Medicare/Medicaid program recipients

(a) **General provisions.** Sales of medical appliances, medical devices and other medical equipment are exempt if all of the following requirements are met:

- (1) The item is a drug, medical appliance, medical device, or medical equipment as defined in 710:65-13-169.
- (2) The item is administered or distributed by a "practitioner" or purchased or leased, by or on behalf of an individual, pursuant to a prescription or work order of a practitioner; and
- (3) The item is furnished to a Medicare or Medicaid program recipient and the cost of said item will be reimbursed by Medicare or Medicaid.

(b) Documentation required when reimbursement is made to vendor. The documentation set out in (1) through (3) of this subsection must be obtained by the vendor and maintained as part of the vendor's records to substantiate the exemption claimed:

- (1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
- (2) A copy of the prescription or work order; and
- (3) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

(c) Documentation required when reimbursement is made directly to the Medicare recipient. The documentation set out in this subsection must be maintained as part of the claimant's records to substantiate the exemption claimed:

- (1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
- (2) A copy of the prescription or work order;
- (3) A copy of the eligible recipient's Medicare card; and
- (4) A copy of the receipt or invoice issued by the vendor at the time of purchase, with a notation stating that the cost of the item is reimbursable by Medicare, but that Medicare will not be billed by the vendor.

(d) Sales tax refund claims. Under circumstances where hospitals, nursing homes, similar institutions and practitioners dispense or provide medical appliances, medical devices or medical equipment to Medicare or Medicaid patients, a refund may be claimed by the institution or practitioner for the sales taxes previously paid by the institution or practitioner on such items. The documentation set out in (1) through (3) of this subsection must be obtained as part of the claimant's records to substantiate the exemption claimed:

- (1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
- (2) A copy of the prescription or work order; and
- (3) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

(e) Medical equipment purchased pursuant to a direct payment permit. To substantiate the sales tax exemption for certain medical equipment pursuant to subsection (a) of this Section, a healthcare provider holding a direct pay permit must maintain separate from confidential patient records the following information:

- (1) Patient case number or account number;
- (2) Type of insurance and
- (3) Item description or product number.

(f) Medicare and Medicaid recipients. Eyeglasses, contact lenses, and hearing aids are considered items of "medical equipment", and if their cost will be reimbursed by Medicare or Medicaid pursuant to the terms and conditions set out in this Section, the sale is tax exempt.

(g) Examples of medical appliances, medical devices, and medical equipment. A nonexclusive list of **medical appliances, medical devices, and medical**

equipment is as follows:

(1) **IPPB, circuits, devices and supplies.**

- (A) Air oxygen mixers
- (B) Emergency oxygen delivery units
- (C) Manual resuscitators
- (D) Nebulizers, tubing

(2) **Oxygen equipment.**

- (A) Cylinder stands, support devices
- (B) Cylinder transport devices (sheaths, carts)
- (C) Face masks
- (D) Liquid oxygen base dispenser
- (E) Liquid oxygen portable dispenser
- (F) Nasal cannulas
- (G) Oxygen concentrators
- (H) Oxygen cylinders
- (I) Oxygen fittings, accessories
- (J) Oxygen humidifiers
- (K) Oxygen tubing
- (L) Regulators, flowmeters
- (M) Tank wrench

(3) **Respiratory therapy equipment.**

- (A) Aerosol compressors (stationary and portable)
- (B) Aspirators
- (C) Percussors, vibrators
- (D) Room humidifiers (with script)
- (E) Ultrasonic nebulizers
- (F) Volume ventilators, respirators and related device supplies

(h) **Other examples.** The following nonexclusive list contains other examples of **medical appliances, medical devices, and medical equipment** that qualify for the exemption described herein:

- (1) Adhesive bandages
- (2) Alternating pressure mattresses
- (3) Alternating pressure pads
- (4) Alternating pressure pads
- (5) Anesthesia trays
- (6) Aneurysm clips
- (7) Arterial bloodsets
- (8) Artificial sheepskin
- (9) Aspirators
- (10) Atomizers
- (11) Autolit
- (12) Back cushions
- (13) Bathing aids
- (14) Bathing caps
- (15) Bathtub grab bars
- (16) Bathtub lifts
- (17) Bathtub seats
- (18) Bed pans
- (19) Bed rails
- (20) Bedside commodes
- (21) Bedside rails

- (22) Bedside tables
- (23) Bedside trays
- (24) Bedwetting prevention devices
- (25) Belt vibrators
- (26) Biopsy needles
- (27) Biopsy trays
- (28) Blood administering sets
- (29) Blood cell washing equipment
- (30) Blood pack holders
- (31) Blood pack trays
- (32) Blood pack units
- (33) Blood pressure meters
- (34) Blood processing supplies
- (35) Blood tubing
- (36) Blood warmers
- (37) Bone fracture therapy devices
- (38) Breast pumps
- (39) Breathing machines
- (40) Canes
- (41) Cannula systems
- (42) Cardiac electrodes
- (43) Cardiac pacemakers
- (44) Cardiopulmonary equipment
- (45) Catheter trays
- (46) Cervical pillows
- (47) Chair lifts
- (48) Clamps
- (49) Commode chairs
- (50) Communication aids for physically impaired
- (51) Connectors
- (52) Contact lens cases
- (53) Contact lenses
- (54) Contact solution
- (55) Convuluted pads
- (56) Corrective eyeglasses
- (57) Cotton balls
- (58) Crawlers
- (59) Crutch cushions
- (60) Crutch handgrips
- (61) Crutch tips
- (62) Crutches
- (63) Crutches
- (64) Crutches, crutch pads, tips
- (65) Decubitus prevention devices
- (66) Decubitus seating pads, bed pads
- (67) Dialysis chairs
- (68) Dialysis machines
- (69) Dialysis supplies
- (70) Dialyzers
- (71) Dietetic scales
- (72) Disposable diapers

- (73) Disposable gloves
- (74) Disposable underpads
- (75) Donor chairs
- (76) Drainage bags
- (77) Dressing aids, button loops, zipper aids, etc.
- (78) Dressings
- (79) Drug infusion devices
- (80) Dry aid kits for ears
- (81) Earmolds
- (82) Eating and drinking aids
- (83) EKG paper
- (84) Elastic bandages
- (85) Elastic supports
- (86) Electrodes
- (87) Emesis basins
- (88) Endo trach tubes
- (89) Enema units
- (90) Enteral and parenteral feeding equipment and supplies (tubes, pumps, containers)
- (91) Exercise devices
- (92) Eyeglasses
- (93) First-aid kits
- (94) Fistula sets
- (95) Fitted stroller
- (96) Foam seating pads
- (97) Foam slant pillows
- (98) Foam wedges
- (99) Gauze bandages
- (100) Gauze packings
- (101) Gavage containers
- (102) Geriatric chairs
- (103) Geriatric chairs
- (104) Grooming aids
- (105) Grooming aids, dental aids
- (106) Hand exercise equipment putty
- (107) Hand sealers
- (108) Head halters
- (109) Hearing aid carriers
- (110) Hearing aid repair kits
- (111) Hearing aids
- (112) Heart stimulators
- (113) Heat lamps
- (114) Heat pads
- (115) Hemodialysis devices
- (116) Hemolators
- (117) Hospital beds
- (118) Hospital beds
- (119) Hot water bottles
- (120) Household aids for the impaired
- (121) Hydraulic lifts
- (122) Hydro-collators

- (123) Hydro-therm heating pads
- (124) Hypodermic syringes and needles
- (125) I.V. administering sets
- (126) I.V. connectors
- (127) I.V. stands
- (128) I.V. tubing
- (129) Ice bags
- (130) Ident-a-bands
- (131) Incontinent garments
- (132) Incubators
- (133) Infrared lamps
- (134) Inhalators
- (135) Insulin infusion devices
- (136) Invalid rings
- (137) Iron lungs
- (138) Irrigation apparatus
- (139) Irrigation solutions
- (140) Karaya paste
- (141) Karaya seals
- (142) Kidney dialysis machines
- (143) Knee immobilizers
- (144) Laminar flow equipment
- (145) Latex gloves
- (146) Leg weights (rehab. related)
- (147) Leukopheresis pumps
- (148) Lift recliners
- (149) Lithotripter
- (150) Lumbosacral supports
- (151) Lymphedema pumps
- (152) Manometer trays
- (153) Massagers
- (154) Maternity belts
- (155) Medigrade tubing
- (156) Modulung oxygenators
- (157) Moist heat pads
- (158) Muscle stimulators
- (159) Muscle stimulators
- (160) Myelogram trays
- (161) Myringotomy tubes
- (162) Nebulizers
- (163) Needles
- (164) Nerve stimulators
- (165) Neuromuscular electrical stimulators [when not worn on the body]
- (166) Overbed tables
- (167) Oxygen equipment
- (168) Page turning devices
- (169) Pap smear kits
- (170) Paraffin baths
- (171) Patient lifts
- (172) Patient lifts slings
- (173) Patient safety vests

- (174) Patient transport devices, boards
- (175) Physicians instruments
- (176) Pigskin
- (177) Plasma extractors
- (178) Plasmapheresis units
- (179) Plaster (surgical)
- (180) Plastic heat sealers
- (181) Post-surgical bust forms
- (182) Posture back supports
- (183) Posture back supports for seating
- (184) Prescribed device repair kits
- (185) Pressure pads
- (186) Raised toilet seats
- (187) Reaching aids
- (188) Respirators
- (189) Restraints
- (190) Resuscitators
- (191) Sauna baths
- (192) Security pouches
- (193) Servipak dialysis supplies
- (194) Shampoo trays
- (195) Shelf trays
- (196) Shoulder immobilizers
- (197) Shower chairs
- (198) Shower grip bars
- (199) Shower seating
- (200) Side rails
- (201) Sitting and sleeping cushions
- (202) Sitz bath kit
- (203) Small-vein infusion kits
- (204) Specialized seating, desks, work stations
- (205) Specially built hospital beds
- (206) Specially designed hand utensils
- (207) Specimen containers
- (208) Spinal puncture trays
- (209) Sponges (surgical)
- (210) Stairglides, lifts in home
- (211) Stairway elevators
- (212) Standing frames, devices and accessories
- (213) Steri-peel
- (214) Stethoscope
- (215) Stools
- (216) Stopcocks
- (217) Strap-on urinals
- (218) Suction equipment
- (219) Sun lamps
- (220) Surgical bandages
- (221) Surgical equipment
- (222) Suspensories
- (223) Sutures
- (224) Thermometers

- (225) Toilet aids
- (226) Toilet safety frames
- (227) Toilet seat rails
- (228) Toilet seat risers
- (229) Tourniquets
- (230) Trach tubes
- (231) Traction equipment
- (232) Traction stands, pulleys, etc.
- (233) Transcutaneous electrical nerve stimulators (tens unit) [when not worn on the body]
- (234) Transcutaneous nerve stimulators
- (235) Transfer boards
- (236) Transfusion sets
- (237) Trapeze bars-bar stand
- (238) Trapezes
- (239) Tub sealers
- (240) Underpads
- (241) Urinals
- (242) Vacutainers
- (243) Vacuum units
- (244) Vaporizers
- (245) Venous blood sets
- (246) Vibrators
- (247) Walker accessories
- (248) Walkers
- (249) Walkers, including walker chairs
- (250) Walking bars
- (251) Walking canes, quad canes, accessories
- (252) Water beds
- (253) Wheel walkers
- (254) Wheelchairs
- (255) Whirlpools
- (256) Writing and speech aids for the impaired
- (257) X-ray film

(i) **Prosthetic devices.** A nonexclusive list of **prosthetic devices** is as follows:

- (1) Abdominal belts
- (2) Anti-embolism stockings
- (3) Arch supports
- (4) Arm slings
- (5) Artificial arteries
- (6) Artificial breasts
- (7) Artificial ears
- (8) Artificial eyes
- (9) Artificial heart valves
- (10) Artificial implants
- (11) Artificial larynx
- (12) Artificial limbs
- (13) Artificial noses
- (14) Athletic supporters
- (15) Bone cement
- (16) Bone nails

- (17) Bone pins
- (18) Bone plates
- (19) Bone screws
- (20) Bone wax
- (21) Braces
- (22) Cast heels
- (23) Casts
- (24) Catheter devices and supplies
- (25) Catheters
- (26) Cervical braces
- (27) Cervical collars
- (28) Clavicle splints
- (29) Colostomy devices
- (30) Colostomy supplies and devices
- (31) Corrective braces
- (32) Corrective pessaries
- (33) Corrective shoes
- (34) Cosmetic gloves
- (35) Dental prosthesis
- (36) Dorsolumbar belts
- (37) Dorsolumbar supports
- (38) Eyelid load prosthesis
- (39) Heart valves
- (40) Hernia belts
- (41) Ileostomy devices
- (42) Iliac belts
- (43) Mastectomy pads
- (44) Neuromuscular electrical stimulators [when worn on the body]
- (45) Organ implants
- (46) Orthopedic implants
- (47) Orthopedic shoes
- (48) Orthotic supports (Bandages, belts, and similar supplies)
- (49) Ostomy devices
- (50) Pacemaker equipment
- (51) Pacemakers
- (52) Penile implants
- (53) Rib belts
- (54) Rupture belts
- (55) Sacroiliac supports
- (56) Sacrolumbar belts
- (57) Sacrolumbar supports
- (58) Space shoes
- (59) Splints
- (60) Splints, holders
- (61) Stoma appliances (colostomy, ileostomy, ureterostomy, catheters)
- (62) Stoma bags
- (63) Transcutaneous electrical nerve stimulators (tens unit) [when worn on the body]
- (64) Trusses
- (65) Ureostomy devices

[Source: Added at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 28 Ok Reg 1844, eff 6-25-11; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 37 Ok Reg 2234, eff 9-11-20]

710:65-13-174. Exemption for tax-exempt, independent, nonprofit biomedical research foundations

(a) **Qualification for tax-exempt, independent, nonprofit biomedical research foundations.** Sales of tangible personal property or taxable services to independent, nonprofit biomedical research foundations who are entities qualified pursuant to 26 U.S.C. § 501(c)(3) and who provide educational programs for Oklahoma science students and teachers will be exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A letter from the Internal Revenue Service (IRS) recognizing the foundation as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and
- (2) A written description of the qualifying activities of the foundation, as may be evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; and
 - (D) Notarized letter from the President or Chairman of the foundation.

(c) **Exemption limited to eligible, properly-documented transactions.** Only those purchases actually purchased by the foundation, and paid for by funds or check directly from the foundation, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for foundations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified foundations.

[Source: Amended and renumbered from 710:65-13-43 at 18 Ok Reg 2823, eff 6-25-01; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-175. Exemption for tax-exempt, independent, nonprofit community blood banks headquartered in this state

(a) **Qualification in general.** Sales of tangible personal property or taxable services to tax-exempt, independent, nonprofit community blood banks headquartered in this state are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(2) A written description of the qualifying criteria that the organization meets, as may be evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; and

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying community blood banks exempt from sales tax.

[Source: Amended and renumbered from 710:65-13-44 at 18 Ok Reg 2823, eff 6-25-01; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-176. Exemption for certain hospitals and nursing homes

(a) **Qualification for exemption of sales to a "qualified purchaser"**. Exempted from sales tax are *sales of tangible personal property to a public trust having either a single city, town or county or multiple cities, towns or counties or combination thereof as beneficiary or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for the purpose of constructing improvements to or expanding a hospital or nursing home owned and operated by any such public trust or nonprofit entity prior to the effective date of this act in counties with a population of less than one hundred thousand (100,000) persons, according to the most recent Federal Decennial Census.*

(1) As used in this section, *"constructing improvements to or expanding" shall not mean any expense for routine maintenance or general repairs and shall require a project cost of at least One Hundred Thousand Dollars (\$100,000.00).*

(2) "Qualified purchaser" shall mean *a public trust having either a single city, town or county or multiple cities, towns or counties or combination thereof as beneficiary or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3).* In addition, *sales made to a contractor or subcontractor that enters into a contractual relationship with a public trust or nonprofit entity as described by this paragraph shall be considered sales made to the public trust or nonprofit entity.*

(b) **Administration.** Pursuant to statute, the exemption for sales to a "qualified purchaser" as outlined in this Section will be administered as a refund for sales or use taxes paid by the "qualified purchaser" to the vendor or, in the case of use tax not required to be charged by the vendor, self-remitted by the "qualified purchaser" or by a contractor or subcontractor to the "qualified purchaser."

(c) **Application process.**

(1) **Application.** All "qualified purchasers" shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specification of the new or expanded hospital or nursing home facilities and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. The applicant will be notified of any action taken regarding the Application by the Commission.

(d) **Claims process.**

(1) **Records required for claim.**

(A) For each purchase made, the "qualified purchaser", shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(i) Invoice indicating the amount of sales taxes billed to the "qualified purchaser" and;

(ii) Affidavit of the vendor of the tangible personal property reflected on the invoice that sales tax reflected on that invoice has not been audited, rebated, or refunded to the "qualified purchaser" but rather the sales tax charge has been collected by the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with a "qualified purchaser", the "qualified purchaser" shall file with the Commission the following:

(i) Invoices indicating the amount of sales taxes billed;

(ii) An affidavit from the contractor or sub-contractor who made the purchase of tangible personal property reflected on the invoice stating that the sales tax reflected on the attached invoice and claimed by the "qualified purchaser" is based on sales tax paid by the contractor or sub-contractor on tangible personal property purchased for the purpose of constructing improvements to or expanding a hospital or nursing home owned and operated by a "qualified purchaser" and that the amount of sales tax claimed was paid by the contractor or sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;

(iii) Additional documentation required by the Commission.

(2) **Filing claims.** The refund request and required documentation must be filed and in the possession of the Commission on or before the 30th day after the end of the fiscal year in which the purchases were made.

(3) **Review.** The Commission will review the documentation submitted and determine whether the refund claimed will be allowed. In the event that the claim is denied, the "qualified purchaser" who submitted the documentation will be notified by the Commission as to the reason for denial. The "qualified purchaser" who submitted the documentation will similarly be notified that a claim has been approved.

(e) **Fiscal procedure.** After the 30th day after the end of each fiscal year, *the Tax Commission shall determine whether or not the total amount of sales tax exemptions claimed by all purchasers is equal to or less than Six Hundred Fifty Thousand Dollars (\$650,000.00). If such claims are less than or equal to that amount, the Tax Commission shall make refunds to the purchasers in the full amount of the documented and verified sales tax amounts. If such claims by all purchasers are in excess of Six Hundred Fifty Thousand Dollars (\$650,000.00), the Tax Commission shall determine the amount of each purchaser's claim, the total amount of all claims by all purchasers, and the percentage each purchaser's claim amount bears to the total. The resulting percentage determined for each purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars (\$650,000.00) to determine the amount of refundable sales tax to be paid to each purchaser.*

[Source: Added at 23 Ok Reg 2847, eff 6-25-06]

710:65-13-177. Construction projects for organizations providing end-of-life care and hospice service

(a) **Qualification for exemption.** Sales of tangible personal property and services for use solely on construction projects for organizations exempt from taxation pursuant to the Internal Revenue Code, 26 U.S.C. § 501(c)(3) whose purpose is to provide low income individuals who live in a facility owned by the organization end-of-life care and access to hospice services.

(b) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov, along with the following information:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization.

(c) **Sales to qualified organization limited to eligible, properly-documented transactions.** Only sales of goods or services for use solely on construction projects actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of *OAC 710:65-7-6* and *710:65-7-15*.

(d) **Sales under contract.** Sales to any person, including contractors and subcontractors, with whom a qualifying organization has duly entered into a construction contract necessary for carrying out such contract are exempt from sales tax.

(e) **Documentation and certification required.** In the case of sales to a person including contractors and subcontractors claiming exemption pursuant to this Section, the vendor must obtain:

- (1) A copy of the exemption letter or card issued to the qualified organization;
- (2) Documentation indicating the contractual relationship between the purchaser and the qualified organization; and
- (3) Certification by the purchaser, on the face of each invoice or sales ticket, setting out the name of the exempt organization that the purchases are being made for and on behalf of the organization, and that they are necessary for the completion of the contract.

[Source: Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

PART 33. MOTOR FUELS

710:65-13-180. Motor fuel and other petroleum products; taxable and exempt transactions

- (a) **Exempt sales in general.** The sales tax will not be applicable to the gross receipts derived from the sale of gasoline, gasohol, or other motor fuel on which the Oklahoma motor fuel excise tax, gasoline excise tax, or special fuels tax has been paid.
- (b) **Diesel fuel exemption.** Diesel fuel users whose purchases of diesel fuel in bulk quantities are primarily for delivery by them into the fuel supply tanks of motor vehicles in Oklahoma, must apply for a Sales Tax Permit issued by the Oklahoma Tax Commission and assume direct liability for the payment of state and local taxes upon all withdrawals from bulk storage of fuel not used "**on-the-road**" and therefore not subject to motor fuel or gasoline excise taxes.
- (c) **Limitations on motor fuels exemption.** Sales of motor fuels which are exempt from the motor fuel tax, such as specially prepared naphtha used in established places of business for cleaning and dyeing purposes, and kerosene and any other motor fuel that is used for illuminating or heating purposes are subject to sales tax.
- (d) **Aircraft fuels.** The gross receipts from the sales of all chemicals and petroleum products used as fuel to generate power in aircraft engines are exempt from all state and local sales and use taxes because such sales are subject to the levy of motor fuel excise tax.
- (e) **Diesel fuel sold for use by commercial watercraft.** Sales of diesel fuel sold for consumption by commercial vessels, barges, and other commercial watercraft are exempt from all state and local sales and use taxes. [See: 68 O.S. § 1357 (24)]
- (f) **Crude and other oil and gas well exemptions.** Goods produced in Oklahoma that are subject to the gross production tax provisions at 68 O.S. §§1001 et seq. are exempt from sales and use taxes when produced. However, sales of such products which would normally be exempt under 68 O.S. §1355(3) are taxable when made to a taxable consumer/user, except for sales of crude petroleum, diesel, or natural or casing head gas, that are sold solely for the purpose of facilitating the production of oil or gas by injection into the earth.
- (g) **Limitations on crude petroleum and other oil and gas well products exemption.** The exemption for crude petroleum and other oil and gas well products shall not include the application of a lubricant or cleaning agent, i.e. kerosene, to the oil and gas well production machinery. Nor shall it apply to fuel used for producing power for equipment used to drill or produce from an oil or gas well or

to sales of petroleum-based chemicals, additives, or other substances used in the drilling of or production from a well. Even though these uses may indirectly facilitate production, they do not come within the purview of the exemption which is limited to crude petroleum, diesel fuel, natural or casinghead gas that is injected into the earth primarily and directly for the purpose of facilitating or promoting the production of oil or gas. [See: 68 O.S. §1355]

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 35. NEWSPAPERS; PERIODICALS; PROGRAMS; MEDIA

710:65-13-190. Newspapers and periodicals; taxable and exempt transactions

- (a) Sales of newspapers and periodicals are exempt from sales and use tax, regardless of whether purchased by single copy or subscription.
- (b) The term "**newspaper**" is not defined by statute. For purposes of this exemption, "**newspaper**" is defined as: A paper that is printed and distributed daily, weekly, or at some other regular and usually short interval and that generally contains news, articles of opinion (editorials), features, advertising, or other matter regarded as of current interest.
- (c) The term "**periodical**" is also not defined by statute. However, the Supreme Court of Oklahoma has defined "**periodical**" in the case of **Swap and Shop Advertiser v. Oklahoma Tax Commission**, 774 P.2d 1058 (Okla. 1989) as follows: *Periodical: A magazine or other publication of which the issues appear at stated or regular intervals; usually used of a publication appearing more frequently than annually but infrequently used of a Newspaper.*
- (d) The test which must be met in order to qualify for exemption as a periodical is that the publication must come out periodically and must be published on more than an annual basis. This periodicity test is met whether the publication is a weekly or a monthly or even a quarterly or semiannual publication.
- (e) Other considerations in order of diminishing importance include the following:
- (1) Does the publication contain articles and items which have value to the general public rather than to a specialized class of people?
 - (2) Is the publication one that has the basic format of a magazine, i.e., soft cover, individual pages, indexed articles, etc.?
 - (3) Can the publication be subscribed to?
 - (4) Does the publication contain general advertising?
 - (5) Is the publication commonly accepted as a magazine?
- (f) An affirmative response to any of these considerations should tend to indicate the publication in question is a periodical, assuming the initial test of periodic publication, described in subsection (d), is met.
- (g) Furthermore, each publication must stand alone. It must not, either singly or, when successive issues are put together, constitute a book such as loose-leaf packets which update a book or pocket parts.
- (h) Finally, the sale of microfiche or microfilm which contains newspapers or publications which meet the test for a periodical are not exempt from tax as the sale of newspapers or periodicals under this rule. [See: 68 O.S. §1354(A)]

710:65-13-191. Definition of radio and television broadcasting for purposes of sales tax exemption

- (a) **Definition.** By virtue of the judgment entered by the Supreme Court of Oklahoma in the case of **Oklahoma Association of Broadcasters v. Oklahoma**

Tax Commission, No. 61 O.B.A.J.850 (Apr. 7, 1990), television and radio broadcasters are provided an exemption from the payment of sales tax on machinery and equipment that is used directly in the manufacturing process; machinery and equipment that is necessary for the proper production of a broadcast signal; or machinery and equipment which would cause broadcasting to cease if it failed to operate. For purposes of this Section, "**proper production**" shall include, but not be limited to, machinery and equipment required by F.C.C. rules and regulations. This exemption begins with either the equipment used in producing the live programming or the electronic equipment directly behind the satellite receiving dish (antenna) and ends with transmission of the broadcast signal from the end of the broadcast antenna system.

(b) **Examples.** The following list, although not all inclusive, contains examples of items which, if used directly in the manufacturing process, qualify for exemption hereunder:

- (1) Tapes, recordings and film
- (2) Tape editing equipment
- (3) Film processing, editing and preview equipment
- (4) Film Cameras and projectors
- (5) T.V. cameras and associated equipment
- (6) Microphones
- (7) Turntables and playback equipment
- (8) Broadcast tape recorder systems, compact disks, audio cartridge decks, R-dated
- (9) Audio tape recorders, edit controllers, mixers
- (10) Routing/switching equipment
- (11) Automated assembly system
- (12) Audio and video cartridge machines
- (13) Monitor and switching equipment
- (14) Computer and weather graphic equipment
- (15) Studio consoles and production interconnecting amplifiers
- (16) Teleprompters
- (17) Character generators, animation devises and frame synchronizers
- (18) Digital audio and video effect equipment (paint box)
- (19) Optical laser (video) equipment
- (20) Electronic film production equipment
- (21) Processing amplifiers
- (22) EQ amplifiers
- (23) Telephone lines/service between remote broadcast and permanent studio and/or for broadcast
- (24) Main and auxiliary transmitters
- (25) Transmitter cooling system, control console and power switching equipment
- (26) Transmitter automation and emergency equipment
- (27) Transmitter remote control equipment
- (28) Antennas and supporting towers
- (29) Satellite receiving and sending equipment, excluding satellite dishes
- (30) Radio ground systems
- (31) Tower guy lines
- (32) Transmission lines and line pressurizing equipment
- (33) Modulation, frequency and phase monitors
- (34) Radio limiting amplifiers

- (35) Bridging and distribution amplifiers
- (36) Phase correcting equipment
- (37) Visual and aural monitoring equipment
- (38) Stereo generators and monitoring equipment in transmission area
- (39) Production lighting systems
- (40) Studio lighting boards and fixtures
- (41) Racks and cabinets to house exempt equipment
- (42) Two-way radio used for broadcast
- (43) Mobile and cellular telephones used for broadcast
- (44) Exempt production equipment contained in vehicles
- (45) Replacement parts for exempt equipment

(c) **Predominant use test.** In cases where an item has multiple uses, the taxability or exemption will be determined by the item's predominant use.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 19 Ok Reg 1859, eff 6-13-02]

710:65-13-192. Definition of cablecasting machinery and equipment for purposes of sales tax exemption

(a) As used in subsection (9) of Section 1359 of Title 68 of the Oklahoma Statutes, "**machinery and equipment**" used directly in the manufacturing process of cablecasting and which is necessary for the proper production of a cablecast signal or "**machinery and equipment**" the operation failure of which would cause cablecasting to cease means:

- (1) AML transmit monitors
- (2) AML transmitters and Klystron power supplies
- (3) AML receivers
- (4) Animation devices
- (5) Antenna support towers
- (6) Antennas
- (7) Audio compressors
- (8) Audio mixer
- (9) Audio generator
- (10) Audio amplifiers
- (11) Audio cart decks
- (12) Audio tape recorders
- (13) Audio and video patch panels
- (14) Audio monitors
- (15) Audio-visual frequency modulation demodulators
- (16) Audio-visual switchers
- (17) Audio-visual router
- (18) Audio-visual frequency modulation modulators
- (19) Audio-video demodulators
- (20) Audio-video cart machines
- (21) Audio-video FM demodulators
- (22) Audio-video FM modulators
- (23) Audio-video patch panels
- (24) Audio-video distribution amplifiers
- (25) Automated assembly system
- (26) Automatic VCR commercial insertion system
- (27) Back-up power supply
- (28) Broadcast tape recorders
- (29) Cable advertisement insertion video switching equipment

- (30) Cable advertisement insertion DTMF tone decoders
- (31) Cable advertisement insertion switches
- (32) Cable advertisement insertion video cassette recorders
- (33) Character generators
- (34) Compact discs
- (35) Computer graphic equipment
- (36) Computer
- (37) Computerized character generator
- (38) Cooling system for manufacturing equipment
- (39) DAT decks
- (40) Digital audio/video effect equipment and paint boxes
- (41) Distribution amplifiers
- (42) Edit controllers
- (43) Editing control unit
- (44) Emergency audio override system
- (45) Equipment storage devices
- (46) Equipment cables and connectors (cable trays and building attachments excluded)
- (47) Film editing and preview equipment
- (48) Film
- (49) Film projectors
- (50) Film cameras
- (51) FM stereo transmission equipment
- (52) Frame synchronizers
- (53) Frequency monitors
- (54) Frequency scopes
- (55) Frequency modulation receiver
- (56) Frequency modulation transmitters
- (57) Frequency monitors
- (58) Head-end extension amplifiers
- (59) Insertion system and software
- (60) Level matching interface
- (61) Microphones
- (62) Microwave receiver monitoring systems
- (63) Microwave receiver cooling systems
- (64) Mixers
- (65) Mobile and cellular phones used for broadcast
- (66) Monitor/switching equipment
- (67) MTS stereo encoders
- (68) Dedicated phone lines between remote and studio site
- (69) Positive traps
- (70) Positive notch filters
- (71) Power switching equipment
- (72) Power conditioning equipment
- (73) Electronic printer, used to manufacture cable programs
- (74) Processing amplifiers
- (75) Production equipment contained in mobile units
- (76) Production lighting systems
- (77) Racks and cabinets to house equipment
- (78) Radio ground systems
- (79) Recordings

- (80) Replacement parts for exempt equipment
- (81) RF monitoring equipment
- (82) Routing and switching equipment
- (83) Satellite descramblers
- (84) Satellite receiving and transmitting equipment
- (85) Satellite antenna controllers
- (86) Satellite receiving equipment
- (87) Signal integrity enhancement devices
- (88) Signal modulators
- (89) Signal generators
- (90) Signal strength enhancement devices
- (91) Signal scrambling system
- (92) Signal processors
- (93) Stereo generators
- (94) Stereo monitoring and troubleshooting equipment
- (95) Studio lighting boards and fixtures
- (96) Studio consoles and production interconnecting equipment
- (97) Subcarrier demodulators
- (98) Tape editing equipment
- (99) Telephone lines and equipment between master control unit and headends
- (100) Teleprompters
- (101) Television monitors
- (102) Television cameras and related equipment
- (103) Time base corrector
- (104) Tower guy lines
- (105) Transmission line pressurizing equipment
- (106) Transmission lines
- (107) Transmitter cooling systems
- (108) Tuner/signal switcher
- (109) Turntables and playback equipment
- (110) VHS video cassette player
- (111) Video and synchronous generator
- (112) Video cassette tapes
- (113) Video cassette players
- (114) Video/synchronous generator
- (115) Videotape editing equipment
- (116) Videotapes
- (117) Visual and audio monitoring equipment
- (118) VTR control switcher
- (119) Weather graphic equipment

(b) For purposes of this rule, the term "**cable advertisement insertion**" shall be deemed to be included within the term "local programming" as used in subsection (9) of Section 1359 of Title 68 of the Oklahoma Statutes.

(c) The items enumerated in subsection (a) shall be considered illustrative and not exhaustive.

[Source: Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-193. Definition of newspaper manufacturing for purposes of sales/use tax exemption

As applied to Oklahoma's Sales and Use Tax, newspaper publishing is currently recognized as a manufacturing process in Oklahoma and is exempt from Oklahoma Sales and Use taxes in the same manner as other types of manufacturing. [See: 710:65-13-150.1]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-194. Exemption for sales of tangible personal property and services to a motion picture or television production company to be used or consumed in connection with an eligible production

(a) **General provisions.** The sale of tangible personal property and services to a motion picture or television production company are exempt from sales and use taxes in Oklahoma, if used or consumed in connection with an eligible production.

(b) **Definitions.** Pursuant to 68 O.S. §1357(23), "**Eligible production**" means "*a documentary, special, music video, or a television commercial or television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series, filmed or taped for network or national or regional syndication; or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast.*" **Qualified purchaser**" means a motion picture or television production company making purchases of tangible personal property and services for use in producing an eligible production, which has received an exemption letter for its eligible production.

(c) **Examples of exempt items.** Items that may be purchased exempt from sales tax by a qualified purchaser include, but are not limited to:

- (1) Accommodations and meals.
- (2) Production equipment purchases and rentals.
- (3) Set construction and rigging materials.
- (4) Production office equipment and supplies.
- (5) Prop and wardrobe purchases and rentals.
- (6) Utilities used by the production company on location and in the production office.

(d) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-88, contained in Packet E available online at www.tax.ok.gov.

(e) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying that the exemption is allowed will be forwarded to the applicant.

(f) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue an exemption letter pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

(g) **Use of letter certifying eligibility for the exemption.** Persons claiming exemption under this Section should provide their vendors with a copy of the certification letter issued by the Commission and a signed statement that the purchase is being made exempt from sales tax. If purchases will be made from a

vendor on a regular basis, the vendor may make subsequent sales without requiring proof of eligibility for each sale, providing the person to who the exempt sales are being made has agreed in writing to notify the vendor of any and all purchases which may be made to which the exemption would not apply. Vendors may accept the certification set out in this subsection in the same manner as any other letter or card certifying to a specific statutory exemption as set out in 710:65-7-6 and 710:65-7-15.

(h) Limitations. Any letter certifying an exemption issued under this Section is valid only for use by the addressee and is not transferable. The exemption may **not** be used by any other entity, even if that entity claims to be an agent, administrator, party to a contract or other relationship. Each entity desiring to obtain a letter certifying an exemption must make application in its own name.

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-195. Exemption for sales of certain types of programs

Gross proceeds from the sale of programs relating to sporting and entertainment events are exempt from sales tax. [See: 68 O.S. Section 1357(5)]

[Source: Added at 24 Ok Reg 2397, eff 6-25-07]

PART 37. SALES FOR RESALE

710:65-13-200. Exemption on sales for resale

The gross proceeds derived from sales of goods, wares, merchandise, and telecommunications services by vendors, for resale, to persons having a valid sales tax permit who are regularly engaged in reselling the articles or services purchased are exempt from sales tax. If the purchaser is an Oklahoma resident, he must provide the vendor with his Oklahoma sales tax permit number if the sale is made in Oklahoma. In addition to furnishing his sales tax permit number to the vendor, the purchaser must certify in writing to the vendor that said purchaser is engaged in the business of reselling the articles purchased. Failure to so certify, or to falsely certify, with the knowledge that the items purchased are not for resale, shall be sufficient grounds upon which the Commission may cause the purchaser's sales tax permit to be canceled. The seller will be held liable for sales tax due on any sales where an exemption certificate is found to be invalid, for whatever reason. [See: 68 O.S. § 1365(G)]

(1) The required certification may be made on the bill, invoice or sales slip retained by the vendor or by furnishing a certification letter to the seller.

The Multi-State Tax Commission Certificate, the Streamlined Sales and Use Tax Exemption Certificate, an Oklahoma Exemption Certificate, BT107, or a reasonable facsimile may be used.

(2) The vendor should obtain the information set out in 710:65-7-6 and 710:65-7-8.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-201. Sales between related entities

(a) Each interdepartmental transfer of tangible personal property and taxable services between various departments of a single legal entity shall not constitute a sale subject to sales tax.

(b) Each transfer of tangible personal property and taxable services between separate legal entities for use or consumption, and not for resale, shall be taxable, unless otherwise exempt by statute pursuant to a reorganization, winding up, dissolution, liquidation, or formation of a corporation, even though:

- (1) The entities share common principals or ownerships and operations.
- (2) The entities share the same business location.
- (3) The entities file consolidated income tax returns for federal and state income purposes or one of the entities is disregarded for income tax purposes.
- (4) The entities do not enjoy a profit or expense as a result of the transaction.

(c) When a transaction would be subject to sales tax if the transaction were between two separately owned and operated legal entities, the commonality of the two entities is irrelevant, and sales tax is imposed on the transaction between the two related entities.

(d) "**Separate legal entities**" means entities which are recognized as individual entities either in fact or at law. Taxable transfers of tangible personal property and services between separate legal entities for use or consumption, and not for resale, shall include:

- (1) Transfers between individuals and partnerships.
- (2) Transfers between individuals and corporations.
- (3) Transfers between individuals and unincorporated associations.
- (4) Transfers between partnerships and corporations.
- (5) Transfers between partnerships and unincorporated associations.
- (6) Transfers between partnerships.
- (7) Transfers between unincorporated associations and corporations.
- (8) Transfers between corporations, whether between sister corporations or parent and subsidiary corporations. [See: 68 O.S. §§ 1354, 1360]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 22 Ok Reg 1561, eff 6-11-05]

PART 39. SCHOOLS AND HIGHER EDUCATION

710:65-13-210. Exemption for public and private schools and institutions of higher education

(a) **Sales to schools.** Sales of tangible personal property or services to the following entities are exempt from taxation:

- (1) Private institutions of higher education.
- (2) Private elementary and secondary schools.
- (3) Members of the Oklahoma system of higher education.
- (4) Public school districts.

(b) **Scope of exemption.** The exemption in this subsection shall apply only if said institution or school is accredited by the State Department of Education, registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher education which are exempt from taxation pursuant to 26 U.S.C.A § 501(c)(3) of the Internal Revenue Code. Included in sales which are exempt are materials, supplies and equipment used in construction and improvement of buildings owned by said entities and operated for educational services.

(c) **Sales by a lease or lease-purchase agreement with a school district.** Sales of tangible personal property or services pursuant to a lease or lease-purchase

agreement executed between a vendor and a school district are exempt from sales tax.

(d) **Sales under public contract.** Sales to any public school, institution of the Oklahoma system of higher education and to any person, including subcontractor, whom a public school or institution of the Oklahoma system of higher education has duly entered into a contract pursuant to law necessary for carrying out said contract are exempt from taxation.

(e) **Certification required.** Certification on the face of the invoice is required of persons making purchases on behalf of an entity listed in (a) of this Section. The invoice containing the certification must be retained by the vendor. Wrongful or erroneous certification may result in criminal punishment.

(f) **Campus or school construction.** Sales for use on campus or school construction projects for the benefit of either the institutions of the Oklahoma system of higher education, private institutions of higher education accredited by the Oklahoma State Regents for Higher Education, or for public schools or school-districts, are exempt when the projects are financed by or through the use of nonprofit entities exempt from taxation pursuant to the provisions of the Internal Revenue Code 26 U.S.C., § 501(c)(3).

(g) **Obtaining exemption for campus or school construction projects.** The general contractor shall request a letter of confirmation that the project qualifies for the exemption from the Business Tax Services Division. Along with the request, the following must be supplied:

(1) A letter from the institution confirming that the not-for-profit entity is financing the project and that the requestor is the general contractor for the project.

(2) A copy of the IRS letter to the not-for-profit entity showing its exemption status.

(h) **Private schools tuition.** Tuition and educational fees paid to private institutions of higher education, private elementary and secondary institutions of education duly accredited by the State Board of Education or registered to participate in federal programs are exempt from sales tax. The institution must be exempt from income taxation pursuant to the provisions of 26 U.S.C.A. § 501(c)(3) for this exemption to apply.

(i) **Sales in school cafeterias.** Sales of food in cafeterias or lunchrooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils are exempt from taxation so long as the cafeteria or lunch room is not operated primarily for the public or for profit. Management companies operating for a profit who contract with a school, college or university to operate a lunchroom or cafeteria will be denied the exemption. Also, sales of food made on school premises but not in a cafeteria or lunchroom do not fall within the exemption provided by statute.

(j) **Sales of admission tickets.** That portion of the gross receipts received from the sale of admission tickets which is for the repayment of money borrowed by an accredited state-supported college or university for the purposes outlined in the statute is exempt from taxation if said amount is:

(1) separately stated on the admission ticket; and

(2) imposed, collected and used for the sole purpose of servicing the debt incurred by the college or university for capital improvements described in the statute.

(k) **Sales by school, student, parent-teacher organizations or associations.** Private schools, public schools, public or private school boards, public school

districts, public or private school student organizations and parent-teacher organizations or associations can make sales of tangible personal property exempt from sales tax. Public or private school personnel can make sales for fund-raising projects to benefit the school, school district, school board or student group or organization without collecting and remitting sales tax. For purposes of subsections (k) and (l) tangible personal property includes the sale of admission tickets and concessions at athletic events. [See: 68 O.S. § 1356(13)]

(l) Sales to, or by, parent-teacher organizations. Parent-teacher associations and parent-teacher organizations that are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code may make purchases and sales free from the levy of Oklahoma sales taxes.

(m) Sales to, or by, nonprofit local public or private school foundations. Nonprofit local public or private school foundations which solicit money or property in the name of any public or private school or public school district may make purchases and sales of tangible personal property exempt from sales tax.

(n) Sales to career technology student organizations. Career technology student organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education may make purchases exempt from Oklahoma sales and use taxes and local sales and use taxes.

(o) Application process. The entities set forth in (l) through (n) of this Section may make application for exemption by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with the applicable documentation outlined in (p) of this Section.

(p) Supporting documentation required.

(1) Parent-Teacher Associations or Organizations. Parent-Teacher Associations or Organizations must submit the Internal Revenue Service determination letter recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3).

(2) School foundations. School foundations must submit the documentation described in (A) and (B) of paragraph (2).

(A) A letter from the Internal Revenue Service recognizing the foundation as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(B) A written description of the qualifying activities of the foundation or organization, as may be evidenced by copies of:

(i) Articles of Incorporation;

(ii) By-laws;

(iii) Brochure; and

(iv) Notarized letter from the President or Chairman of the foundation.

(3) Career Technology School Organizations. Career Technology School Organizations must submit documentation that the organization is under the direction and supervision of the Oklahoma Department of Career and Technology Education.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-211. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-212. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-213. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-214. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-215. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-216. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-217. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-218. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-219. [RESERVED]

[Source: Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-220. Exemption for child care facilities which provide on-site universal pre-kindergarten education

(a) **Qualification for child care facilities which provide on-site universal pre-kindergarten education exemption.** Sales of tangible personal property and services to a child care facility, licensed pursuant to the Oklahoma Child Care Facilities Licensing Act which possesses either a 3-star rating from the Department of Human Services Reaching for the Stars Program or a national accreditation and provides on-site universal pre-kindergarten education to four-year-old children through a contractual agreement with any public school or school district are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A copy of the Oklahoma Child Care Facility License;
- (2) A copy of the 3-star rating Certificate from the Department of Human Services Reaching for the Stars Program or documentation which shows that the entity has a national accreditation; and

(3) A copy of a current year contractual agreement with a public school or school district for provision, by the child care facility, of on-site universal pre-kindergarten education to four-year-old children.

(c) Sales to child care center limited to eligible, properly-documented transactions. Only sales of goods or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of *OAC* 710:65-7-6 and 710:65-7-15.

(d) Sales under contract. Sales to any person, including contractors and subcontractors, with whom a child care center has duly entered into a contract for construction and improvement of buildings and other structures owned by the child care center and operated for education purposes are exempt from sales tax.

(e) Documentation and certification required. In the case of sales to a person including contractors and subcontractors claiming exemption pursuant to this Section, the vendor must obtain:

- (1) A **copy** of the exemption letter or card issued to the qualified child care center;
- (2) Documentation indicating the contractual relationship between the purchaser and the qualified child care center; and
- (3) Certification by the purchaser, on the face of each invoice or sales receipt, setting out the name of the exempt entity, that the purchases are being made on behalf of the entity, and that they are necessary for the completion of the contract.

[Source: Added at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

PART 41. [RESERVED]

PART 42. DISABLED VETERANS IN RECEIPT OF COMPENSATION AT THE ONE HUNDRED PERCENT RATE

710:65-13-275. Exemption for disabled veterans in receipt of compensation at the one hundred percent rate and unremarried surviving spouses of qualifying veterans

(a) General provisions for exemption afforded certain veterans. Sales of tangible personal property or services are exempt from sales tax when made to persons who have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard, and who have been certified by the United States Department of Veterans Affairs, or its successor, to be in receipt of compensation at the one hundred percent (100%) rate for a permanent disability sustained through military action or accident or resulting from a disease contracted while in such service. The exemption includes sales to the spouse of such veteran or to a household member where the veteran resides and who is authorized to make purchases on behalf of the veteran in the veteran's absence, so long as the purchase is for the benefit of the qualified veteran.

(b) General provisions for exemption afforded unremarried surviving spouse of deceased qualifying veteran. Sales of tangible personal property or services are exempt from sales tax when made to a surviving spouse of a deceased veteran qualifying for the exemption set out in subsection (a) of this Section if the spouse has not remarried. The exemption includes sales to a household member where the surviving spouse of the deceased qualifying veteran resides who is authorized to

make purchases on behalf of the spouse in his or her absence, so long as the purchase is for the benefit of the spouse.

(c) **Qualification to receive an exemption card.** To qualify for exemption under this Section and receive an exemption card a veteran or surviving spouse of the qualifying veteran must be an Oklahoma "resident" as defined in 68 O.S. §2353 and submit to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, OK 73102 the following information:

(1) **Qualifying Veteran.** A letter from the United States Department of Veterans Affairs certifying that the veteran is receiving disability compensation at the 100% rate.

(2) **Unremarried surviving spouse.** A letter from the United States Department of Veterans Affairs, Muskogee, OK certifying that the applicant is the unremarried spouse of the qualifying veteran.

(d) **Exemption limitations.** The authorized exemption in this Section is subject to the following limitations:

(1) **Disabled veterans in receipt of compensation at the one hundred percent rate.** The authorized exemption for a qualified veteran is limited to Twenty-five Thousand Dollars (\$25,000.00) per year of qualifying purchases made by the qualified veteran, spouse or household member authorized to make purchases on behalf of the qualified veteran in the veteran's absence. The Tax Commission may request persons asserting or claiming exemption under this Section to provide a statement executed under oath, that the total sales amounts for which the exemption is applicable have not exceeded the yearly limitation of Twenty-five Thousand Dollars (\$25,000.00). If an exempt sale exceeds the exemption limitation, the sales tax in excess of the limitation shall be treated as a direct sales tax liability and the Tax Commission may recover the tax including penalty and interest by the use of any method authorized by law.

(2) **Unremarried surviving spouse of qualifying disabled veteran.** The authorized exemption for the unremarried surviving spouse is limited to One Thousand Dollars (\$1,000.00) per year of qualifying purchases made by the qualified surviving spouse. The Tax Commission may request persons asserting or claiming exemption under this Section to provide a statement executed under oath, that the total sales amount for which the exemption is applicable has not exceeded the yearly limitation of One Thousand Dollars (1,000.00). If an exempt sale exceeds the exemption limitation, the sales tax in excess of the limitation shall be treated as a direct sales tax liability and the Tax Commission may recover the tax including penalty and interest by the use of any method authorized by law.

(e) **Qualifying sales.** Sales are exempt if the qualified veteran or surviving spouse has an interest in the funds presented and the purchase is made on his or her behalf, and the qualified veteran's spouse or household member or the surviving spouse's household member authorized to make purchases on behalf of the veteran or surviving spouse in their absence has presented the exemption card issued by the Oklahoma Tax Commission.

(f) **Denial of exemption by vendor.** All vendors shall honor the proof of eligibility for the sales tax exemption to both the qualified veteran, qualified unremarried surviving spouse and persons making purchases for the benefit of the disabled veteran or surviving spouse. Qualifying 100% disabled veterans and qualifying unremarried surviving spouses who have had claims for sales tax exemption denied by vendors may notify the Tax Commission of such denial by submitting to the

Audit Services Division a signed and completed OTC Form 13-37, which is available online at www.tax.ok.gov.

(g) Purchases by contractors. Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. Section 1352 are taxable to the contractor. A contractor who performs improvements to real property for a disabled veteran in receipt of compensation at the one hundred percent (100%) rate or an unremarried surviving spouse of the qualifying veteran who qualifies for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to disabled veterans in receipt of compensation at the one hundred percent rate.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 28 Ok Reg 961, eff 6-1-11; Amended at 30 Ok Reg 2089, eff 7-25-13; Amended at 38 Ok Reg 1538, eff 9-1-21]

PART 43. SOCIAL, CHARITABLE, AND CIVIC ORGANIZATIONS AND ACTIVITIES

710:65-13-330. Oklahoma City National Memorial and Museum

Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and is operating the Oklahoma City National Memorial and Museum are exempt from sales tax. [68 O.S. § 1356(46)]

[Source: Added at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-331. Sales to veterans' organizations for museums and memorials

Sales of tangible personal property or services to organizations which are exempt from federal taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, the members of which are limited to honorably discharged veterans, and which furnish financial support to area veterans' organizations to be used for the purpose of constructing a memorial or museum are exempt from sales and use tax [68 O.S. § 1356(47)]

[Source: Added at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-332. Exemption for sale of tickets to collegiate athletic championship events

Sales of tickets for admission to a collegiate athletic event that is held in a facility owned or operated by a municipality or a public trust of which the municipality is the sole beneficiary and that actually determines or is part of a tournament or tournament process for determining a conference tournament championship, a conference championship, or a national championship are exempt from sales tax. [68 O.S. § 1356(45)]

[Source: Added at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-333. Sales made in conjunction with public library construction

Sales of tangible personal property or services made on or after January 1, 2003, to an organization, which is exempt from taxation pursuant to the provisions of the 26 U.S.C. § 501(c)(3), and that is expending monies received from a private foundation grant in conjunction with expenditures of local sales tax revenue to construct a local public library, are exempt from sales tax. [68 O.S. § 1356(48)]

[Source: Added at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-334. Exemption for qualified museums

(a) **General provisions.** Museums or other entities accredited by the American Alliance of Museums formerly the American Association of Museums are exempt from the levy of sales tax on their purchases of tangible personal property and services, and provided that the museum is in compliance with (d)(2) of this Section, on the sales of tickets for admission.

(b) **Certification required for purchases.** Certification, in which the name of the museum or other accredited entity is set out on the face of the invoice or sales receipt to be obtained and retained by the vendor, is required of persons making purchases on behalf of a qualifying museum or other accredited entity, in order to support the exemption pursuant to *OAC* 710:65-3-30 and 710:65-3-33.

(c) **Application procedure.** Application for the exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16A, contained in Packet E available online at www.tax.ok.gov along with written confirmation that the applicant is currently accredited by the American Alliance of Museums formerly the American Association of Museums.

(d) **Exemption limited to eligible, properly-documented transactions.**

(1) Only those purchases actually purchased by the museum or other accredited entity, invoiced to the museum or entity, and paid for by funds or check directly from the museum or other accredited entity, will qualify for the exemption on purchases.

(2) To qualify for the exemption on sales of admission tickets, the museum must separately state an amount equivalent to the tax which would otherwise have been required to be collected on the face of the admission ticket and must use the amount so stated and so collected solely for the purpose of servicing debt incurred by the museum in the construction, enlargement, or renovation of facilities used or to be used for the entertainment, edification, or cultural cultivation of persons admitted to the museum or facility. The museum or other accredited entity must maintain records adequate to show that the proper amount was collected in lieu of the tax and that those funds were used for purposes of servicing qualifying projects.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to museums and other accredited entities.

[Source: Renumbered from 710:65-13-34 at 22 Ok Reg 1561, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 33 Ok Reg 1094, eff 8-25-16; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-335. Limited exemption for organizations which sponsor and promote educational, charitable, and cultural events for disadvantaged children

(a) **Qualification for educational, charitable, and cultural events for disadvantaged children exemption.** The first \$15,000.00 of each calendar year's sales, to or by, organizations which were established to sponsor or promote educational, charitable, or cultural events for disadvantaged children, are exempt

from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov and the supporting documentation described in (c) of this Section.

(c) **Supporting documentation required.** To support the exemption claimed under this Section, the applicant must submit to the Commission, along with the application:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(2) Documentation showing that the organization was established to sponsor and provide educational, charitable, and cultural events for disadvantaged children, along with a written description of the activities of the organization, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization.

(d) **Exemption limited to eligible, properly-documented transactions.** Only the first \$15,000 of either sales or purchases of the organization are exempt. The organization must keep accurate records to enable it to properly document the exemption on its purchases and to know when it is required to charge sales tax on its sales. If sales tax is collected by the organization on sales which could have been exempt under the provisions of this Section, the sales tax must be remitted to the Oklahoma Tax Commission. Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations exempt from sales tax.

[Source: Renumbered from 710:65-13-35 at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-336. Exemption for Disabled American Veterans, Department of Oklahoma, Inc. and subordinate chapters

(a) **General provisions.** Disabled American Veterans, Department of Oklahoma, Inc. and its subordinate chapters are exempt from the levy of sales tax on purchases of tangible personal property and services.

(b) **Application procedure.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with written confirmation that the applicant is a currently recognized chapter of the Disabled American Veterans, Department of Oklahoma, Inc.

[Source: Renumbered from 710:65-13-36 at 22 Ok Reg 1561, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-337. Qualifications for "Meals on Wheels" exemption

(a) **Qualification for Meals on Wheels exemption.** Sales tax does not apply to the sale of food, food products, or any equipment or supplies used in the preparation of the food or food products, to or by organizations enumerated in 68 O.S. § 1357(13)(a), and which are commonly referred to as "Meals on Wheels," "Mobile Meals," and the like.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,
- (2) A written description stating the activities of the organization, as evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; or,
 - (D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of food, food products, or any equipment or supplies used in the preparation of the food or food products purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying "Meals on Wheels," "Mobile Meals," and similar programs enumerated in 68 O.S. § 1357(13)(a) exempt from sales tax.

[Source: Renumbered from 710:65-13-37 at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-338. Qualifications for "Older Americans Act" exemption

(a) **Qualification for the Older Americans Act exemption.** Sales tax does not apply to the sale of food or food products, or any equipment or supplies used in the preparation of the food or food products, to or by organizations enumerated in 68 O.S. § 1357(13)(b), and which receive federal funding pursuant to the Older Americans Act of 1965, for purposes of providing nutrition programs for the care and benefit of elderly persons.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A written description stating the activities of the organization, as evidenced by copies of:

- (A) Articles of incorporation;
- (B) By-laws;
- (C) Brochure; or,
- (D) Notarized letter from the President or Chairman of the organization; and,

(3) Copy of notification letter approving the organization for funding under the Older Americans Act of 1965.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of food or food products, purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying "Older Americans Act" organizations exempt from sales tax.

[Source: Renumbered from 710:65-13-38 at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-339. Qualifications for "Collection and Distribution Organization" exemption

(a) **Qualification for Collection and Distribution Organization exemption.**

Sales tax does not apply to the sale of tangible personal property or services to or by organizations exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and;

- (1) are primarily involved in the collection and distribution of food and household products to other organizations that facilitate the distribution of such products to the needy and such distributee organizations are exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) or
- (2) facilitate the distribution of such products to the needy.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);
- (2) A written description stating the activities of the organization, as evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; or,
 - (D) Notarized letter from the President or Chairman of the organization; and,
- (3) For organizations described in (a)(1) a list of organizations, including federal employer identification numbers, to which items were distributed for the previous calendar year must also be provided.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of food, food products, and household products, purchased by the organization,

invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Other limitations.** The exemption set out in this Section does not apply to sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352 are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying "Collection and Distribution Organizations" exempt from sales tax.

[Source: Renumbered from 710:65-13-39 at 22 Ok Reg 1561, eff 6-11-05; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-340. Exemptions for volunteer fire departments

(a) Sales to volunteer fire departments which are organized under 18 O.S. § 592 are exempt from sales tax. Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation that the department is registered with the Oklahoma Secretary of State.

(b) A vendor shall obtain the documentation set out in *OAC 710:65-7-15* in order to be relieved of liability for sales tax on such sales.

(c) Additionally, volunteer fire departments which are organized under 18 O.S. Section 592 are exempt from having to charge sales tax on the first Fifteen Thousand Dollars (\$15,000.00) of sales per year which are made for the purpose of raising funds for the benefit of the department, provided the sales are made on no more than six days per year. [68 O.S. § 1356(19)]

[Source: Added at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-341. Exemption for Council organizations or similar state supervisory organizations of Boy Scouts of America, Girl Scouts of U.S.A., and Camp Fire USA

(a) **General provisions.** Council and state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A., and Camp Fire USA are exempt from the levy of sales tax on purchases of tangible personal property and services. **Dens, packs, troops,** or similar groups affiliated with a council or state supervisory organization of the Boy Scouts of America, Girl Scouts of U.S.A., or Camp Fire USA are not included within the scope of the exemption described in this Section.

(b) **Application procedure.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with a determination letter or group ruling from the Internal Revenue Service.

[Source: Renumbered from 710:65-13-41 at 22 Ok Reg 1561, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-342. Qualifications for "Juvenile Rehabilitation" exemption

(a) **Qualification for the Juvenile Rehabilitation exemption.** Sales tax does not apply to the sale of goods or services to organizations which take court-adjudicated

juveniles for purposes of rehabilitation and which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3). However, at least fifty percent (50%) of the juveniles served by the organization must be court-adjudicated and the organization must receive state funds in an amount which is less than ten percent (10%) of the annual budget of the organization.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A copy of the last audit, income tax informational return, or other financial statements which will show that for the last fiscal year end before application, less than 10% of the budget of the organization was from state funds;

(3) A statement signed by a responsible officer of the organization that sets out the percentage of juveniles served which were court-adjudicated during the last fiscal year, giving the total number served, and the total number of those that were court-adjudicated;

(4) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization which states the services provided by the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of goods or services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for "Juvenile Rehabilitation" organizations may **not** purchase the tangible personal property or services used to perform the contract exempt from sales tax under the exemption provided by statute to "Juvenile Rehabilitation" organizations.

[Source: Renumbered from 710:65-13-42 at 22 Ok Reg 1561, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-343. Exemption for qualified youth athletic teams

(a) **General provisions.** Sales tax does not apply to the first \$15,000.00 of each year's sales, to or by, youth athletic teams, made for the purpose of raising funds for the benefit of the team. In order to qualify for exemption the youth athletic team must be a part of an athletic organization exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(4).

(b) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave., Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov, along with the following information:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(4); and,

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only the first \$15,000 of either sales or purchases of the organization are exempt. The organization must keep accurate records to enable it to properly document the exemption on its purchases and to know when it is required to charge sales tax on its sales. If sales tax is collected by the organization on sales which could have been exempt under the provisions of this Section, the sales tax must be remitted to the Oklahoma Tax Commission. Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations exempt from sales tax.

[Source: Added at 22 Ok Reg 1561, eff 6-11-05; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-344. Exemption for tax exempt, nonprofit organizations, which provide services during the day to homeless persons

(a) **Qualification for tax-exempt, nonprofit organizations which provide services during the day to homeless person exemption.** Sales of tangible personal property to a nonprofit organization exempt from income taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. Section 501(c)(3), which is organized primarily for the purpose of providing services to homeless persons during the day and located in a metropolitan area with a population in excess of five hundred thousand (500,000) persons according to the latest Federal Decennial Census are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3); and

(2) Documentation showing that the organization was established to provide services to homeless persons during the day and is located in a metropolitan area with a population in excess of five hundred thousand (500,000) persons according to the latest Federal Decennial Census. Also, a written description of the services of the organization, as may be evidenced by copies of:

(A) Articles of incorporation;

- (B) By-laws;
- (C) Brochure; or
- (D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-345. Exemption for tax exempt organizations, which provide funding for the preservation of wetlands or habitats for wild ducks or preservation and conservation of wild turkeys

(a) **Qualifications for exemption.** Sales of tangible personal property or services are exempt from sales tax when made to or by an organization exempt from income taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. Section 501(c)(3), for events the principal purpose of which is to provide funding for the preservation of wetlands and habitats for wild ducks or preservation and conservation of wild turkeys.

(b) **Exemption limited to eligible, properly-documented transactions.** Only those purchases or sales which are made for an event, the principal purpose of which is to provide funding for the preservation of wetlands and habitats for wild ducks and/or the preservation and conservation of wild turkeys will qualify for the exemption described in this Section.

(c) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov, along with the following information:

- (1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,
- (2) A written description stating the activities of the organization, as evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; or,
 - (D) Notarized letter from the President or Chairman of the organization.

(d) **Purchases by contractors.** Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations enumerated in 68 O.S. §1356(55) & (56) exempt from sales tax.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-346. Exemption for tax exempt organizations which are a part of a network of community-based, autonomous member organizations providing job training and employment services

(a) **Qualifications for exemption.** Sales of tangible personal property or services are exempt from sales tax when made to an organization, exempt from income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, which is a part of a network of community-based, autonomous member organizations provided that the organization meets the following criteria;

- (1) Serves people with workplace disadvantages and disabilities by providing job training and employment services, as well as job placement opportunities and post-employment support,
- (2) Has locations in the United States and at least twenty other countries,
- (3) Collects donated clothing and household goods to sell in retail stores and provides contract labor services to business and government, and
- (4) Provides documentation to the Oklahoma Tax Commission that over seventy-five percent (75%) of its revenues are channeled into employment, job training and placement programs and other critical community services.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3);
- (2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; or
 - (D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-347. Exemption for specialized facilities, which provide services for physically and mentally handicapped persons

(a) **Qualification for specialized facilities, which provide services for physically and mentally handicapped persons.** Sales of tangible personal property and services are exempt from sales tax when made to an organization exempt from income taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which assists, trains, educates, and provides housing for physically and mentally handicapped persons provided that the organization receives at least eighty-five percent (85%) of its annual budget from state or federal funds.

(b) **Application process.**

(1) **Application.** All "specialized facilities" shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, the following information:

(A) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3);

(B) A written description stating the activities of the organization, as evidenced by copies of:

(i) Articles of incorporation;

(ii) By-laws;

(iii) Brochure; or

(iv) Notarized letter from the President or Chairman of the organization; AND

(C) Copy of the organization's annual budget representing that eighty-five percent (85%) of its budget is from state or federal funds.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. The applicant will be notified of any action taken regarding the Application by the Commission.

(c) **Exemption limited to eligible, properly documented transactions.** The exemption will be administered as a refund to the qualified organization. To receive the benefit of the exemption, the qualified organization must pay the applicable sales tax at the time of purchase to the vendor. Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the refund described in this Section.

(d) **Refund procedure.** To obtain a refund under this Section, the qualified organization must file within one (1) year after the date of the sales transaction, a claim for a refund on forms provided by the Commission, along with invoices, and all receipts indicating the amount of state and local sales tax paid on sales exempt from tax under this section. Refund claims will be processed in the order of claims received by the Oklahoma Tax Commission. The sales tax qualifying for the exemption is limited to One Hundred Seventy-five Thousand Dollars (\$175,000.00) each fiscal year and timely filed claims that exceed that total amount of refunds payable will be barred.

(e) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A

contractor who performs improvements to real property for qualified organizations may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by this Section.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06]

710:65-13-348. Limited exemption for qualified neighborhood watch organizations

(a) **Qualification for exemption.** Effective July 1, 2005, the first \$2,000 of each calendar year's sales of tangible personal property or services, to, by, or for the benefit of a qualified neighborhood watch organization that is endorsed or supported by or working directly with a law enforcement agency with jurisdiction in the area in which the neighborhood watch organization is located are exempt from sales tax. For purposes of this exemption "**qualified neighborhood watch organization**" means an organization that is a not-for-profit corporation under the laws of the State of Oklahoma that was created to help prevent criminal activity in an area through community involvement and interaction with local law enforcement and which is one of the first two thousand organizations which makes application to the Oklahoma Tax Commission for the exemption after the effective date of the act.

(b) **Application process.** Only the first two thousand applications received by the Oklahoma Tax Commission are eligible for exemption. Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Documentation showing that the organization is a not-for profit corporation under the laws of Oklahoma established to help prevent criminal activity in a specific area through community involvement and interaction with local law enforcement, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;

(B) By-laws;

(C) Other documents that show the intent of the incorporators at the time of incorporation.

(2) Documentation showing that the organization is either endorsed, supported by or working directly with a law enforcement agency that has jurisdiction in the area where the neighborhood watch is located. Documentation may consist of membership lists, notices or minutes of meetings or letters from the applicable law enforcement agencies concerning their support, endorsement or involvement with the organization.

(3) A description of the boundaries of the area in which the neighborhood watch organization is located.

(4) The name and address of the person representing the organization to whom the exemption card will be mailed and who will be responsible for keeping track of the sales made to, by, or for the benefit of the organization so that the annual limit of \$2,000 will not be exceeded by the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only the first \$2,000 of either sales to, by or on behalf of the organization are exempt. The organization must keep accurate records to enable it to properly document the exemption. The exemption documentation that vendors are required to obtain on

purchases to, or for the benefit of the organization is set out in 710:65-7-17.

(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

(e) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, an exemption card will be sent to the applicant.

(f) **Denial of exemption; cancellation, suspension, revocation of exemption card.** The exemption may be denied, and the exemption card cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-349. Exemption for sale of food boxes

Sales of boxes of food by a church or by an organization, which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) are exempt from sales tax, provided the boxes only contain edible staple food items. To qualify under the provisions of this Section, the organization must be organized for the primary purpose of feeding needy individuals or to encourage volunteer service by requiring such service in order to purchase food.

[Source: Added at 24 Ok Reg 2397, eff 6-25-07]

710:65-13-350. Exemption for Daughters of the American Revolution

(a) **General provisions.** Sales of tangible personal property or services to or by the Daughters of the American Revolution are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Written confirmation that the applicant is currently recognized as an Oklahoma chapter of the Daughters of the American Revolution; and
- (2) A written description stating the activities of the organization, as evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; or
 - (D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-351. Exemption for Veterans of Foreign Wars, Department of Oklahoma, Inc. and subordinate posts

(a) **General provisions.** Sales of tangible personal property or services to or by the Veterans of Foreign Wars, Department of Oklahoma, Inc. and its subordinate posts are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U. S. C. § 501(c)(19);
- (2) Written confirmation that the applicant is currently recognized as a post of the Veterans of Foreign Wars, Department of Oklahoma, Inc.; and
- (3) A written description stating the activities of the organization, as evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; or
 - (D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-352. Exemption for YWCA or YMCA organizations

(a) **General provisions.** Sales of tangible personal property or services to or by YWCA or YMCA organizations are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 2501 N. Lincoln

Blvd., Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Written confirmation that the applicant is currently recognized as part of a national nonprofit community service organization meeting the health and social service needs of its members; and
- (2) A written description stating the activities of the organization, as evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; or
 - (D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-353. Exemption for organizations primarily engaged in providing educational services and programs concerning health-related diseases and conditions

(a) **Qualification for organizations primarily engaged in providing educational services and programs concerning health-related diseases and conditions exemption.** Sales of tangible personal property or services to an organization primarily engaged in providing educational services and programs concerning health-related diseases and conditions to individuals suffering from such health-related diseases and conditions, their caregivers and family members, or in health-related research of such diseases and conditions, or both, are exempt from sales tax. However, in order to qualify, such organization must itself be a member of a tax-exempt organization that is primarily engaged in advancing the purposes of its member organizations through fundraising, public awareness or other efforts for the benefit of its member organizations.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U. S. C. § 501(c)(3);
- (2) Proof of membership in a tax-exempt organization primarily engaged in advancing the purposes of its member organization, including a description

of the activities of the membership organization; and

(3) Documentation showing that the organization is primarily engaged either in providing educational services, programs or support concerning health-related diseases and conditions to individuals suffering from such diseases or their caregivers and family members and or health-related research of such diseases or conditions, along with a written description of the activities of the organization, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-354. Exemption for organizations whose purpose is to provide training and education to developmentally disabled persons

(a) **Qualification for organizations whose purpose is to provide training and education to developmentally disabled persons.** Sales to or by qualifying organizations of tangible personal property and services to be used exclusively for charitable or educational purposes are exempt from sales tax. To qualify an organization must be exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code; must have filed a Not-for-Profit Certificate of Incorporation in Oklahoma, and must be organized for the purpose of providing training and education to developmentally disabled individuals; educating the community about the rights, abilities and strengths of developmentally disabled individuals; and promoting unity among developmentally disabled individuals in their community and geographic area.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission,, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U. S. C. § 501(c)(3);

(2) Proof of Not-for-Profit Certificate of Incorporation in Oklahoma; and

(3) Documentation showing that the organization is organized for the purpose of providing training and education to developmentally disabled individuals, educating the community about the rights, abilities and

strengths of developmentally disabled individuals and promoting unity among developmentally disabled individuals in their community and geographic area, along with a written description of the activities of the organization, as may be evidenced by copies of one or more of the following:

- (A) Articles of incorporation;
- (B) By-laws;
- (C) Brochure; or
- (D) Notarized letter from the President or Chairman of the organization which states the services provided by the organization.

(c) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations exempt from sales tax.

[Source: Added at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-355. Exemption for shelters for abused, neglected, or abandoned children from birth to age eighteen

(a) **Qualification for shelters for abused, neglected, or abandoned children from birth to age eighteen.** Sales of tangible personal property and services to an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, which is a shelter for abused, neglected, or abandoned children from birth to age eighteen.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U. S. C. § 501(c)(3); and
- (2) Documentation showing that the organization is a shelter for abused, neglected, or abandoned children from birth to age eighteen.
- (3) A written description of the activities of the organization, as may be evidenced by copies of one or more of the following:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure;
 - (D) Intake documents or other forms used to obtain information from clients which specifically reflect age of children and reason for being sheltered; or
 - (E) Notarized letter from the President or Chairman of the organization which states the services provided by the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only sales of goods or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform

contracts with qualifying organizations exempt from sales tax.

[Source: Added at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-356. Exemption for Blue Star Mothers of America, Inc.

(a) **Qualification for Blue Star Mothers of America, Inc.** Sales of tangible personal property made to tax exempt 501(c)(19) service organizations of mothers who have children serving or have served in the military known as the Blue Star Mothers of America, Inc. are exempt from state sales tax. The exemption shall only apply to purchases of tangible personal property actually sent to United States Military personnel overseas who are serving in a combat zone.

(b) **Administration.** Pursuant to statute, the exemption for sales to "Blue Star Mothers of America, Inc." will be administered as a refund of state sales taxes which were paid by "Blue Star Mothers of America, Inc." to vendors. State sales tax shall only be refundable on purchases of tangible personal property actually sent to United States Military personnel overseas who are serving in a combat zone.

(c) **Refund procedure.** Before making its first refund claim or simultaneous thereto the claimant organization must provide to the Business Tax Services Division the following information:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(19);

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(d) **Application process.** To claim a refund under this Section, the qualified organization may, within sixty (60) days after the end of each calendar quarter, submit a completed and signed Form 13-9A, *Application for Refund of State Sales Tax*, along with invoices and all receipts indicating the amount of state sales tax paid on qualifying purchases during such preceding calendar quarter. Form 13-9A may be obtained online at www.tax.ok.gov.

[Source: Added at 25 Ok Reg 2070, eff 7-1-08; Amended at 34 Ok Reg 2089, eff 9-11-17; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-357. Organizations providing funding for scholarships in the medical field

(a) **Qualification for exemption.** Sales tax does not apply to the sale of food and snacks items to or by organizations exempt from taxation pursuant to Internal Revenue Code, 26 U.S.C., Section 501(c)(3) who primary and principal purpose is providing funding for scholarships in the medical field.

(b) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 2501 N. Lincoln Blvd., Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov, along with the following information:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,

(2) A written description stating the activities of the organization, as evidenced by copies of:

- (A) Articles of incorporation;
- (B) By-laws;
- (C) Brochure; or,
- (D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of food or snack items, purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations enumerated in 68 O.S. §1356(71) exempt from sales tax.

[Source: Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-358. Exemption for sale of event tickets by organizations supporting general hospitals

Sales of tickets for admission to events held by organizations exempt from taxation pursuant to the Internal Revenue Code, 26 U.S.C. 501(c)(3) that are organized for the purpose of supporting general hospitals licensed by the State Department of Health are exempt from sales tax. [68 O.S. § 1356(73)]

[Source: Added at 26 Ok Reg 2354, eff 6-25-09]

710:65-13-359. Nonprofit foundations supporting NRA and other like organizations

(a) **Qualifications for exemption.** Sales of property to a nonprofit foundation which raises tax deductible contributions in support of a wide range of firearms related public interest activities of the National Rifle Association of America and other organizations that defend and foster the Second Amendment are exempt from sales tax.

(b) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov, along with the following information:

- (1) A letter from the Internal Revenue Service (IRS) recognizing the foundation or organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and
- (2) A written description of the qualifying activities of the foundation or organization, as may be evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; and
 - (D) Notarized letter from the President or Chairman of the foundation or organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only property purchased by the foundation/organization, invoiced to the foundation/organization, and paid for by funds or check directly from the

foundation/organization will qualify for the exemption described in this Section.

(d) Purchases by contractors. Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying foundations/organizations enumerated in 68 O.S. §1356(74)(a) exempt from sales tax.

[Source: Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-360. Grassroots fundraising programs supporting the NRA

(a) Qualification for exemption. Sales of property to or by grassroots fund raising programs related to events to raise funds for nonprofit foundations which raise tax deductible contributions in support of firearms related public interest activities of the National Rifle Association are exempt from sales tax.

(b) Exemption limited to eligible, properly documented transactions. Only those purchases or sales which are made in relation to events to raise funds for nonprofit foundations which raise tax deductible contributions in support of firearms related public interest activities of the National Rifle Association will qualify for the exemption described in this Section.

(c) Application process. Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov, along with a written description stating the activities of the organization, as evidenced by copies of:

- (1) Articles of incorporation;
- (2) By-laws;
- (3) Brochure; or,
- (4) Notarized letter from the President or Chairman of the organization.

[Source: Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-361. [RESERVED]

[Source: Reserved at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-362. Exemption for Boys & Girls Clubs of America affiliates

(a) General provisions. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in Oklahoma which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the Internal Revenue Code, 26 U.S.C. § 501(c)(3) are exempt from sales tax.

(b) Application process. Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Letter from the Internal Revenue Service recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and
- (2) Documentation verifying that the applicant club is not affiliated with the Salvation Army.

[Source: Added at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-363. Exemption for the National Guard Association of Oklahoma

(a) **General provisions.** Effective July 1, 2018, sales of tangible personal property or services to or by an association which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(19) and which is known as the National Guard Association of Oklahoma are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(19); and
- (2) Written confirmation that the applicant is currently recognized as the National Guard Association of Oklahoma.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 35 Ok Reg 2102, eff 9-14-18; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-364. Exemption for the Marine Corps League of Oklahoma

(a) **General provisions.** Effective July 1, 2018, sales of tangible personal property or services to or by an association which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(4) and which is known as the Marine Corps League of Oklahoma are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(4); and
- (2) Written confirmation that the applicant is currently recognized as the Marine Corps League of Oklahoma.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which

qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 35 Ok Reg 2102, eff 9-14-18; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-365. Exemption for tax exempt organizations who operate as a collaborative model which connects community agencies to serve individuals and families affected by violence

(a) **Qualifications for exemption.** Effective November 1, 2017, sales of tangible personal property or services are exempt from sales tax when made to an organization exempt from income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that operates as a collaborative model which connects community agencies in one location to serve individuals and families affected by violence and where victims have access to services and advocacy at no cost to the victim. For the purposes of this paragraph, "**at no cost to the recipient**" means at no cost to either the recipient or any unit of government, or any insurance company, or any other person or entity. Organizations which provide services on a "sliding scale" fee schedule do **not** qualify for the exemption.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3);
- (2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:
 - (A) Articles of incorporation;
 - (B) By-laws;
 - (C) Brochure; or
 - (D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 35 Ok Reg 2102, eff 9-14-18; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-366. Exemption for tax exempt organization who is an official member of the Fab Lab Network

(a) **Qualifications for exemption.** Effective November, 1, 2019, sales of tangible personal property or services are exempt from sales tax when made to, or by, an organization which is exempt from taxation pursuant to 26 U.S.C., Section 501(c) (3), who is an official member of the Fab Lab Network in compliance with the Fab Charter as verified by a letter from the MIT Fab Foundation and whose primary and principal purpose is to provide community access to advanced 21st century manufacturing and digital fabrication tools for science, technology, engineering, art and math ("STEAM") learning skills, developing inventions, creating and sustaining businesses and producing personalized products.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3).

(2) A written description stating the activities of the organization which shows the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure;

(D) Letter from the MIT Fab Foundation verifying the organization is an official member of the Fab Lab Network and in compliance with the Fab Charter.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 37 Ok Reg 2234, eff 9-11-20; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-367. Exemption for the American Legion

(a) **Qualifications for exemption.** Sales of tangible personal property or services are exempt from sales tax when made to the American Legion, whether the purchase is made by the entity chartered by the United States Congress or is an entity organized under the laws of this or another state pursuant to the authority of the national American Legion organization.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

- (1) Documentation that the applicant is the entity chartered as the American Legion by the U.S. Congress;
- (2) Proof the applicant is organized under the laws of Oklahoma or another state pursuant to the authority of the national American Legion organization;
- (3) Written confirmation the applicant is currently recognized as an organization of the American Legion.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[Source: Added at 37 Ok Reg 2234, eff 9-11-20; Amended at 38 Ok Reg 1538, eff 9-1-21]

PART 45. MODULAR DWELLING UNITS

710:65-13-450. Partial exemption for modular dwelling units

Forty-five percent of the total sales price for the sale of a modular dwelling unit is exempt from sales tax when the modular dwelling unit is built at a production facility and moved in whole or in parts, to be assembled on site, and permanently affixed to the real property and used for residential or commercial purposes. For purposes of this exemption a "modular dwelling unit" means a structure that is not subject to the motor vehicle excise tax imposed pursuant to Section 2103 of Title 68.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06]

PART 47. [RESERVED]

PART 49. [RESERVED]

PART 51. SALES TAX HOLIDAY

710:65-13-510. [RESERVED]

[Source: Reserved at 24 Ok Reg 2914, eff 7-24-07 (emergency); Reserved at 25 Ok Reg 2070, eff 7-1-08]

710:65-13-511. Exemption for sales of clothing and footwear during three-day period in August

(a) **General provisions.** Beginning at 12:01 a.m. on the first Friday in August and ending at twelve midnight on the following Sunday, sales of any item of clothing or footwear with a sales price of less than one hundred dollars (\$100) per article will be exempt from sales and use tax.

(b) **Exemption applicability.** This exemption does not apply to the sale of any accessories or to the sale of any special clothing or footwear primarily designed for athletic activity or protective use or to the rental of clothing or footwear.

(c) **Definitions.** For purposes of this section:

(1) "Accessories" means any item, other than clothing or footwear that is carried on or about the human body, without regard to whether the item is worn on the body in a manner that is characteristic of clothing or footwear. Such items include jewelry, nonprescription eyewear, handbags, wigs, hair pieces, wallets, purses, umbrellas, watches, cosmetics, briefcases, luggage, barrettes, cuff links, hair bows, hair clips, hair nets, handkerchiefs, and other similar type items.

(2) "Clothing" means all human wearing apparel suitable for general use.

(A) A nonexclusive list of clothing is as follows:

- (i) Aprons, household and shop;
- (ii) Athletic supporters;
- (iii) Baby receiving blankets;
- (iv) Bathing suits and caps;
- (v) Beach capes and coats;
- (vi) Belts and suspenders;
- (vii) Boots;
- (viii) Coats and jackets;
- (ix) Costumes;
- (x) Diapers, children and adult, including disposable diapers;
- (xi) Ear muffs;
- (xii) Footlets;
- (xiii) Formal wear;
- (xiv) Garters and garter belts;
- (xv) Girdles;
- (xvi) Gloves and mittens for general use;
- (xvii) Hats and caps;
- (xviii) Hosiery;
- (xix) Insoles for shoes;
- (xx) Lab coats;
- (xxi) Neckties;
- (xxii) Overshoes;
- (xxiii) Pantyhose;
- (xxiv) Rainwear;
- (xxv) Rubber pants;
- (xxvi) Sandals;
- (xxvii) Scarves;
- (xxviii) Shoes and shoe laces;
- (xxix) Slippers;
- (xxx) Sneakers;
- (xxxi) Socks and stockings;
- (xxxii) Steel toed shoes;
- (xxxiii) Underwear;
- (xxxiv) Uniforms, athletic and non-athletic; and
- (xxxv) Wedding apparel.

(B) "Clothing" shall not include:

- (i) Belt buckles sold separately;
- (ii) Costume masks sold separately;
- (iii) Patches and emblems sold separately;
- (iv) Sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing

machines, sewing needles, tape measures, and thimbles; and
(v) Sewing materials that become part of "clothing"
including, but not limited to, buttons, fabric, lace, thread,
yarn, and zippers.

(3) "Eligible item" means tangible personal property that is exempt from tax under this Section that is purchased during the three day period in August and includes certain clothing and footwear with a sales price of less than \$100.00 per article of clothing or pair of footwear.

(4) "Footwear" means any shoe, boot or other similar article that is designed to be worn on a foot.

(5) "Layaway sale" means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller, when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser.

(6) "Rain check" means the seller allows a customer to purchase an item at a certain price at a later time because the particular item was out of stock.

(7) "Special clothing or footwear primarily designed for protective use that is not normally worn except when used for the protective use for which it is designed" or "protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. This type of clothing and footwear includes, but is not limited to, breathing masks; clean room apparel and equipment; ear and hearing protectors; face shields; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welder's gloves and masks.

(8) "Special clothing or footwear that is primarily designed for athletic activity that is not normally worn except when used for the athletic activity for which it is designed" or "sport or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. This type of clothing and footwear includes, but is not limited to, ballet and tap shoes; cleated or spiked athletic shoes; gloves for athletic or recreational activity such as baseball, bowling, boxing, football, hockey, golf and other sports gloves; goggles; elbow, hand, knee and shin guards or pads; life preservers and vests; mouth guards; roller and ice skates; shoulder pads; fishing and ski boots; and wetsuits and fins.

(d) **Exemption applications.** The application of the exemption to the sale of clothing or footwear during the exemption period is illustrated by the following examples:

(1) A customer purchases three shirts for \$45.00 per shirt. All three items qualify for the exemption, even though the customer's total purchase price (\$135.00) exceeds \$99.99.

(2) A customer purchases a pair of shoes for \$110.00. The purchase does not qualify for the exemption because the customer's purchase price exceeds \$99.99.

(3) A customer purchases a tie for \$50.00, a shirt for \$55.00 and a suit for \$300.00. The purchase of the tie and shirt qualify for the exemption, but the suit does not qualify.

- (4) A customer purchases a sport's team jersey for \$35.00. The purchase would qualify for the exemption.
- (5) A customer purchases a football uniform for \$75.00 and football cleats for \$50.00. The purchase of the football uniform would qualify for the exemption, but the football cleats do not qualify.
- (6) A customer purchases a gold pin for \$99.00. The purchase would not qualify for the exemption because the item is an accessory.

(e) Application of rules to exemption.

(1) **Articles normally sold as a unit.** Articles that are normally sold as a unit may not be priced separately and sold as individual items in order to be exempt. The following examples illustrate the application of the rule to the exemption:

(A) A pair of shoes sells for \$198.00. The pair of shoes cannot be split in order to sell each shoe for \$99.00 to qualify for the exemption.

(B) A suit is normally priced at \$300.00. The suit cannot be split into a coat and slacks so that one of the articles may be sold for less than \$100.00 to qualify for the exemption. However, articles that are normally sold as separate articles, such as a sport coat and slacks, may continue to be sold as separate articles and qualify for the exemption.

(C) A packaged gift set consisting of a wallet (ineligible item) and tie (eligible item) would not qualify for the exemption.

(2) **"Buy One, Get One Free" and other similar offers.** If a seller offers "buy one, get one free" or "two for the price of one" on eligible items, the purchase shall qualify for the exemption when all other conditions of the exemption are met. However, if a seller offers a "buy one, get one for a reduced price" the two prices cannot be averaged to qualify both items for the exemption. The following examples illustrate the application of the rule to the exemption:

(A) A seller offers "buy one, get one free" on a pair of shoes. The first pair of shoes has a sale price of \$99.00 and the second pair is free. Both pairs of shoes will qualify for the exemption because the first pair of shoes does not exceed the less than \$100.00 exemption limitation.

(B) A coat is purchased for \$120.00 and a second coat is purchased for half price (\$60.00) at the time the first coat is purchased. The second coat will qualify for the exemption, but the tax will be due on the first coat. In this example, the sales price of the items may not be averaged in order to qualify for the exemption.

(3) **Discounts, coupons, and rebates.** The application of the exemption to discounts, coupons and rebates extended on an eligible item during the exemption period is illustrated by the following examples:

(A) Discounts offered by the retailers at the time of sale and which are taken by the customer at the time of sale affect the sales price of the purchased item. For example, if a seller sells a pair of jeans with a sales price of \$110.00 and offers to discount the item 10 percent at the time of sale, the exemption would apply because the actual sales price of the jeans is \$99.00.

(B) Coupons offered by the seller or vendor and used at the time of sale to reduce the sales price of an eligible item affect the sales

price of the purchased item. For example, if a seller offers a reduction in sales price of \$10.00 through a store coupon for an item of clothing with a sales price of \$100.00, the exemption would apply to the purchase because the seller's actual sales price to the customer is \$90.00.

(C) Coupons offered by a manufacturer that are used to pay for an eligible item do not affect the sales price of the purchased item. For example, if a customer gives to a seller a manufacturer's coupon for \$20.00 for a pair of tennis shoes with a sales price of \$100.00, the exemption would not apply.

(D) Rebates generally occur after the sale, thus the amount of the rebate does not affect the sales price of the purchased item. For example, if a pair of jeans was purchased for \$100.00 with a manufacturer's rebate for \$10.00, the exemption would not apply because the sales price is in excess of \$99.99.

(4) **Exchanges.** The application of the exemption to an exchange of an eligible item purchased during the exemption period is illustrated by the following examples:

(A) A customer purchases an eligible item during the exemption period, but later exchanges the item for a different size, color, or other feature. No additional tax is due even though the exchange is made after the exemption period.

(B) A customer purchases an eligible item during the exemption period. After the exemption period has ended, the customer returns the item and receives credit on the purchase of a different item. Sales tax is due on the total sales price of the newly purchased item.

(C) A customer purchases an eligible item before the exemption period, but during the exemption period the customer returns the item and receives credit on the purchase of a different eligible item, no sales tax is due on the sale of the new item if the new item is purchased during the exemption period.

(5) **Gift certificates and gift cards.** Eligible items purchased during the exemption period using a gift certificate or gift card will qualify for the exemption, regardless of when the gift certificate or gift card was purchased. Eligible items purchased after the exemption period using a gift certificate or gift card are taxable even if the gift certificate or gift card was purchased during the exemption period. A gift certificate or gift card cannot be used to reduce the selling price of an eligible item in order for the item to qualify for the exemption.

(6) **Layaways.** For the purposes of this exemption, an eligible item will qualify for the exemption when final payment on the layaway is made by, and the item is given to the customer during the exemption period. The application of the exemption to a layaway of an eligible item purchased during the exemption period is illustrated by the following examples:

(A) A dress with a sales price of \$75.00 is placed in layaway during the exemption period. The customer picks up the dress and makes final payment after the exemption period. The exemption does not apply.

(B) A coat with a sales price of \$95.00 is placed in layaway before the exemption period. The customer makes the final payment and picks up the coat out of layaway on August 3, 2007. The exemption

would apply because the coat was paid for and picked up during the exemption period.

(7) **Mail, telephone, e-mail, and internet sales.** The sale of an eligible item of clothing or footwear may qualify for the exemption when sold through the mail, telephone, e-mail or internet sales if:

(A) The item is both paid for and delivered to the customer during the exemption period; or

(B) The customer orders and pays for the item and the seller accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period. An order is considered for immediate shipment when the customer does not request delayed shipment. The seller must accept an order during the exemption period even if delivery is not made during the exemption period. Actions to fill an order include placement of an "in date" stamp on a mail order or assignment of an "order number" to a telephone order. If the seller delays shipment of an order because of a backlog, or because stock is currently unavailable, the order is still for immediate shipment.

(8) **Out of stock sales.** A purchase where a customer orders and pays for the eligible item and the seller accepts the order during the exemption period will be eligible for the exemption, even if delivery is made after the exemption period.

(9) **Rain checks.** Eligible items purchased during the exemption period with the use of a previously issued rain check will qualify for the exemption. However, a rain check that is issued during the exemption period will not qualify an eligible item for the exemption if purchased after the exemption period.

(10) **Preorder sales.** The preorder of an eligible item of clothing or footwear may qualify for the exemption if the payment occurs during the exemption period.

(f) **Records.** The retailer is not required to obtain an exemption certificate on sales of eligible items during the exemption period. However, the retailer's records should clearly identify the type of item sold, the date on which the item was sold, the sales price of all items and, if applicable, any tax charged.

(g) **Refunds, receipts.** For the period of sixty (60) calendar days following the last day of the exemption period, when a customer returns an item that would qualify for the exemption, no refund of tax shall be given unless the customer provides a receipt or invoice showing tax was paid, or the retailer has sufficient documentation to show that tax was paid on the specific eligible item.

(h) **Time zones.** The time zone of the seller's location determines the authorized time period for a sales tax holiday when the purchaser is located in one time zone and the seller is located in another.

[Source: Added at 24 Ok Reg 2914, eff 7-24-07 (emergency); Added at 25 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-13-512. Reimbursement to municipality or county

For the fiscal years beginning on or after July 1, 2007, an amount of revenue shall be apportioned to each municipality or county which levies a sales tax subject to the provisions of 68 O.S. §§1357.10 and 2701(F) equal to the amount of sales tax revenue of such municipality or county exempted by the provisions of 68 O.S. §§1357.10 and 2701(F) based upon an estimate, by the Oklahoma Tax

Commission, of the aggregate cost of the exemption for the municipalities or counties. The sales tax revenue shall be apportioned to the municipalities and counties in the proportions which total municipal and county sales tax revenue was apportioned by the Tax Commission for sales in the month of August for the preceding calendar year. Each municipality's and county's sales tax revenue collected for sales made in August of the preceding calendar year shall be divided by the total municipal and county sales tax revenue collected for sales made in August of the preceding calendar year. The resulting ratio shall determine the apportionment percentage for each municipality and county for August of the current fiscal year. The apportionment percentage shall be multiplied by the Tax Commission's estimated aggregate cost of the exemption to determine the amount of sales tax revenue each municipality or county is entitled to receive under 68 O.S. §1353(B).

[Source: Added at 24 Ok Reg 2914, eff 7-24-07 (emergency); Added at 25 Ok Reg 2070, eff 7-1-08]

PART 53. [RESERVED] **PART 55. TRUST AUTHORITIES**

710:65-13-550. Trust authority transactions

- (a) Trust authorities organized pursuant to 60 O.S. § 176 et seq. may purchase material exempt from sales tax, but may not appoint an agent to do so. In order for the transaction to be exempt from sales tax, the purchase must be invoiced to and paid for by the authority, using authority funds or revenue received from bonds let by the authority.
- (b) Purchases made with flow-thru funds are taxable. Flow-thru funds are defined as monies deposited in a trust authority account, by private industry, with the authority to dispense the funds under the trust's own name. [See: 68 O.S. § 1356]
- (c) The amount of proceeds received from the sale of admission tickets which is separately- stated on the ticket of admission, for the repayment of money borrowed by any public trust of which a county in this state is the beneficiary, for purposes set out in 68 O.S. § 1356(8), is not taxable.
- (d) The amount of any surcharge, separately stated on an admission ticket, which is imposed, collected, and used for the sole purpose of constructing, remodeling, or enlarging facilities of a public trust having a municipality or county as its sole beneficiary is exempt from sales tax.
- (e) Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with the enabling document for the Trust or Authority showing organization under 60 O.S. § 176 et. seq.

[Source: Amended and renumbered from 710:65-13-140 at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 38 Ok Reg 1538, eff 9-1-21]

PART 65. WEB PORTALS

710:65-13-650. Exemption for sales of tangible personal property and services to a web search portal

- (a) **General provisions.** Exempted from sales tax are *sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a web search portal located in this state which derives at least eighty percent (80%) of its annual gross revenue from the sale of a product or service to an out-of-state buyer*

or consumer. For purposes of this paragraph, "web search portal" means an establishment classified under NAICS code 519130 which operates web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format.

(b) **Where to apply.** To qualify for the exemption, the entity operating the web search portal must apply in writing to Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, requesting an exemption letter.

(c) **Application.** Application for exemption may be made by filing a signed, sworn affidavit with the Commission, stating:

- (1) The name, address, and federal employer identification number of the applicant and the name and title of the person signing for the applicant;
- (2) A statement that the entity which owns the establishment derives at least eighty percent (80%) of its annual gross revenue from the sale of products or services to out-of-state buyers or consumers, a statement of the entity's annual gross revenues, and the percentage of the annual gross revenues derived from sales made to out-of-state buyers and consumers, determined for the most recently completed income tax year;
- (3) A statement that the applicant is primarily engaged in the activities appropriate to NAICS code 519130;
- (4) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and
- (5) Such additional information as the Commission may require to confirm eligibility.

(d) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying the exemption will be forwarded to the applicant.

(e) **Issuance, scope, limitations of certification letter.** The letter of certification issued by the Commission will become effective as of the date of the letter and will remain effective until revoked. The letter is valid only for property actually purchased by the qualifying entity, invoiced to that entity, and paid for by funds or check directly from the qualifying entity.

(f) **Purchases by contractors.** Purchases of taxable tangible personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor who performs improvements to real property for entities which are certified for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the certified entity.

(g) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance under the provisions of this Section and applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

[Source: Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 38 Ok Reg 1538, eff 9-1-21]

SUBCHAPTER 15. INTERSTATE COMMERCE

710:65-15-1. Sales related to interstate commerce

(a) **General provisions.** Oklahoma Sales Tax does not apply to a transaction which is not within the taxing power of this State under the Constitution of the United States, as interpreted from time to time by applicable court decisions.

(b) **Tangible personal property shipped from this state.**

(1) Except in the limited situation provided for by 710:65-13-152.1, if tangible personal property is sold within this State, and possession is taken by the buyer within this State, sales tax applies, even if the property is to be transported out of this State immediately upon delivery.

(2) If tangible personal property is sold within this State and possession is taken by the buyer outside this State, the tax does not apply if the property is not to be used in Oklahoma. Possession is taken by the buyer outside this State only if either of the following is met:

(A) The seller is obligated to personally deliver the tangible personal property outside this State; or

(B) The seller is, by terms of the sales contract, obligated to deliver the tangible personal property to a common carrier or to the mails for transportation outside this State.

(3) If tangible personal property is sold within this State and possession is taken by the buyer outside this State, sales tax applies if the property is to be brought back into this State for use in this State.

(c) **Tangible personal property shipped into this state.** In those cases in which tangible personal property is shipped into this State pursuant to a contract of sale, the sale will be considered to be made in this State, and subject to sales tax, if either of the following is met:

(1) The delivery of the tangible personal property is made by the seller to the buyer in this State. Delivery of tangible personal property will be considered as made in this State if either:

(A) Physical possession of the tangible personal property is transferred by the seller to the buyer in this State; or

(B) If delivery is made by an out-of-state vendor in the vendor's own vehicle, then the transaction is subject to sales tax. [See: 68 O.S. § 1402]

(2) The tangible personal property is installed in this State, by the seller or seller's agent.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 17 Ok Reg 2677, eff 6-25-00]

710:65-15-2. Exempt sales to ships, motor vessels, or barges being used in interstate or international commerce

Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce are specifically exempted from the levy of sales tax, if the materials and supplies:

(1) Are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge; or,

(2) Enter into and become component parts of the ship, motor vessel or barge.

[Source: Added at 19 Ok Reg 1859, eff 6-13-02]

710:65-15-3. Sales by solicitation [REVOKED]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Revoked at 35 Ok Reg 2102, eff 9-14-18]

SUBCHAPTER 17. CITY AND COUNTY SALES TAXES [REVOKED]

710:65-17-1. Administration of city and county sales taxes [REVOKED]

[Source: Amended at 9 Ok Reg 3033, eff 7-13-92; Amended at 19 Ok Reg 1859, eff 6-13-02; Revoked at 21 Ok Reg 2581, eff 6-25-04]

SUBCHAPTER 18. SOURCING PURSUANT TO THE STREAMLINED SALES AND USE TAX ADMINISTRATION ACT

710:65-18-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes under the Streamlined Sales and Use Tax Administration Act. [68 O.S.Supp.2003, §§ 1354.14 through 1354.23]

[Source: Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. **"Direct mail"** includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. **"Direct mail"** does not include multiple items of printed material delivered to a single address.

"Primary property location" means a location indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. **"Primary property location"** shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls. [68 O.S.Supp.2003, § 1354.27(B)]

"Receive" and "receipt" mean:

- (A) Taking possession of tangible personal property;
- (B) Making first use of services; or,
- (C) Taking possession or making first use of digital goods, whichever comes first.

"Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser. [68 O.S.Supp.2003, § 1354.27(E)]

"Sourced" means the location for which local sales and use taxes are to be applied.

"Transportation equipment" means and includes:

- (A) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(B) Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:

(i) Registered through the International Registration Plan; and,

(ii) Operated under authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(C) Aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or,

(D) Containers designed for use on and component parts attached or secured on the items set forth in this subsection. [68 O.S.Supp.2003, § 1354.27(D)]

[Source: Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-3. Sourcing of retail sales

For those sales that are not sales of mobile telecommunications services and are not the lease or rental of tangible personal property other than transportation equipment, the sales shall be sourced to the location for which city and county sales taxes will be charged in the following manner:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location;

(2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser, or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller. All sales by florists shall be sourced to its business location;

(3) When the provisions of paragraphs (1) and (2) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(4) When the provisions of paragraphs (1), (2), and (3) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and,

(5) When none of the previous rules of paragraphs (1), (2), (3) or (4) of this subsection apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold. [68 O.S.Supp.2003, § 1354.27(A)]

[Source: Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 28 Ok Reg 961, eff 6-1-11]

710:65-18-4. Sourcing for lease or rental of tangible personal property

(a) For a lease or rental of tangible personal property:

(1) Where the lease or rental requires recurring periodic payments:

(A) The first payment will be sourced as set out in 710:65-18-3.

(B) For those payments made after the first payment, the payment will be sourced to the "primary property location", as defined by 710:65-18-2, for each period covered by the payment. The periodic rental or lease payments shall be sourced to the primary property location even though the property may be used intermittently at different locations.

(2) Where the lease or rental does not require periodic payments, the payment is sourced in accordance with the provisions of 710:65-18-3.

(3) Where the lease or rental is based on a lump sum or accelerated basis, the payment is sourced in accordance with the provisions of 710:65-18-3.

(b) This Section does not apply to motor vehicles, trailers, semitrailers, aircraft and "transportation equipment" as defined in *OAC* 710:65-18-2.

[Source: Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-18-5. Sourcing of telecommunications and other related services

(a) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Air-to-ground radiotelephone service"** means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

(2) **"Call-by-call basis"** means any method of charging for telecommunications services where the price is measured by individual calls;

(3) **"Communications channel"** means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

(4) **"Customer"** means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. **"Customer"** does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;

(5) **"Customer channel termination point"** means the location where the customer either inputs or receives the communications;

(6) **"End user"** means the person who utilizes the telecommunications service. In the case of an entity, **"end user"** means the individual who utilizes the service on behalf of the entity. [68 O.S.Supp.2003, § 1354.30(A)(6)]

(6)]

(7) **"Home service provider"** means the same as that term is defined in Section 124(5) of Public Law 106-252, the *Mobile Telecommunications Sourcing Act*. [68 O.S.Supp.2003, § 1354.30(A)(7)]

(8) **"Mobile telecommunications service"** means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act;

(9) **"Place of primary use"** means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, **"place of primary use"** must be within the licensed service area of the home service provider;

(10) **"Post-paid calling service"** means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service that would be a prepaid calling service except it is not exclusively a telecommunications service;

(11) **"Prepaid calling service"** means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(12) **"Prepaid wireless calling services"** means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other nontelecommunication services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount. [68 O.S. Supp 2007 1354.30(A)(12)]

(13) **"Private communication service"** means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels; and

(14) **"Service address"** means:

(A) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in (A) of this paragraph is not known, **"service address"** means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and,

(C) If the locations in (A) and (B) of this paragraph are not known, **"service address"** means the location of the customer's place of primary use.

(b) Services sold on a call-by-call basis. *Except for those telecommunications services defined in (d) of this Section, sales of telecommunications which are sold on a "call-by-call" basis are sourced in accordance with the following:*

(1) When the call both originates and terminates in the same jurisdiction, the call is sourced to that jurisdiction.

(2) The jurisdiction in which the service address is located when the call either originates or terminates in that jurisdiction.

(c) Services sold on a basis other than on a call-by-call basis. *For those telecommunications services sold on a basis other than on a call-by-call basis, and except for those services defined in (d) of this Section, the sale is sourced to the customers place of primary use.*

(d) Other telecommunication services. *The sale of the following services shall be sourced as in the following manner:*

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the provisions of Section 55001 of Title 68 of the Oklahoma Statutes;

(2) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

(A) The seller's telecommunications system, or

(B) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;

(3) A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with 710:65-18-3. Provided, in the case of a sale of a prepaid wireless calling service, the provisions of paragraph (5) of 710:65-18-3 shall apply; and

(4) A sale of a private communication service is sourced as follows:

(A) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located,

(B) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located,

(C) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty (50) percent in each level of jurisdiction in which the customer channel termination points are located, and

(D) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points. [68 O.S.Supp.2003, § 1354.30]

(e) Ancillary services. *The sale of an ancillary service is sourced to the customer's place of primary use.*

710:65-18-6. Sourcing of sales involving direct mail

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Advertising and promotional direct mail**" means printed material that meets the definition of "**direct mail**," in *OAC 710:65-18-2*, the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used in this definition, the word "**product**" means tangible personal property, a product transferred electronically or a service.

(2) "**Other direct mail**" is defined as not "**advertising and promotional direct mail**" regardless of whether "**advertising and promotional direct mail**" is included in the same mailing. "**Other direct mail**" does not include the development of billing information or the provision of any data processing service that is more than incidental. The term includes, but is not limited to:

(A) Transactional direct mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, payroll advices;

(B) Any legally required mailings including, but not limited to, privacy notices, tax reports and stockholder reports; and

(C) Other non-promotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

(b) Notwithstanding the provisions of 710:65-18-3, *a purchaser of advertising and promotional direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either a Direct Mail Form or information to show the jurisdictions to which the advertising and promotional direct mail is delivered to recipients.* [68 O.S.Supp.2003, § 1354.29(A)]

(1) *Upon receipt of the Direct Mail Form, the seller is relieved of all obligations to collect, pay or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A Direct Mail Form shall remain in effect for all future sales of advertising and promotional direct mail by the seller to the purchaser until it is revoked in writing.* [68 O.S.Supp.2003, § 1354.29(A)]

(2) *Upon receipt of information from the purchaser showing the jurisdictions to which the advertising and promotional direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.* [68 O.S.Supp.2003, § 1354.29(A)]

(c) *If the purchaser of advertising and promotional direct mail does not have a direct pay permit and does not provide the seller with either a Direct Mail Form or delivery information, as required by subsection (b) of this Section, the seller shall collect the tax according to paragraph (5) of 710:65-18-3. Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state to which the advertising and promotional direct mail is delivered.* [68 O.S.Supp.2003, § 1354.29(B)]

(d) *If a purchaser of advertising and promotional direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a Direct Mail Form or delivery information to the seller.* [68 O.S.Supp.2003, § 1354.29(C)]

(e) The sale of "**other direct mail**" as defined herein is not taxable under the provisions of the Oklahoma Sales Tax Code.

[Source: Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 29 Ok Reg 563, eff 5-11-12]

710:65-18-7. [RESERVED]

[Source: Reserved at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-8. [RESERVED]

[Source: Reserved at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-9. Effective date for taxable services which span a rate change

The effective date for sales and use taxes for services spanning a statutory change in rates shall be:

- (1) *For a rate increase, the new rate shall apply to the first billing period starting on or after the statutory effective date; and*
- (2) *For a rate decrease, the new rate shall apply to bills rendered on or after the statutory effective date.* 68 O.S.Supp.2003, § 1354.25

[Source: Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-10. Effective dates of sales and use tax rate changes and of municipal boundary changes

(a) Changes in municipal or county sales or use tax rates shall become effective on the first day of the calendar quarter following the sixty (60) day notice to vendors of such rate change, as required by law, or in the case of purchases from printed catalogs, the notice provided shall be one hundred twenty (120) days.

(b) To facilitate giving sixty (60) day notice to vendors of the changes in municipal and county sales tax rates and changes in the boundaries of municipalities, and to ensure compliance with the statutory directive that such changes be effective on the first of a calendar quarter, the municipality or county must give the notice of any changes in accordance with the following schedule:

- (1) Where notice of a change in rate or boundary is received by the Tax Commission on January 1 through January 15, such rate or boundary change shall be effective for sales and use tax purposes on the following April 1.
- (2) Where notice of a change in rate or boundary is received by the Tax Commission on April 1 through April 15, such rate or boundary change shall be effective for sales and use tax purposes on the following July 1.
- (3) Where notice of a change in rate or boundary is received by the Tax Commission on July 1 through July 15, such rate or boundary change shall be effective for sales and use tax purposes on the following October 1.
- (4) Where notice of a change in rate or boundary is received by the Tax Commission on October 1 through October 15, such rate or boundary change shall be effective for sales and use tax purposes on January 1 of the following year.

(c) Failure to provide timely notice to the Commission of a rate or boundary change will delay the effective date of the rate or boundary change to the first day of the

calendar quarter following such notice being given to the Commission and to the public for the requisite sixty (60) days.

(d) Vendors will be notified of rate changes by posting the changes to the rate charts available on the Tax Commission website at: www.tax.ok.gov.

[Source: Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 36 Ok Reg 1235, eff 8-11-19]

SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES

PART 1. "A"

710:65-19-1. Accountants

(a) Accountants use books, supplies and equipment which are sales or use taxable to them at the time of purchase. Accountants also subscribe to and receive tax reporting services which are subject to tax. Books and other publications sold by tax service companies are also subject to the tax.

(b) Accountants and accounting firms must collect, report, and remit sales tax on gross receipts from sales of tangible personal property and services taxable under the Sales Tax Code, including photocopying and FAX.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-2. Advertising agencies

(a) Advertising agencies perform a service in formulating ideas and programs for advertising purposes. All materials purchased by an advertising agency including, but not limited to, drawing supplies, photographic supplies, and office supplies are consumed by the agency in performing the service and are subject to sales or use tax at the time of purchase. The subsequent transfer of materials to the agencies' clients are not subject to the tax.

(b) Advertising agencies which sell letterhead paper, business cards, etc. shall be subject to the rules pertaining to printers for said sales.

710:65-19-3. Vendors of tangible personal property employed for advertising

(a) The sale of blotters or calendars to a purchaser who gives such items to others as part of a general goodwill, sales promotion or advertising campaign, apart from his sale of other tangible personal property or service, is a taxable sale of the blotters or calendars to such purchaser.

(b) Likewise, the sale of tangible personal property to a purchaser who sends such tangible personal property to others upon receipt of a small sum "to cover postage and handling charges," apart from his sale of other tangible personal property or service, is a taxable sale of such property to such purchaser.

710:65-19-4. Alarm systems

(a) As used in this Section, the term "**monitored systems**" means burglar, security and fire alarm systems which are furnished, installed and monitored under contract with the person furnishing and installing such systems. Systems which are monitored by a person other than the person who furnished and installs such system, e.g., those which are connected directly to the police or fire department, are not "**monitored systems**" as the term is used in this Section.

(b) Charges, separately stated, exclusively for monitoring systems constitute charges for a service which are not subject to sales tax. The person selling/leasing and installing the monitored system is deemed to be selling tangible personal

property and must collect and remit the tax on such property at the time of sale.

(c) Persons engaged in the sale or lease and installation of burglar, security or fire alarm systems are engaged in making sales, the total charge for which is subject to sales tax. Separately stated installation charges are not subject to sales tax. Persons engaged in sales or leases must register as a vendor and collect and remit sales tax in respect to the sales or leases. All items used by the vendor in installing such a system, for example wiring which remains a part of the building, nails and similar items, are taxable to the vendor at the time of purchase.

(d) The sale of security and fire devices such as smoke detectors, and similar items which do not become attached to realty are sales of tangible personal property, the total charge for which is subject to sales tax. Persons engaged in the sale and installation of other types of security devices such as permanent window bars and similar items which become permanently affixed to realty are consumer/users with respect to such transactions and must pay the tax on all property installed.

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 21 Ok Reg 2581, eff 6-25-04]

710:65-19-5. Sales of alcoholic beverages

Persons selling alcoholic beverages to purchasers for use or consumption are required to remit sales tax to the Commission upon the total retail value from such sales, pursuant to *OAC 710:20-5-4*, notwithstanding the fact that manufacturers and importing distributors of alcoholic beverages are required to pay certain taxes.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 22 Ok Reg 357, eff 1-1-05 (emergency); Added at 22 Ok Reg 1561, eff 6-11-05]

710:65-19-6. Place of amusement

(a) The total receipts accruing from sales of tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities, and free or complimentary admissions not included in (c) of this Section, which have a value equivalent to the charge that would have otherwise been made, are subject to sales tax. Places of amusement, sports, entertainment, exhibition, display or recreation include, but are not limited to, theaters, motion picture shows, auditoriums where lectures and concerts are given, amusement parks, fairgrounds, race tracks, baseball parks, football stadiums, swimming pools, street fairs, dance halls, cabarets, nightclubs, golf courses, skating rinks, art exhibits, and gymnasiums. Places of amusement or entertainment also include all places where the public is charged a fee for admission to see any kind of display or hear any kind of a program.

(b) Charges for the privilege of entering or engaging in any kind of activity such as golf, tennis, racquetball, handball and games of skill, such as billiards are subject to sales tax if spectators are not charged an admission fee.

(c) Complimentary or free tickets issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees are not subject to sales tax. The exemption for state institutions of higher education applies only to complimentary or free tickets issued after July 1, 1994. [See: 68 O.S. §§1354 (12), (13); 1356(18)]

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-19-7. Animals and animal related, non-farm

(a) Sales of animals to a person who holds a valid sales tax permit and who is regularly engaged in raising animals for sale are exempt from sales tax. Purchases made by persons primarily engaged in raising animals for any other purpose or use other than raising animals for sale are subject to sales tax.

(b) Sales of eggs, feed, supplies, machinery, and equipment to a person who holds a valid sales tax permit and who is regularly engaged in the business of raising worms, fish, any insect, or other terrestrial or aquatic animal life for sale are exempt from sales tax. In order to qualify for the exemption, each purchaser must certify in writing, on the copy of an invoice or sales ticket to be retained by the vendor, that the purchaser is regularly engaged in the business of raising animal life and that the items purchased will only be used in that business.

(c) Sales of tangible personal property for use and consumption in operating boarding kennels and stables, or pet shops, are subject to sales tax.

(d) Sales of animals that are not defined as "livestock" by Section 710:65-13-15 are subject to tax if the purchaser is not the holder of a valid sales tax permit who is regularly engaged in the business of raising the animals for marketing or reselling the animals.

(e) Persons operating boarding kennels and stables only, and making few or no sales of animals, are considered consumer/users subject to tax on the property purchased to operate the kennel or stable.

(f) Sales of livestock, including cattle, horses, mules or other domestic or draft animals sold by the producer by private treaty or at a special livestock sale are exempt regardless of whether the purchaser has a valid sales tax permit. Also exempt is the sale of feed which is purchased for and is fed to horses, mules or other domestic or draft animals if such livestock is used directly in the producing and marketing of agricultural products. [See: Section 710:65-13-15]

(g) Sales of animals or items exempted by this section will qualify for exemption only where the purchaser certifies in writing on a copy of each invoice or sales ticket that "**(The Purchaser) is regularly engaged in the business of raising animal life for marketing and that the items purchased exempt from sales tax will be used only in that business.**"

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2708, eff 6-25-00]

710:65-19-8. Animals; non-farm equipment and supplies [REVOKED]

[Source: Revoked at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-9. Antiques, works of art, and artists

(a) Sales of antiques and works of art are sales taxable, without deductions for trade-in values or expenses of any kind. Vendors regularly engaged in the business of selling antiques or works of art should collect, report and remit sales tax, regardless of the infrequency of the sales.

(b) Sales of curios, antiques, art work, postage stamps and like articles to art collectors, philatelists, or other persons who purchase such items for use or storage and not for immediate resale are sales subject to tax.

(c) Artists are consumer users of all tangible personal property used to create a painting, statue, figurine, or other piece of tangible personal property. If an artist is hired to create a work of art to custom order, the artist is performing a service and the amounts received by the artist for rendering this service are not taxable. If the artist has an existing work of art, or if the artist creates a piece of art work for speculation, the sale of the piece of art is subject to sales tax without any deduction

for the cost of the materials used.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-10. Auctioneer

(a) Persons engaged in the business of sales at auction of their own tangible personal property or of tangible personal property which is consigned to them for sale are vendors, and are, therefore, required to hold sales tax permits and collect, report and remit the sales tax measured by the gross receipts from such sales.

(b) Auctioneers are obliged to add, collect and remit the tax even though they have been engaged by executors, administrators, trustees, receivers or other officers of a court to make sales of tangible personal property, even though such sales may be connected with liquidation or bankruptcy proceedings or made pursuant to court order.

(c) For the purpose of administering the Sales Tax Code, it is deemed that the auctioneer will have the property on consignment when he receives payment for the property sold, issues his bill of sale or invoice, and pays the owner for the property sold with his check or other remittance.

710:65-19-11. Automotive repair

(a) **Lump-sum charge for automotive repairs.** Automotive repair shops, service centers and body shops ("repair shops") that charge customers a single price for parts and labor should not collect sales tax from their customers, but instead should pay sales tax to suppliers when purchasing parts, materials and other property used to perform repair service. For example, a repair shop performs a windshield replacement for the lump-sum price of \$150.00. The repair shop should pay tax when buying the windshield, gasket, and other items used in the repair, and should not collect tax on any portion of the \$150.00 charge to the customer. If a repair shop erroneously charges sales tax, it must remit the tax collected in error or refund the tax to its customer even when sales tax was previously paid on the purchase of the items used in the repair.

(b) **Separately stated sales of parts and other property.** Repair shops making sales of parts and other property and separately charging customers for labor or installation are required to hold a sales tax permit and collect sales tax on the gross receipts attributable to the sales of parts and other property. Separately stated labor/installation charges are not subject to sales tax. Pursuant to its sales tax permit, a repair shop can purchase parts and other property which are furnished to customers in connection with the automobile repair service without the payment of tax. For example, if a repair shop replaces a car windshield for \$50.00 labor and \$100.00 for a windshield and gasket, it can purchase the windshield and gasket exempt from sales tax and must collect tax on the \$100 separately stated charge for parts.

(c) **Body shops deemed consumers of certain materials.** Repair shops are considered the consumer of certain materials outlined in paragraphs (1) and (2) of this subsection utilized in performing repair services and must pay tax on these items at the time of purchase.

(1) **Tools, equipment and supplies utilized by repair shops.** Materials such as shop rags, safety glasses, sandpaper, masking tape, tools, equipment, and related items that are not incorporated into the customer's automobile when the repair service is performed.

(2) **Materials transferred by repair shops to customers in irregular quantities.** Materials used in performing repair services which are

transferred to customers in varying volumes or amounts and which the repair shop has determined are incapable of a fixed or definite sales price. The following is a nonexclusive list of items that may be included in the described category of materials.

- (A) Paint, primer, paint thinner
- (B) Body filler
- (C) Undercoating
- (D) Spray on bed liner
- (E) Lubricants and coolants
- (F) Abrasives and or polishing compounds
- (G) Window tinting
- (H) Glues, resins, sealants, and adhesives
- (I) Cleaning solvents and other related chemicals

(d) **Erroneously charged sales tax.** If a repair shop charges and collects sales tax in error, it must remit the tax collected in error or refund the tax to its customer.

[Source: Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 30 Ok Reg 1868, eff 7-11-13]

710:65-19-12. Automobile repairers [REVOKED]

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Revoked at 18 Ok Reg 2823, eff 6-25-01]

710:65-19-13. Automotive bodyshops [REVOKED]

[Source: Revoked at 18 Ok Reg 2823, eff 6-25-01]

PART 3. "B"

710:65-19-25. Barbers and beauticians

- (a) Barber and beauty shop operators primarily render personal services. They are the consumers or users of such tangible personal property used or consumed incidentally in the rendering of such personal service.
- (b) Barbers and beauty shops who make sales of tangible personal property apart from the rendering of personal service may obtain a sales tax permit so that only items sold apart from the rendering of personal service may be purchased exempt from tax.
- (c) Barber and beauty shops must collect, report and remit tax on sales of tangible personal property for use or consumption, such as, package cosmetics, hair tonics, lotions and like articles when sold apart from the rendering of personal services.

710:65-19-26. Bingo [REVOKED]

[Source: Revoked at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-27. Blacksmiths

- (a) Blacksmiths are considered to be in the business of selling tangible personal property to users or consumers and also rendering services. They are liable for the tax only with respect to their receipts from the sale of their tangible personal property either by itself or furnished in connection with repair work.
- (b) Where a blacksmith makes or fabricates tangible personal property for sale separately from the rendering of services, he is liable for the tax on the gross receipts of the sale of such articles.

(c) The sale of horse or mule shoes in connection with services rendered to a person regularly engaged in "agricultural production" is not taxable. Sales of these items to riding stables or jockey clubs are taxable, since those and similar enterprises are not considered "agricultural production".

[Source: Amended at 17 Ok Reg 2677, eff 6-25-00]

710:65-19-28. Bookkeeping, service bureaus

When a service bureau performs a book keeping, service for a client, such as keeping a set of records and furnishing financial statements, payrolls, tax reports, accounts receivable, accounts payable, and similar statements, the charge is for a professional service and the transfer of the data, records, statements, etc. is not subject to sales or use tax. [See: 68 O.S. §1354(H)]

[Source: Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-29. Buildings and structures

(a) Any building structure permanently attached to land will not be subject to sales tax upon the sale of that structure, even though it is located on leased land or railroad right of way.

(b) Buildings sold to be moved as a unit or which are sold to be torn down and moved will be subject to the applicable sales tax. Fixtures and equipment which have retained their personalty are not to be considered a building or structure and are therefore subject to sales tax even if they are not specifically mentioned or have a value assigned to them in the sale documents.

(c) Furniture, fixtures, and equipment included in the sale of a business are taxable, even if included in the bulk sale of real property, motels, hotels, and apartments.

PART 5. "C"

710:65-19-40. Caterers

(a) The term "**caterer**" means a person engaged in the business of preparing or serving meals, food, and drinks, without regard to whether the service is at the caterer's place of business, the customer's location, or some other location, usually for a specified price for a specific menu or offering, but not off a menu to the public. The term does **not** include wait persons hired directly by a caterer's customer, whether hired by the hour, by the day, or for the event.

(b) Sales tax must be collected, reported and remitted on all charges made by caterers for serving meals, food, and drinks, inclusive of charges for food, the use of dishes, silverware, glasses, chairs, tables, etc., used in connection with serving meals, and for the labor of serving the meals. Sales tax must be collected, reported and remitted on charges made by caterers for the rental of dishes, silverware, glasses, etc., even though no food is provided or served by the caterers in connection with such rental.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-41. Cemeteries and crematories

(a) Sales of tangible personal property (boxes, urns, vaults, markers, vases, flowers, etc.) by cemeteries and crematories are subject to taxation.

(b) The sale of lots, crypts and niches are considered to be real estate and are not taxable.

- (c) Sales not for resale to cemeteries and crematories are taxable. These include materials and supplies used in construction, maintenance, improvement or alteration of buildings and grounds, such as seeds, plants, fertilizer, etc.
- (d) Sales of equipment to cemeteries and crematories for consumption and use are taxable.

710:65-19-42. Cemeteries; tombstones, markers, and other memorials

- (a) Memorial dealers are vendors of tombstones, markers and other memorials sold by them and also are vendors of the materials used in setting a memorial in the cemetery. Such sales are subject to tax.
- (b) If the memorial dealer furnishes a memorial and sets it in the cemetery for a lump sum, the tax applies to the entire amount charged. If a separate and additional charge is made for the labor of setting the memorial, the tax does not apply to this labor charge. No deduction may be made of charges for cutting, shaping, polishing or lettering a memorial or for transporting it to the cemetery.
- (c) When a cemetery constructs the foundation upon which a memorial is placed, the cemetery is acting as a contractor and should follow the rules pertinent thereto.

710:65-19-43. Chamber of commerce

A chamber of commerce is not entitled to exemption on its purchases as it is not a governmental, educational or church institution exempt by statute. The fact that city funds may be distributed to the chamber of commerce does not exempt the chamber of commerce on the expenditure of those funds unless the property involved is purchased directly by the city.

710:65-19-44. Sales made to or by charitable, fraternal, civic, educational societies and non-profit organizations

- (a) **Sales "to"**. Sales to non-profit, charitable, fraternal, civic and educational societies are subject to sales tax unless specifically exempt by the Sales Tax Code. Examples of organizations which are specifically exempt are the Council Organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A., and Camp Fire USA.
- (b) **Sales "by"**. The gross proceeds derived from sales of tangible personal property, admission charges, and taxable services by fraternal, civic or educational societies or organizations are taxable within the meaning of the Act.
- (c) **Examples**. Examples of such organizations are as follows: Fraternal organizations, veterans organizations, Masonic Lodges, I.O.O.F. Lodges, W. O. W. Lodges, K. of P. Lodges, Knights of Columbus Lodges, B.P.O.E. Lodges,, American Legion, Lions Club, Rotary Club, Chambers of Commerce, Kiwanis Clubs and other civic organizations. Examples of taxable transactions are as follows:
 - (1) If a Masonic Lodge conducts a dance and charges admission therefore, the gross proceeds derived from the sale of such tickets are subject to tax.
 - (2) If Kiwanis or any other civic organization sponsors a rodeo and receives a certain percentage of the gross receipts they will be required to report and remit the tax on the gross proceeds derived from sales of tickets of admission thereto.
 - (3) Donations in the form of tangible personal property of items purchased exempt for resale to fraternal, religious, civic, charitable or educational societies or organizations are taxable to the donor as a consumer/user.

(d) Exemptions and exclusions.

(1) Provided, however, services of printing, copying or photocopying performed by a scientific and educational library sustained by dues paid by members sharing the use of such services with students interested in geology, petroleum, engineering or the like are specifically excluded from taxation.

(2) The first Seventy-five Thousand Dollars (\$75,000) of gross receipts by an organization exempt from taxation pursuant to Section 501(c)(4) of the Internal Revenue Code received for the sale of tickets and concessions at athletic events is specifically exempt from taxation so long as no sales tax is collected from the purchaser. Sales in excess of Seventy-five Thousand Dollars (\$75,000) or gross receipts from the sales of anything other than tickets and concessions at athletic events are subject to taxation. Each organization falling within the exemption must file sales tax reports for each period, reporting total gross sales and then indicating as exempt the amount of sales of tickets and concessions made during the period. All sales of tickets and concessions in excess of \$75,000.00 are subject to taxation.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 26 Ok Reg 2354, eff 6-25-09]

710:65-19-45. Chiropodists, osteopaths and chiropractors

(a) When chiropodists, osteopaths or chiropractors sell such items as, over-the-counter drugs, heating pads, appliances or other tangible personal property to purchasers apart from their rendering of service as chiropodists, osteopaths or chiropractors, they must collect, report and remit sales tax. *Sales of vitamins, minerals and dietary supplements by a licensed chiropractor to a person who is the patient of such chiropractor at the physical location where the chiropractor provides chiropractic care or services to such patient* are exempt from sales tax. [68 O.S. § 1357(37)]

(b) Chiropodists, osteopaths and chiropractors are engaged in professions and primarily render service. To the extent to which they engage in such professions, they are not engaged in the business of selling tangible personal property to purchasers within the meaning of the Code. Consequently, they are not required to remit sales tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property dispensed incidentally to such service. However, the chiropodist, osteopath, and chiropractor must pay sales or use tax when purchasing such tangible personal property.

[Source: Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-46. Clipping and information bureaus

(a) Sales of press clippings are not taxable. If a press clipping bureau merely furnishes special information derived from press clippings to which it retains title, its receipts are deemed to be derived from rendering service and not taxable. Sales of duplicate photocopies of press clippings are taxable.

(b) Sales of lists of names, statistics and other information in the form of cards, sheets or other tangible personal property are taxable.

710:65-19-47. Retailers of clothing

(a) Persons who engage in the business of selling clothing to purchasers for use or consumption and not for resale must collect, report and remit sales tax when making such sales whether such clothing is sold as a stock or standard item or whether it is produced on special order for the purchaser. Suits, hats and other

forms of clothing, when made on special order, serve substantially the same function as stock or standard clothing items that are sold.

(b) In computing sales tax liability on the sale of custom-made clothing, no deduction may be taken for the cost of labor involved in producing the finished item for sale. This is true whether such production labor is included in a lump sum price with the tangible personal property or whether such production labor is priced separately from the tangible personal property. The thing that is being sold is the finished item of clothing, and the cost of labor involved in making such item is no more deductible than is the cost of labor that is involved in producing a stock or standard item for sale.

710:65-19-48. Tailors, clothiers, dressmakers, and milliners

(a) Total gross receipts from all sales of tangible personal property by custom tailors, clothiers, dressmakers and milliners for consumption or use are subject to taxation, with no deduction for services or other costs.

(b) When such a person does not provide the goods worked upon and sells services only, such services are exempt even though they may include incidental and negligible items of material like thread, tape, buttons, etc., but the sale of items such as thread, tape, buttons, etc. to him are taxable.

(c) Where ready-to-wear suits, dresses, hats, etc., are sold at an established price, charges for alterations are not taxable only if charged separately. If such alterations involve the sale of material such as linings, trimmings, etc., the tax applies to the total charge unless the material is billed separately.

710:65-19-49. Golf and country clubs

(a) Sales and leases of tangible personal property, including but not limited to food, beverages, locker rental, club storage, cart service charges, pool rental, room rental, golf shop sales, and pro shop sales are subject to sales tax.

(b) Membership dues, tennis dues, pool dues and any other dues charged by a club, or similar business or establishment, required as a condition precedent to membership, are subject to sales tax.

(c) Swim, tennis, golf and other lessons given at a club or country club are subject to sales tax unless the club or country club is merely a conduit for the instructor and the entire fee charged for the lesson is turned over to the instructor who taught the lesson and reported for income purposes.

(d) Fees for instructional services at locations where no membership dues are charged and there is no member/non-member difference in fees, will be considered the provision of nontaxable services.

(e) Club and country club initiation fees, defined as any payment, contribution, or loan, required as a condition precedent to membership, whether or not such payment, contribution or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or organization to whom paid, contributed or loaned, greens fees and other fees charged to members and fees charged to members who bring guest(s) to enjoy a club's swimming, golf, tennis or other facility are subject to sales tax. "Fees" include free or complimentary dues or fees which shall have the value equivalent to the charge that would have otherwise been made.

(f) Cart fees, cart rider fees, cart service charges, driving range fees, cart rental, and cart storage fees are subject to sales tax.

(g) Gross receipts from sales of stock certificates received by a country club from its members when members must purchase stock to gain access to the club's

facilities constitute dues or fees for the use of facilities or services rendered at a health spa, club or any similar facility or business and are subject to sales tax. Furthermore, where members must purchase stock to gain access to the club's facilities, any stock transfer fee is similarly subject to sales tax. [See: 68 O.S. §1354(12)-(14)]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-50. Coins and bullion [REVOKED]

[Source: Amended at 28 Ok Reg 961, eff 6-1-11; Revoked at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-51. Complimentary tickets, passes, dues, fees

(a) Complimentary tickets, passes, dues, or fees are defined to be any method, oral or written, whereby a patron gains access to a place of entertainment, recreation or amusement without being charged, when there is regularly a charge for such admission or access.

(b) For sales tax purposes, complimentary tickets, passes, dues, or fees are declared to have a value equivalent to the customary sales price of similar items, dues, or fees of like kind or character. [See: 68 O.S. §1354 (12)]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 25 Ok Reg 2070, eff 7-1-08]

710:65-19-52. Computers and related systems; "hardware" and "software" defined

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Computer"** means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. [68 O.S. § 1352(4)]

(2) **"Computer hardware"** means the machine and all of its components and accessories that make up the physical computer assembly.

(3) **"Computer software"** means a set of coded instructions designed to cause a "computer" or automatic data processing equipment to perform a task. [68 O.S. § 1352(5)]

(4) **"Computer software maintenance contract"** means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both.

(5) **"Electronic"** means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. [68 O.S. § 1352(9)]

(6) **"Load and leave"** means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(7) **"Prewritten computer software"** means "computer software", including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten software includes software designed and developed by the author or other creator to the specifications of a specific

purchaser when it is sold to a person other than the purchaser. [68 O.S. § 1352(20)]

(8) "**Mandatory computer software maintenance contract**" means a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software.

(9) "**Optional computer maintenance contract**" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(b) **Sale or rental of a computer.** The sale of a computer and its related components is subject to sales or use tax. The rental of a computer and its related components, including terminal equipment (hardware) is subject to sales tax.

(c) **Sale of prewritten computer software.** The sale of prewritten computer software delivered in a tangible media format is taxable. Prewritten computer software delivered by means of "load and leave" is also taxable.

(d) **Maintenance contract sold with prewritten computer software.** The taxability of a maintenance contract sold with prewritten computer software delivered in a tangible media format depends on whether the maintenance contract is mandatory or optional.

(1) If the contract is mandatory, the entire sale price, including the charge for the contract, is subject to tax.

(2) The charge for an optional contract shall be subject to taxation:

(A) If it provides **only** upgrades or updates which include prewritten computer software delivered in a tangible media format;
or,

(B) If it provides both upgrades or updates and support services, and the fee for the support services is **not** stated separately.

(3) If the contract is optional and provides **only** maintenance agreement support services, the contract is **not** taxable.

(e) **Written training materials.** Written training materials are taxable, although the training services themselves are not.

(f) **Modifications to prewritten computer software.** Modifications to "prewritten computer software" do **not** result in the production of custom computer software.

Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten software; provided, however, that where there is a reasonable, separately-stated charge or an invoice or other statement of the price is given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software. [68 O.S. § 1352(20)]

(g) **Custom computer software.** For purposes of this Section, the term "**custom computer software**" means a program prepared to the special order of a customer. The sale of a custom computer program is a service transaction, and therefore, is not subject to tax. In addition, charges for maintenance are not taxable.

(h) **Software purchased with computer.** The charge for prewritten computer software purchased with a computer is subject to tax. If a computer is bought with custom software and the charge for the software is not separately stated, the entire purchase price is subject to tax. In addition, the entire charge is subject to tax if modifications are required and the charge for the modifications is not separately

stated and records do not adequately document the extent of the modifications.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-53. Concrete mixer trucks

(a) A concrete mixing unit mounted on a truck is classified as machinery used directly in manufacturing and such mixing unit may be purchased exempt from sales and use tax.

(b) The term "**mixing unit**" is restricted to the rotating mixer and the accessories necessary for connecting it with the motor. Where a separate motor operates the rotating mixer exclusively, such motor is exempt from the sales tax, but where a motor operates the truck and also the rotating mixer, the motor is regarded as a part of the truck proper, and repair or replacement parts are not exempt. Repair or replacement parts for the mixing unit itself are exempt; but tires, tubes, batteries, oil, and all repair or replacement parts for the truck portion of the mixer-truck are taxable.

(c) The tax applies to sales of concrete produced in concrete mixer trucks. The amount on which the tax must be computed includes the charge for the concrete as well as any other service charges connected with such sale except separately stated transportation or drayage charges. [See: 68 O.S. §1359]

(d) Sales of redi-mixed concrete by a concrete company via a concrete mixing truck to a person who holds a sales tax permit for use in erecting an article of tangible personal property, such as a sign, where the person has claimed exemption from the sale of the concrete as a purchase for resale is exempt from sales tax when invoiced to the purchaser by the concrete company, since the purchaser will bill out the concrete to its customer and add sales tax on the charge which they bill.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-54. Consigned property

Sellers of property held on consignment are required to include the gross proceeds of sales of such property in sales tax returns filed under the Sales Tax Code.

710:65-19-55. Taxability of sales to contractors [REVOKED]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-56. Contractors and subcontractors [REVOKED]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 29 Ok Reg 542, eff 5-11-12; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-57. Community action agencies and other non-profit corporations

Sales of tangible personal property to organizations which are community action agencies or nonprofit corporations including those that are federally funded are subject to state and local sales and use tax unless there is a specific exemption which applies.

710:65-19-58. Cotton gins [REVOKED]

[Source: Revoked at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-59. Store coupons [REVOKED]

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 22 Ok Reg 1561, eff 6-11-05; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-60. Made-to-order and custom sales

Where persons contract to manufacture, compound, process or fabricate their materials into articles of tangible personal property according to the special order of their customers, the total receipts from the sales of such articles are subject to tax. The seller may not deduct any of his costs, nor can he deduct any of his charges for labor or services, which are an item of the production or fabrication costs of the article, to arrive at the amount of gross receipts subject to tax. Articles commonly made to order are curtains, draperies, tents, awnings, clothing, and slipcovers. The person making sales of made-to-order and custom made articles may purchase the materials which become a component or ingredient of their products tax exempt pursuant to a valid sales tax permit. The equipment, tools and supplies directly used or consumed in the production of such articles and not becoming a part thereof are subject to tax.

710:65-19-61. Collections and collectibles

Sales of stamps and currency at face value are not taxable. Sales of stamps and currency which do not meet the exemption requirements of OAC 710:65-13-95 for consideration in excess of face value are taxable.

[Source: Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-62. Crates and crating companies

(a) Crates sold to end users are subject to sales tax. The entity who builds the crate for their customer should charge the appropriate tax on their sale of the crate to their customer. Crates created by a crating company, and used by the crating company to pack their customer's goods, are considered to have been sold to the customer, and the first use of the crates is at the time the crating company packs the crates with the customer's goods.

(b) Crating companies are not usually considered to be manufacturers. Generally, crating companies create crates to order, and in most instances package their customer's goods within the crates. The crating company should secure from the Tax Commission, a sales tax permit, and use this permit to purchase exempt from sales tax those items which become a part of the crates.

(c) Those crating companies which produce standard crates, and who operate in a manner consistent with other businesses who produce packaging material (such as cardboard boxes), are manufacturers of crates. Manufacturers of packaging material do not normally package their customer's goods. A manufacturer of crates should secure from the Tax Commission, a Manufacturer's Sales/Exemption Permit, which should be used by the crating company to purchase, exempt from Sales Tax, those items which become a part of the crate.

(d) Crates may be sold exempt from Sales Tax if the crate is transported outside of Oklahoma before being used to package goods. If the crate is used to package goods within Oklahoma, the sale of the crate is subject to Sales Tax, except as follows.

(e) Crates sold to a manufacturer of goods for use in packing, shipping or delivering tangible personal property for sale, may be sold exempt from sales tax if a valid claim of exemption is made by the manufacturer of goods. This exemption will not apply to crates which are not destroyed during product removal except crates specifically noted under 68 O.S., Section 1359(D) or (E). In addition, crates may be sold exempt from Sales Tax if the purchaser of the crates holds a Sales Tax Permit, is regularly engaged in the business of selling crates, and makes a valid claim for exemption on the basis of resale. (Note: Crates which are not destroyed during product removal, and which are purchased by a manufacturer of goods, may be sold exempt from Sales Tax if the purchaser holds a Sales Tax Permit, and claims a valid resale exemption. The manufacturer, purchaser, is required to charge his customer Sales Tax.)

[Source: Added at 13 Ok Reg 3139, eff 7-11-96; Amended at 17 Ok Reg 2677, eff 6-25-00]

PART 7. "D"

710:65-19-70. Delivery charges

(a) **Definition. "Delivery charges"** means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. **"Delivery charges"** does not include charges for the delivery of **"direct mail"** if the charges are separately-stated on an invoice or similar billing document given to the purchaser.

(b) **Separately-stated delivery charges.** In every case where a delivery charge represents the cost of transporting the items sold from the vendor to the consumer, and is separately-stated on the invoice or statement, such charges are not subject to sales tax.

(c) **Delivery charges included in price.** If delivery charges are included in the selling price of the tangible personal property sold, the charges are subject to sales tax.

(d) **Transportation costs of the seller.** Shipping, freight, or delivery charges paid by a seller in acquiring property for sale are considered costs of doing business to the seller and may not be deducted from the gross proceeds of the sale in computing tax liability, even though such costs may be passed on to his customers and regardless of whether they are separately-stated.

(e) **Demurrage.** Demurrage is a charge for detaining a ship, freight car, or truck beyond the time allowed for loading or unloading. This is considered a penalty and is not subject to sales tax.

[Source: Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04]

710:65-19-71. Dentists, dental laboratories, and dental supply houses

(a) **Dentists.** Dentists primarily render services and incidentally use tangible personal property in connection therewith. The gross receipts of dentists derived from these sources are not subject to the sales tax.

(b) **Dental supply houses.** Dental supply houses who sell tangible personal property such as platinum, gold, silver or cement for filling, artificial teeth or other such materials to a dentist for use in the performance of the dentist's services are making sales within the Sales and Use Tax Code and must collect, report and remit tax based on the gross receipts received from such sales. This is true whether the

dental supply house sells material to a dentist whose services are rendered directly to a patient, or to a dental laboratory that uses the material in producing plates, bridge-work, artificial teeth or prosthetic devices on prescription of the dentist for the dentist to use in connection with rendering dental services. Dental supply houses likewise collect, report and remit tax on gross receipts from sales of dental chairs, motors, instruments, drilling machines or other such items for use by dentists or dental laboratories.

(c) **Dental laboratories.** Dental laboratories that purchase tangible personal property to produce plates, bridge-work, artificial teeth, prosthetic devices and the like must pay tax when the material is purchased and must not charge tax to the dentist when the finished product is transferred to the dentist.

(d) **Items purchased by dentists.** Items which are purchased by dentists, but which are used incidentally in the rendition of professional or laboratory services, are subject to sales or use tax and the dentist or professional must pay sales or use tax when the item is purchased. Examples of such taxable items are:

- (1) Appointment Books
- (2) Broaches
- (3) Brushes, Tooth Cleaning
- (4) Burs
- (5) Cotton Rolls
- (6) Discs, Sandpaper
- (7) Examination Blanks
- (8) Excavators
- (9) Floss Silk
- (10) Forceps
- (11) Gauze
- (12) Handpieces and Angles
- (13) Instruments
- (14) Mandrels
- (15) Matrix Bands
- (16) Mirrors
- (17) Napkins
- (18) Needles, All Types
- (19) Paper Cups
- (20) Pumice
- (21) Scalers
- (22) Scissors
- (23) Sandpaper Strips
- (24) Soap
- (25) Towels
- (26) Trays, Impression
- (27) Aluminum Trays
- (28) Plastic Trays
- (29) Waste Receivers
- (30) X-Ray Supplies

(e) The enumeration of the taxable items in subsection (d) is made by way of illustration and not limitation.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 20 Ok Reg 2175, eff 6-26-03]

710:65-19-72. Deposits, core charges and trade-ins

(a) A core deposit is the amount required by the seller to insure that the buyer of a rebuilt item will exchange or trade-in his old rebuildable item. No deduction from the gross proceeds of a sale is permitted for any credit allowed by the seller for the value of a core charge, deposit or a trade-in in exchange or part payment and the tax applies to the full selling price.

(b) The retail sale of used tangible personal property which has been acquired by the seller by purchase is taxable upon the full selling price. When an article acquired by the taxpayer by trade-in is subsequently resold, this sale also is taxable on the full selling price. If an article purchased or acquired in trade is salvaged or 'cannibalized' for parts, the sale or use of such parts is considered to be taxable. If the parts are used by the vendor to satisfy an extended warranty agreement, if there is no charge to the customer for the parts, the vendor shall report the cost of the parts on a withdrawal basis and pay sales tax on such cost.

(c) Examples of taxable transactions are as follows:

(1) John Doe needs to replace his battery. He drives to Lefty's Auto Supply and purchases a new battery. Lefty's Auto Supply charges thirty dollars (\$30.00) for the battery and allows him five dollars (\$5.00) exchange. Sales Tax is due on the full thirty dollars (\$30.00).

(2) A piano is sold at retail for one thousand dollars (\$1,000.00). The purchaser pays six hundred dollars (\$600.00) in cash and is allowed a four hundred dollar (\$400.00) trade-in. The selling price, upon which the sales tax must be collected and the amount to be reported as gross proceeds is one thousand dollars (\$1,000.00). If the trade-in is later sold for five hundred dollars (\$500.00), the sales tax must also be collected on the five hundred dollars (\$500.00). [See: 68 O.S. § 1352(12)]

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-19-73. Directories

Sales of business, telephone, city and other similar directories are taxable. When such directories are given without charge to users, the tax applies to the cost when sold to the donor.

710:65-19-74. Discounts [REVOKED]

[Source: Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-75. Donations

Persons conducting recreational events occasionally assert that the receipts are not taxable because they are donations and not charges for admission or an item of tangible personal property. To qualify as a donation, a payment must be totally voluntary and no restriction whatsoever may be placed on the entrance or receipt of tangible personal property of persons not making a donation. The facts surrounding the request for the donation must be obvious that admittance or receipt of property is not restricted to those making a donation. A set amount for the donation (through newspaper publicity or signs at the entrance), a turnstile or restrictive device that must be passed through, denial of tangible personal property or an attendant requesting a donation at the door shall be presumptive evidence that the charge is not a donation but that the payment is required. [See: IRS Revenue Rule 67-246]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-76. Drilling contractors [REVOKED]

[Source: Revoked at 29 Ok Reg 542, eff 5-11-12]

710:65-19-77. Dues and fees

(a) **General provisions.** Dues, fees, or any charge, payment, or contribution required as a condition precedent to membership in a club; or for access to the club establishment; or for access to or use of facilities, equipment, services, or privileges are subject to sales tax.

(b) **Definitions.** For purposes of this Section, "**dues**" and "**fees**" are used synonymously. "**Dues**" means, but is not limited to, payments made to support and maintain clubs, associations, or other membership organizations, or to acquire and retain membership therein. "**Dues**" includes free or complimentary dues or fees.. In transactions where no monetary consideration is stated, "**dues**" means that value equivalent to the charge that would have otherwise been made.

(c) **Exemptions and exclusions.** Examples of transactions which are excluded from the application of this Section or are specifically exempt by statute are:

(1) Fees for instructional services at locations where no membership dues are charged, and there is no member/non-member difference in fees, are considered fees for the provision of nontaxable services.

(2) Dues paid to fraternal, religious, civic, charitable, or educational societies or organizations by regular members thereof, if:

(A) The organization operates under a lodge plan; and

(B) The organization does not operate for a profit which inures to the benefit of any individual member or members of the organization to the exclusion of other members.

(3) Dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects.

(4) Dues or fees paid to YMCAs or YWCAs or municipally-owned recreation centers for the use of facilities and programs. As used in this Section, "**recreation centers**" shall not mean zoological or botanical parks or golf courses.

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 23 Ok Reg 2847, eff 6-25-06]

PART 9. "E"

710:65-19-85. [RESERVED]

710:65-19-86. Electronic data processing services

(a) Sales of electronic data processing services to others are exempt from sales tax. For purposes of this Chapter, "**electronic data processing services**" means the processing of another's data, including all processing such as key punching, keystroke verification, rearranging, or sorting of previously documented data for the purpose of data entry or automatic processing, and changing the medium on which data is sorted, and also the providing of access to computer equipment for the purpose of processing data or examining or acquiring data stored in or accessible to such computer equipment.

(b) Because sales of electronic data processing services to others are not taxable services within the meaning of this Chapter, purchases such as card readers, computers, printers, etc. made for use in rendering electronic data processing services for others and purchases of related software and supplies are taxable, except for purchase for resale, which may be made exempt from sales and use tax with a valid sales tax permit.

710:65-19-87. Employee associations and organizations

Organizations of employees which sell tangible personal property of any kind to their members or others must procure a sales tax permit and collect, report and remit the tax on such sales.

710:65-19-88. Employer sales to employees

(a) When an employer sells tangible personal property to his employees, permits them to purchase through his organization or to buy from others on discounts available to him or in any other manner obtain goods through him, such sales are taxable. The employer shall include such sales amount in his gross receipts for his sales tax return for the current month and remit the tax.

(b) When an employer purchases tangible property for free distribution to employees, the tax applies to the sales price of such property given by him.

710:65-19-89. Exchange or return of merchandise

(a) **Returns of merchandise.** In the event merchandise purchased from a vendor, upon the sale of which tax has been charged, is returned to the vendor in exchange for another item the vendor may, provided he allows the customer the full purchase price of the item returned plus the tax thereon, either by credit or refund, record the net difference between the selling price of the item returned and the item delivered to the customer in the exchange as an addition to or deduction from gross sales, whichever is appropriate, on his report for the current month.

(1) If the price of the item delivered to the customer in the exchange is greater than the price of the item returned, the vendor must report the difference as an addition to gross sales and collect the appropriate amount of sales or use tax thereon.

(2) If the price of the item delivered to the customer in the exchange is less than the price of the item returned, the difference in price may be deducted from gross sales on his report for the current month provided full credit in the amount of the purchase price, including the tax, has been allowed the purchaser.

(b) **Restocking charge.** In the event a customer returns a taxable item for credit or refund and the seller charges the customer a restocking fee, the sales tax refunded to the customer is on the net amount of the refund after any charge for the restocking fee.

[Source: Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 11. "F"

710:65-19-100. Deliveries on federal areas

(a) As used in this Section, the term "**federal area**" means any lands or premises held or acquired by or for the use of the United States or any department, establishment or agency of the United States. Any Federal area, or any part thereof,

which is located within the exterior boundaries of the State of Oklahoma, is deemed to be a Federal area located within the State of Oklahoma for the purposes of this Section.

(b) Provided the tax would otherwise apply, persons engaged in the business of selling tangible personal property are required to collect, report and remit sales tax to the Commission notwithstanding the fact that the delivery of the personal property sold is made on a federal area. It is immaterial that the place of business of such persons may be located on the federal area.

710:65-19-101. [RESERVED]

710:65-19-102. Federal excise taxes

Federal excise taxes which are levied upon the manufacturer or retailer are not deductible from gross sales even though they are invoiced or added to the bill of the consumer/user as a separate item. The tax is part of the purchase price of merchandise sold by the retailer to the consumer, and the sales tax shall be computed upon the full selling price, which includes the federal excise tax.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-103. Finance charges

(a) "**Gross receipts**" or "**gross proceeds**", as the case may be, does not include finance charges, carrying charges or interest charges on conditional sale contracts or other contracts providing for deferred payments of the purchase price, if the amount of such finance charges, carrying charges or interest is in addition to the usual or established cash selling price, and such amount:

- (1) Is segregated on the invoice or bill of sale, or
- (2) Is billed separately to the customer.

(b) Unless the conditions described in subsection (a) are met, such charges shall be deemed to be part of the gross proceeds or gross receipts for the purpose of computing the tax. [See 68 O.S. §1352]

710:65-19-104. Finance companies and other lending agencies; repossessions

In case a retailer repossesses tangible personal property and subsequently resells such property to a purchaser for use or consumption, his gross receipts from such sale of the repossessed tangible personal property are subject to sales tax.

710:65-19-105. Sales by banks, savings and loan associations, credit unions and other financial institutions

(a) Financial institutions are primarily engaged in providing nontaxable services. Such services include charges to customers for cashier's checks, money orders, traveler's checks, checking accounts and the use of safe deposit boxes.

(b) A financial institution shall obtain a sales tax permit and regularly file sales and use tax returns if it regularly has taxable gross receipts. Taxable gross receipts include sales of the following:

- (1) Coin savings banks.
- (2) Commemorative medals unless made from a precious metal that is in such a state or condition that its value depends upon its precious metal content and not its form.
- (3) Collectors' coins or currency sold above face value which do not meet the requirements for exemption pursuant to OAC 710:65-13-95.

- (4)
 - (i) Repossessed assets.
 - (5) Meals and beverages in the institution's cafeteria.
 - (6) Charges for providing parking space for motor vehicles.
- (c) Financial institutions who only occasionally make sales of tangible personal property need not obtain a sales tax permit but must collect, report and remit sales tax on all sales of tangible personal property.

[Source: Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-106. Sales to banks, savings and loan associations, credit unions and other financial institutions

- (a) Sales to national banks, state chartered banks, federally chartered savings and loan associations, state chartered savings and loan associations, state chartered credit unions, and other privately-owned financial institutions are subject to sales and use tax.
- (b) These institutions' purchases subject to sales or use tax include office furniture and equipment (such as desks, chairs, couches, writing tables and office machines), safe deposit boxes, drive-up and walk-up windows, night depository equipment, vault doors, remote TV auto teller systems and camera security equipment.
- (c) This conclusion also applies to sales of building materials and fixtures to construction contractors for incorporation into real estate owned by banks and savings and loan associations even if such real estate is used for bank or savings and loan association purposes. For purposes of this subsection, the date of sale is considered to be the date of delivery to the purchaser.
- (d) Any tangible personal property purchased by an institution to be given away or sold at cost or less than cost to a customer, whether or not based upon the amount of a deposit, is taxable at the time it is purchased. This property includes calendars, playing cards, plat books, maps and any other items transferred to customers to promote business. Checking account and savings account forms provided customers free of charge are also subject to the tax. When such items are sold by a financial institution at a price in excess of cost, the financial institution may purchase such property without paying sales tax by giving its vendor a valid sales tax permit. At the time the property is resold, to the financial institution's customer, sales tax should be collected, reported and remitted to the Commission by the financial institution.
- (e) However, sales to Federal Reserve Banks, Federal Land Banks, and Federal Home Loan Banks, and federally chartered credit unions are exempt from sales and use tax pursuant to either the exemption for sales to the federal government, or because federal law preempts state taxation of certain institutions.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-107. Fixtures; "materials" defined for the purpose of developing and improving real property

- (a) The term "**materials for the purpose of developing and improving real property**" as used in the Sales and Use Tax Codes, means all tangible personal property, including any device or appliance used by builders, contractors, or landowners in making improvements, additions, alterations or repairs to real property in such a way that such tangible personal property becomes identified with a part of realty.
- (b) A device or appliance becomes a fixture and a part of the real property to which it is connected when it is built into or is attached to a structure in such a way that its

removal would substantially damage or deface such structure.

(c) Where the removal of the device or appliance would not substantially damage or deface the structure to which it is connected the following factors shall be considered:

(1) Actual connection with or attachment to real property. To become a part of real property, the device or appliance must have some physical connections such as: by bolts, screws, nails, cement piping, or cable; by contact, where by reason of great weight or bulk, no additional attachment is required; by contact, where the device or appliance is necessary to make complete or usable something which is real property; by attachment to another device or appliance which has become a part of real property.

(2) Appropriateness to the use or purpose of the real property to which connected. The use or purpose of the device or appliance must become an element of the use or purpose of the real property to which it is connected.

(d) This Section is not intended to apply to cook stoves, refrigerators, dishwashers, washing machines, dryers, curtains, draperies, and portable heaters, acquired for the personal use of householders or tenants which may be removed without material damage to the building in which they are used. [See 68 O.S. §1352]

710:65-19-108. Florists, telegraphic orders

When florists sell through a telegraphic delivery association, the following provisions will apply:

(1) Oklahoma florists are liable for sales tax on the total receipts resulting from orders taken by them for transmittal to a second florist who makes delivery either within or without Oklahoma. Any expense of making the sale is to be included in the measure of the tax regardless of whether or not such expense is billed as a separate item.

(2) Florists receiving such telegraphed or telephoned instructions from either within or without Oklahoma are not liable for tax with respect to receipts therefrom.

710:65-19-109. Food; vendors of meals

(a) Vendors engaged in the business of selling meals to purchasers must collect, report and remit sales tax on their receipts from such sales. It is immaterial that no profit is realized from the operation of any such business if the vendor is engaged in business. It is also immaterial that the class of purchasers may be a limited one, such as the employees of a particular employer who operates a cafeteria or other dining facilities for the benefit of his employees.

(b) Meals provided to employees at no cost or at a reduced cost are subject to sales tax. The "**gross receipts**" or "**gross proceeds**" in the case of a meal sold to an employee at a reduced price is the amount received for that meal from the employee in the form of cash, check or credit card chit. Each person required to make a sales tax report shall include in the gross proceeds the sales value of all tangible personal property which has been purchased for resale and has been withdrawn from stock in trade for use or consumption. Meals provided to employees free of charge are withdrawals from inventory used or consumed by the employer and sales tax is due on the sales value. "**Sales value**" in the case of meals is the cost of materials withdrawn from inventory to provide such meals.

(c) Complimentary meals provided free of charge to customers are subject to sales tax. Each person required to make a sales tax report shall include in the gross proceeds the sales value of all tangible personal property which has been purchased

for resale and has been withdrawn from stock in trade for use or consumption and shall pay tax on such sales value. Meals provided to customers free of charge are withdrawals from inventory used or consumed by the employer and sales tax is due on the sales value.

(d) Meals served free of any actual charge or cost to an employee or customer constitute a withdrawal from inventory of items purchased free of sales tax and such withdrawals are subject to sales tax. For purposes of calculating sales tax liability, the sales value of free or complimentary meals is presumed to be the greater of any consideration received, or the cost or price paid by the vendor/taxpayer for the food items included in the free or complimentary meal served, pursuant to *OAC 710:65-1-2*.

(e) When an establishment provides a second meal in place of the first meal which was discarded because it did not meet the customer's specification, only one sale has been made and sales tax is levied only on the replacement meal. If, rather than discarding the first meal, the establishment serves the meal to another customer or employee, two sales have been made and sales tax is levied on both meals.

(f) Meals provided to customers at a reduced cost (i.e., discount or advertised special) are taxable. The "**gross receipts**" or "**gross proceeds**" in the case of a meal sold to a customer at a reduced price is the amount received for that meal from the customer in the form of cash, check or credit card chit less any amount designated by the customer as voluntary tip(s).

(g) In cases where two items are provided by a restaurant, club or similar establishment (i.e., buy one, get one free or two for one sale), the "**gross receipts**" or "**gross proceeds**" derived from the sale of two items for the price of one is the total amount of cash, check or credit card chit received less any amount designated by the customer as voluntary tip(s).

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-110. Food; eating and drinking establishments

(a) The sale of meals or non-alcoholic or alcoholic beverages is subject to sales tax, and any person or establishment making such sales will be considered a vendor and will be required to hold a valid sales tax permit. Such person or establishment will then be required to charge, collect, and remit the appropriate sales tax to the Commission based on the total gross receipts, or for the sale of alcoholic beverages, based on the total retail value, as set out in 37A O.S. §5-105.

(b) Fund raising meals or non-alcoholic beverages sold in excess of the regular selling price are subject to sales tax on the gross receipts. Fund raising sales of alcoholic beverages are subject to sales tax on the total retail value, as prescribed by 37A O.S. § 5-105.

(c) The vendor of meals or beverages cannot buy exempt any tangible personal property consumed in the operation of his business, including fixtures, linens or silverware. Paper napkins, paper cups, disposable utensils, disposable hot containers and other one-way carry-out materials may be purchased exempt as purchases for resale.

(d) Meals or non-alcoholic beverages provided to employees or customers at no cost, if no valuable consideration is received or indicated in vendor's records, are not subject to sales tax on gross receipts, but sales tax is due from the vendor, as a consumer user, on the "**sales value**" of the meal or the beverage as that term is defined in *OAC 710:65-1-2*.

(e) Sales tax is due on the total retail value of all alcoholic beverages, including alcoholic beverages provided to employees or customers at no cost or at a reduced

cost, pursuant to 37A O.S. § 5-105.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-111. Food; tips and service charges

(a) If a customer tips the vendor's employee, and the amount is wholly at the discretion or judgment of the customer, the tip is not subject to the sales tax. This applies whether the customer gives the tip directly to the employee in cash or adds the tip to his bill (provided the vendor turns over the full amount of the tip to the employee who provided the service).

(b) If the vendor adds an amount or flat percentage to the meal price, and the amount is designated as a tip or gratuity, the additional amount is not a part of the sales price and is not subject to the tax if the amount or flat percentage is paid over in whole by the vendor to the employee who provided the service. If the vendor adds an amount or flat percentage designated as a service charge that is not paid over in whole to the employee who provided the service, it is to be included in the sales price and is sales taxable.

(c) For example, if Restaurant A automatically adds a 15% gratuity or service charge to the charge for the meal, and does not pay it to the employee who provided the service in whole, such charge represents an increment to the sales price of the meal. Similarly, if Restaurant B automatically adds a 20% gratuity or service charge, unless the customer specifically specifies otherwise, such charge will be subject to the tax unless the customer exercises his option and specifies a different amount.

(d) If the vendor accumulates tips or gratuities or adds an amount or flat percentage as a service charge designated as a tip or gratuity that is paid over to the employee **as part or all of the minimum, hourly, or salary wage** of the employee, it is to be included in the sales price and is subject to sales tax.

[Source: Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 16 Ok Reg 2653, eff 6-25-99]

710:65-19-112. Food; cover charges and minimum charges

Cover charges are included in the taxable receipts of vendors operating restaurants, hotels and other places of business which come within the Code, even in cases where such cover charges are made exclusively for the privilege of occupying space within such eating place, and where the payment of a cover charge by a patron does not entitle such patron to use or consume any food or beverage or other tangible personal property. [See 68 O.S. §1354]

710:65-19-113. Food; meals served by boarding houses

Food furnished by operators of boarding houses is not considered to be sold when the charge for such food is a lump sum covering meals for a week or for a month and when such food is not offered for sale to the general public. The supplier of foodstuff is required to collect the tax from the operator at the time of the sale to him. The boarding house operator is considered to be rendering a service rather than making sales of tangible personal property and is regarded as the consumer of the materials he purchases. This Section does not apply to meals furnished by schools and colleges.

710:65-19-114. Funeral homes

(a) Embalmers and persons providing funeral services are engaged in the business of selling both tangible personal property and funeral services. Examples of the

former are caskets, other burial containers, flowers (other than those purchased with advance funds) and grave clothing. Examples of the latter are cremation, transportation by hearse and embalming. Tax is due only upon gross receipts from the sale of tangible personal property and taxable services, and not upon gross receipts from the sale of nontaxable services.

(b) If an embalmer or provider of funeral services separately itemizes charges in accordance with the rules of the Federal Trade Commission, for tangible personal property, taxable services and nontaxable services, sales tax is to be collected, reported and remitted on the gross receipts from the sale of tangible personal property and services including the following:

- (1) Casket or other receptacle
- (2) Burial container
- (3) Clothing
- (4) Marker
- (5) Flowers
- (6) Other tangible personal property
- (7) Other taxable services

(c) If an embalmer or provider of funeral services offers package prices for various types of funerals, tax is to be collected, reported and remitted on the gross receipts from the sale of tangible personal property and taxable services included in the package. For purposes of determining the amount of gross receipts of tangible personal property and taxable services included in the package, the embalmer or provider of funeral services shall calculate tax based upon the prices listed by the embalmer or provider of funeral services on the Casket Price List, Outer Burial Container Price List, General Price List, or Statement of Funeral Goods and Services Selected prepared by the embalmer or provider of funeral services which he prepares in conformity with the rules of the Federal Trade Commission that are in effect at the time the package is purchased. EXAMPLE: Package includes casket, outer burial container, hearse, family vehicle, embalming and other professional services at a cost of \$3,000.00. The casket included in the package is listed by the embalmer or provider of funeral services on his Casket Price List at \$1,500.00 and the outer burial container is listed on the Outer Burial Container Price List at \$600.00. Sales tax must be collected, reported and remitted on gross receipts in the amount of \$2,100.00 for this package.

(d) The embalmer or provider of funeral services is considered to be purchasing caskets, outer burial containers, and grave clothing for resale, and may purchase these items from suppliers without payment of tax. The embalmer or provider of funeral services should present the supplier with a sales tax permit as set out in these rules. An embalmer or provider of funeral services is considered to be the user or consumer of office furniture and equipment, funeral home furnishings, advertising calendars, booklets, embalming equipment, instruments, fluid and other chemicals used in embalming, cosmetics, and grave equipment, stretchers, baskets, and other items used in preparation of human remains or the provision of other nontaxable services. [See: 68 O.S. § 1354(A)(3)(b)]

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-19-115. Altering, repairing, and remodeling furs

(a) Persons utilizing fur in the altering, repairing, or remodeling of furs for others are vendors of the fur used in connection with such altering, repairing, or remodeling and shall collect, report and remit the tax at the time the fur is sold. The

sales price of such fur shall be segregated on the bills or invoices to the customer from the charge for labor in connection with such altering, repairing, or remodeling. Failure to separate the sale of material from the charge for labor requires payment of the tax on the entire amount charged to customers.

(b) Persons altering, repairing, or remodeling furs are consumers of the thread, buttons, lining, and materials other than fur used in connection with such altering, repairing, or remodeling, unless a separate charge is made to customers for such thread, buttons, and lining, in which case the tax applies to such separate charge and the vendor must collect, report and remit tax on the amount charged.

(c) Sales of furs to persons altering, repairing, or remodeling furs and sales of thread, buttons, and lining for which a separate charge is made to their customers are sales for resale provided the purchaser has a valid sales tax permit. The tax applies, however, to the gross receipts from sales to persons altering, repairing, or remodeling furs, of thread, buttons, and lining, for which a separate charge is not made by such persons to their customers.

(d) Sales of sewing machines, pressing machines, and other tools, instruments, and materials sold to fur and garment repairers for use in their business are taxable.

710:65-19-116. Fireworks

Effective August 26, 2011, no exemption shall apply to the sale of fireworks other than for resale purposes and all retail fireworks locations must possess a current sales tax permit which is to be conspicuously posted and immediately available for examination. Fireworks retailers shall make application for a sales tax permit by submitting to the Business Tax Services Division, Oklahoma Tax Commission, 123 Robert S Kerr Ave, Oklahoma City, OK 73102, a completed Form 40003 available online at www.tax.ok.gov.

[Source: Added at 29 Ok Reg 542, eff 5-11-12; Amended at 38 Ok Reg 1538, eff 9-1-21]

PART 13. "G"

710:65-19-125. Premiums and gifts [REVOKED]

[Source: Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-126. Gift certificates

The sale of gift certificates, premium stamps and similar documents, as well as their redemption are not subject to tax. When the owner of a gift certificate redeems the gift certificate, etc., or a part thereof, for tangible personal property, sales tax is due on the total selling price of the tangible personal property. For example, if the owner of a gift certificate valued at \$100 purchases a \$25 item, tax must be computed on \$25, must be collected, reported and remitted by the vendor.

710:65-19-127. Gift wrap [REVOKED]

[Source: Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-128. [RESERVED]

710:65-19-129. Gun clubs

Gun clubs are the consumers of the clay pigeons and blue rocks furnished to members and patrons in connection with trapshooting and similar sports, and should pay sales or use tax on these items when purchased, even if the charge for

the service to members is measured by the number of clay pigeons or blue rocks used. [See 68 O.S. §§1352, 1354]

PART 15. "H"

710:65-19-140. Hatcheries and incubators

(a) Sales by a person regularly engaged in the business of selling poultry or operating a hatchery, of chicks, turkey poults and starter pullets for consumption by the purchaser, are taxable.

(b) Such sales are exempt when made to a person regularly engaged in the commercial production of chickens, turkeys, and eggs, provided the purchaser certifies on the invoice to be retained by the vendor that the pullets will be used primarily for egg production. However, the seller is liable for the tax if the chicks, turkeys or eggs are consumed or used by the purchaser.

(c) The charge for the hatching of eggs for a person owning such eggs is not taxable.

(d) The sale of eggs, feeds, sprouters, medicines, insecticides, etc., for consumption or use by a person regularly engaged in the commercial production of poultry products for sale is not taxable. The sale of such items to persons keeping poultry mainly for their own consumption are taxable even though resales are made occasionally to dispose of temporary surpluses. [See 68 O.S. §1358]

710:65-19-141. Herbicides not sold to farmers or custom applicators

Sales of herbicides are subject to tax. The term "**herbicide**" means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include pre-emergence herbicides, post-emergence herbicides, lay-by herbicides, pasteur herbicides, defoliant herbicides, and desiccant herbicides.

710:65-19-142. Hospitals

(a) Hospitals, infirmaries, sanitariums, nursing homes, and like institutions are primarily engaged in the business of rendering services. They are not required to collect, report, and remit sales tax on gross receipts from meals, bandages, dressings, drugs, x-ray photographs or other tangible personal property when such items of tangible personal property are used in the rendering of a hospital service. This is true irrespective of whether or not such tangible items are billed separately to their patients.

(b) With the exception of drugs, excluding over-the-counter drugs, as outlined in 710:65-13-170, hospitals, infirmaries, and sanitariums are deemed to be the purchasers for use or consumption of all tangible personal property used in the rendering of their service, and the sellers of these items to hospitals, infirmaries or sanitariums are required to collect tax on sales of such property to hospitals, unless the hospital is owned or operated by the federal government, the State of Oklahoma, a city, county, public trust, or a federally-recognized Indian Tribe, in which case the exemption described at *OAC* 710:65-13-130 will apply. Hospitals, infirmaries or sanitariums, engaged in the administration of drugs to their patients, may purchase drugs, except for over-the-counter drugs, exempt from sales tax.

(c) When hospitals furnish meals to nurses, attendants and patients as a part of the service rendered, the hospitals are deemed to be the users or consumers of the food and beverages used in the preparation of these meals and the sellers of these items to the hospital are required to collect tax on the sales of such property.

(d) When privately owned hospitals operate cafeterias that serve meals to the public, they will be allowed to purchase all foodstuffs used to operate the cafeteria exempt from tax for resale with a valid sales tax permit. The hospitals will then be required to collect the sales tax on sales to their customers and report and remit same to the Commission each month. The hospitals will also be required to pay sales tax on the cost of all foodstuffs withdrawn from stock, which are used to feed patients.

(e) State, city or county hospitals who operate cafeterias that serve meals to the public, or who charge their employees, are also required to collect the sales tax on sales to their customers and report and remit same to the Commission each month.

[Source: Amended at 9 Ok Reg 3033, eff 7-13-92; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-143. Hotels, motels, apartments, etc.

(a) The gross receipts from the furnishing of rooms, except meeting rooms, by a hotel, apartment-hotel, cottage camp, or lodging house open to the public is subject to sales tax without regard to the length of guest stay. Sales tax does not apply to rental agreements which are governed by the Oklahoma Residential Landlord and Tenant Act [41 O.S. §§101 et seq.].

(b) The revenue received from the forfeiture of a deposit is not revenue arising from the furnishing of a room and is therefore not subject to sales tax. However, revenue which is derived from a guaranteed room is subject to sales tax, even if the guest did not occupy the room.

(c) The gross proceeds received by hotels or other persons for local telephone calls are considered a part of the service of furnishing rooms and are, therefore, taxable. No deduction will be allowed for any expense in connection with such service such as switchboard rental, trunk line rental, etc.

(d) Supplies such as toilet tissue, soap, shoeshine cloths, clothes bags, matches, facial tissue, and other items available for guests' use are subject to sales or use tax at the time of purchase by the hotel or motel. Linens, furniture, pool equipment and supplies, and similar items are subject to sales or use tax at the time purchased by the hotel or motel.

(e) Sales tax is not due on food or drinks that are provided as a part of a packaged room rate by hotel or motel operators if the furnishing of the room is subject to tax under Section 1354 of Title 68 and if no separate charge is made for the food or drinks. Such food or drinks are considered to be sold at retail as part of the total charge for the room.

(f) With the exception of subsection (e) hotel or motel operators who are also vendors of meals are required to remit sales tax on the "sales value" of inventory withdrawn from stock that is used in providing complimentary meals to its customers. The proper sales tax basis to be used for sales of food and beverages for related services, and for various "complimentary" offerings, both in the context of rooms and of other services, is explained in more detail in OAC 710:65-1-2 and 710:65-19-109.

(g) A "**mini-bar**" means a closed container, either refrigerated or non-refrigerated, with access to the interior limited to a key, magnetic card, or similar device and controlled at all times by the holder of the license.

(h) A hotel beverage license shall authorize the holder to sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine and 12 ounce malt beverage containers which are distributed from a hotel room mini-bar. The total retail value of the sale of alcoholic beverages by the license-holder is subject to sales tax,

pursuant to *OAC* 710:20-5-4.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 33 Ok Reg 1094, eff 8-25-16]

PART 17. "I"

710:65-19-155. Ice plants [REVOKED]

[Source: Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-156. Internet-related services and transactions

(a) **General provisions.** Charges for providing access to the Internet are not subject to Oklahoma's sales tax, since they do not clearly fall within the levy on telecommunications services. Sales of other services or tangible personal property made via the Internet are taxable in the same manner that they would be taxable if made via any other communication method.

(b) **Internet-related transactions to which the tax is not applicable.** The levy of sales tax does **not** apply to:

(1) Charges for access to the Internet, including dialup, DSL, and cable access services that allow a customer to be routed to the net through a service-provider's server or router.

(2) Charges for designing, creating, or for the storage of information for a "website or home page" on a server, including charges for "set up", "technical fees", "scanning", or domain registration.

(3) Charges for data manipulation or "electronic data processing services", pursuant to *OAC* 710:65-19-86.

(4) Sales of advertising space through the Internet, inasmuch as it falls within the category "electronic media", as defined by *OAC* 710:65-13-1.

(5) *Sales of prewritten computer software that is delivered electronically. For purposes of this paragraph, "delivered electronically" means delivered to the purchaser by means other than tangible storage media. [See: 68 O.S. § 1357(32)]*

(6) Sales of digital products delivered electronically including music, video, ringtones, and books.

(c) **Internet-related transactions to which the tax is applicable.** The transactions described in this subsection are subject to the levy of sales or use tax, without regard to the fact that the Internet was used to facilitate the sale:

(1) Sales of tangible personal property made via the Internet where the goods are sold to the purchaser in Oklahoma or are shipped into Oklahoma, as set out in *OAC* 710:65-15-1.

(2) Sales of prewritten computer software, where the software is not transferred from the seller to the purchaser electronically.

(3) The lease or purchase of dedicated lines or ports, routers, or other hardware or software by Internet access-providers, for use in providing services to their subscribers, is taxable to the service-provider. Note however, that the purchase of interstate private line service is exempt pursuant to *OAC* 710:65-19-330.

(d) **Establishment of a physical connection with Oklahoma.** The use of an on-line service or the establishment of a website, whether the server on which the website is maintained is located inside or outside Oklahoma, if the website owner has no other physical connection with Oklahoma, is **not** a sufficient, physical

presence in Oklahoma, absent any other connection, to require the website owner to register as a business and to collect Oklahoma sales tax on sales of tangible personal property or services to consumers located in Oklahoma or on sales of goods sold for use in Oklahoma. The duty to collect and procedures to be used in reporting and remitting sales and use taxes which apply to vendors located or "maintaining a place of business" in Oklahoma are set out in *OAC* 710:65-15-1, 710:65-21-4(b) and in 68 O.S. §§ 1406 et seq. (Use Tax Code).

[Source: Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-19-157. Insecticides and fungicides not sold to farmers or custom applicators

Sales of insecticides and fungicides are subject to tax. The term "**insecticides**" means any substance or mixture of substances which are used for the preventing, destroying, repelling, or mitigating of any insects. The term "**fungicides**" means any substance or mixture of substances which are used for preventing, destroying or mitigating any fungi.

**710:65-19-158. Installation, alteration and special service charges
[REVOKED]**

[Source: Revoked at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-159. Installation charges

(a) Where the quoted or advertised price is a lump sum for both property and installation or where billing and other records do not show separate charges for property and for installation, the measure of the tax is the total gross receipts received by the seller.

(b) Where the seller has a standard retail sales price for his products and where the standard sales price is used both when making across-the-counter sales and when selling and installing the property, he may make a separate and additional charge for making the installation which, when shown separately in his billings and on his books, will not be subject to the sales tax.

710:65-19-160. Installment and credit sales

It will be necessary for the vendor to collect from, or charge to the customer the entire amount of the tax as computed on the selling price in each case of an installment or credit sale, irrespective of the amount of the installment or down payment made by the purchaser consumer or whether any installment or down payment is made. Installment and credit sales together with the tax applicable thereto must be reported on the vendor's return covering the period in which the installment or credit sale occurred.

710:65-19-161. Insurance companies

Insurance companies subject to 36 O.S. §624 do not qualify as exempt purchasers for purposes of state, county, or municipal sales tax or state or municipal use tax and, therefore, should pay sales or use tax to the vendor when making a taxable purchase of tangible personal property or services.

PART 19. "J" [RESERVED]

PART 21. "K" [RESERVED]

PART 23. "L"

710:65-19-190. Labels, tags, and name plates

(a) Sales of labels, tags or name plates to persons using them in rendering services or for personal or business use or which do not accompany products sold, are purchases for consumption or use and are subject to taxation.

(b) Sales of labels or name plates to be affixed to tangible personal property which is taxable when sold at retail, or to the containers sold with such property, are not subject to tax if the labels or name plates are an inseparable part of the property sold and purchased by the buyer as a part of such property.

(c) Sales of labels to persons retaining title to containers to which the labels are affixed are not sales for resale but are sales for consumption and subject to tax.

710:65-19-191. Businesses engaged in the rental and/or laundering of linens, apparel, diapers, mats/rugs or other items

(a) **Linen and uniform rental and cleaning services.** Businesses which rent clean linens, apparel, diapers, rugs/mats or other items to consumers must obtain an Oklahoma sales tax permit and collect and remit state and any applicable local sales tax on the total charges billed to customers without any deduction for laundering, repairing, or cleaning services rendered in association with the rental of such items.

(1) **Exempt purchases.** Pursuant to its sales tax permit, property which is to be rented in addition to wrapping materials/garment bags in which such property is to be furnished to customers may be purchased exempt from sales tax. Likewise, items such as buttons and zippers used in the repair of rented apparel may also be purchased tax exempt.

(2) **Taxable purchases.** Materials, supplies, tools and equipment including soaps, detergents cleaning fluids, deodorants, bleaches, water, electricity, natural gas, washers, dryers, ironers, mangles and all other tangible personal property used and consumed to conduct their rental business are subject to sales tax when purchased.

(b) **Laundries and dry cleaners.** Amounts charged by establishments for the service of laundering or dry cleaning articles of clothing of their customers are not subject to sales tax. Laundries and dry cleaners pay sales/use tax on all items i.e., laundry equipment, cleaning chemicals, garment bags, etc., purchased or rented for use and consumption in the provision of their nontaxable service.

[Source: Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-192. Lawyers

(a) Law books, supplies, furniture and equipment purchased by lawyers or law firms are subject to taxation. Charges for updates, pocket parts, and looseleaf services are also subject to taxation.

(b) Lawyers or law firms must collect, report, and remit sales tax on gross receipts from sales of tangible personal property and services taxable under the Sales Tax Code, including photocopying and FAX.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-193. Layaway fees

If a handling or service charge is made to the customer for the privilege of putting merchandise in layaway; that charge is subject to the sales tax.

[Source: Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-194. Lumber dealers [REVOKED]

[Source: Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-195. Sales of lottery tickets

Sales of lottery tickets are exempt from sales tax when the tickets are sold by a lottery retailer providing the retailer has been duly certified by the Oklahoma Lottery Commission in accordance with 3A O.S. Section 717.

[Source: Added at 23 Ok Reg 2847, eff 6-25-06]

PART 25. "M"

710:65-19-210. Vendors of machinery, tools, patterns, and similar items

(a) Vendors of machinery, tools, dies, jigs, production patterns, gauges and the like to users or consumers must collect, report and remit sales tax liability except as provided in the exemption for equipment used directly in manufacturing. This is true whether the vendor installs such tangible personal property for the purchaser or not.

(b) The fact that it is not a stock item and is only produced after an order is received, or is an alteration of a standard item, is not sufficient to exempt it from sales or use tax unless it is otherwise exempt. [See: 68 O.S. §§1354, 1359]

(c) Provided, however, from and after September 1, 1994, patterns used in the commercial production of metal castings shall be exempt from the levy of sales and use tax. [See: 68 O.S.Supp.1994, §] 1359(11)]

(d) Patterns sold to a manufacturer to be used in a manufacturing operation may be purchased exempt, regardless of possession of the pattern.

[Source: Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-211. Sale or rental of microfilm, slides, videotape tape recordings, records, etc.

In general, the sale, rental or leasing of all tangible personal property, including microfilm, slides, video tape, tape recordings, phonograph records, etc., are taxable. The provisions applicable to the imposition of the tax on rental or leasing transactions shall not be applicable to the rental or leasing of motion picture films, audio or video tape to a party or parties who charge admission for the viewing of such films, tapes, etc.

710:65-19-212. Milk and dairy processors

(a) The sale of all tangible personal property consumed or used directly in production of dairy products prior to shipment from the place of production is not taxable.

(b) Sales of tangible personal property consumed or used in the receiving, storage, transportation, or delivery of milk are taxable. Transportation of milk from the place where it is produced, as well as the receiving and storage of the milk at the processing plant, is taxable. Processing includes all necessary operations performed on the milk prior to shipment from the plant. Sales of tools and equipment used directly in the processing of milk or milk products, and lubricants and other materials consumed or used in the maintenance of that equipment, are not taxable. Sales of tangible personal property consumed or used in the construction,

alteration, repair, or improvement of buildings and grounds are taxable.

(c) Sales of equipment used or consumed in the delivery of milk and milk products are taxable, including trucks, cases, crates, etc., and property used for the maintenance and operation of that equipment.

(d) Sales of milk bottles and milk cans to dairies for use in processing milk for sale at retail by others, together with washing machines for the same and cleaning compounds used in connection therewith by such processors, are not subject to tax. Sale of milk bottle crates or cases for transportation, receiving, storage, or delivery are subject to tax. Sales of milk cans to farmers for use in cooling milk prior to shipment to dairies are not taxable.

(e) Dairy products sold by vendors to consumers for home preparation of meals are subject to sales tax.

710:65-19-213. Military; members of armed services stationed in Oklahoma subject to sales and use taxes

Members of the armed services of the United States stationed in Oklahoma have no immunity from sales taxes imposed upon sales of tangible personal property to them by Oklahoma vendors.

710:65-19-214. Multi-level sales

(a) Vendors operating a multi-level distribution system will collect tax on the gross receipts of the retail value of the products sold. This tax is to be passed through the multi-level distributors, who will not be required to hold an Oklahoma sales tax permit, to the consumers/users.

(b) For example, the vendor who sells to distributors, who in turn sell to consumers/users at home parties, is required to collect, report, and remit sales tax on the total amount of gross receipts received by the vendor's distributors from the sales of tangible personal property or taxable services. The distributors will collect the tax from the consumer.

(c) Shipping and handling charges associated with the shipment of multi-level sales merchandise to the distributor or the distributor's customers are not subject to sales tax, if separately stated.

(d) If the products are not sold by the distributor in the original form or packaging created by the multi-level vendor, but instead used as an ingredient in or component to a separate product, the distributor must collect sales tax on the total sales price of the final product to the consumer.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-215. Vehicle sales tax

(a) **Applicability.** Vehicle sales occurring on or after July 1, 2017 which are subject to vehicle excise tax pursuant to Chapter 21 of Title 68 will also be subject to state sales/use tax at a rate of 1.25%. The referenced vehicle sales are not subject to the imposition of sales/use tax imposed by local taxing jurisdictions.

(b) **Exceptions to general applicability.** Sales tax is not collected at the time of initial titling or registration of purchased manufactured homes, boats, outboard motors, special mobilized machinery, low-speed/medium speed electrical vehicles.

(c) **Date due; penalty.** The sales/use tax and must be paid within thirty (30) days from the transfer of vehicle ownership in the same manner and at the same time as vehicle excise tax. After the thirtieth (30th) day, interest is to be collected in addition to the tax due, accruing until paid. After the forty-fifth (45th) day

following purchase, a penalty amount is assessed. Sales tax, interest and penalty levy amounts are established by statute.

(d) **Taxable value.** Sales tax assessment is based upon the purchase price of the vehicle before any credit or discount is allowed for a vehicle trade-in.

[Source: Added at 35 Ok Reg 2102, eff 9-14-18]

710:65-19-216. Medical marijuana

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

- (1) "**Commission**" means the Oklahoma Tax Commission.
- (2) "**Department**" means the Oklahoma State Department of Health.
- (3) "**Dispensary**" means an entity that has been licensed as a dispensary by the Department pursuant to Title 63 of the Oklahoma Statutes.
- (4) "**Grower**" or "**Commercial Grower**" means an entity that has been licensed as a commercial grower by the Department pursuant to Title 63 of the Oklahoma Statutes.
- (5) "**Medical Marijuana**" means marijuana that is grown, processed, dispensed, tested, possessed, or used for a medical purpose.
- (6) "**Medical Marijuana Product**" means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, forms medically appropriate for administration by vaporization or a nebulizer, patches, tinctures, and liquids excluding live plant forms.
- (7) "**Processor**" means an entity that has been licensed as a processor by the Department pursuant to Title 63 of the Oklahoma Statutes.

(b) **General permitting requirements.** In order to begin selling medical marijuana and medical marijuana products, a dispensary must either hold or obtain an Oklahoma sales tax permit from the Commission pursuant to OAC 710:65-9-1.

(c) **Sales of medical marijuana and marijuana products.** Gross receipts derived from sales of medical marijuana and medical marijuana products are subject to state and local sales tax.

(d) **Sales tax computation.** The 7% gross receipts tax is not part of the gross receipts for purposes of calculating the sales tax due, if the tax is shown separately from the price of the medical marijuana. Example:

- (1) Medical Marijuana \$ 100.00
- (2) 7% Gross Receipts Tax \$ 7.00
- (3) State & Local Sales Tax [8.5%] \$ 8.50 (use applicable tax rate for your location)
- (4) Total \$ 115.50

(e) **Agricultural sales tax exemption permit eligibility.** Provided all other requirements are met, persons possessing a commercial grower license issued by the Department are eligible for an agricultural sales tax exemption permit. The applicant grower must provide the commercial grower license number issued to the grower by the Department.

(f) **Manufacturer's sales tax exemption permit ineligibility.** The processing of marijuana is not commonly regarded as manufacturing; therefore, marijuana processors are not eligible for a manufacturer's sales tax exemption permit. However, processors are eligible for an Oklahoma sales tax permit which will allow them to purchase marijuana and other marijuana products exempt from sales

tax to be resold to dispensaries.

[Source: Added at 36 Ok Reg 16, eff 9-11-18 (emergency); Amended at 36 Ok Reg 1235, eff 8-11-19]

PART 27. "N"

710:65-19-225. Nurserymen

Where a nurseryman or florist sells shrubbery, young trees and similar items to purchasers for use or consumption, and, as a part of the transaction, transplants such property in the land of the purchaser, the entire receipts from the transaction are subject to sales tax unless the transplanting fee is separately stated.

PART 29. "O"

710:65-19-240. Oil operator transfers; "material transfer" described; examples

- (a) **"Material transfer" described.** The transfer of tangible personal property from one location to another is referred to as a material transfer.
- (b) **Liability during drilling phase.** The operator is responsible for collecting and remitting tax on material transfers during the drilling phase. The operator and/or the producer is responsible for collecting and remitting tax once the well is drilled.
- (c) **Determining taxability of a material transaction.** The taxability of the material transaction will depend on whether the ownership interest(s) after the transfer is the same as it was before, as illustrated:

(1) "A" is an oil operator and owns 100% of a producing well. He can transfer material from his warehouse to the well and back to his warehouse without incurring a tax liability because there was no change in the ownership of the tangible personal property.

(2) "A" is an oil operator and enters into a joint venture to drill a well called the Wilson No. 1. "A" is to be the operator with a 40% working interest, "B" has a 35% working interest, and "C" has a 25% working interest. "A" transfers 100 joints of drill pipe from his warehouse to the drilling site. This transfer is not taxable according to 68 O.S. 1360(B), since, after the sale, there is a joint interest in the property. If the Wilson No. 1 is a dry hole and the 100 joints of drill pipe are returned to "A's" warehouse, then sales tax would be due on "B's" and "C's" interest in the pipe since "A" is again the sole owner of the pipe and it was placed back into his inventory by the material transfer.

- (d) **Material transfers involving separate legal entities.** Material transfers involving separate legal entities, i.e., corporations, partnerships, limited partnerships, and individuals are regarded as arm's length transactions for tax purposes regardless of common ownership, as illustrated:

(1) "A" is an oil operator and enters into a joint venture to drill a well called the Gerard No. 2. "A" is to be the operator with 40% interest, "B" has a 30% working interest, and "C" has a 30% working interest. "A" also enters a joint venture to drill a well called the Jones No. 3. "A" is the operator with a 30% working interest, "D" has a 28% working interest, and "E" has a 42% working interest. The Gerard No. 2 is a dry hole and 100 joints of pipe are transferred to the Jones No. 3 and the joint interest billing of "B" and "C" credited. Sales tax is due on the 30% interest of "B" and 30% interest of "C".

(2) Corporation A sells tangible personal property to corporation B. Corporation A and corporation B are owned 100% by the same person. The sale is taxable.

(3) Limited Partnership A sells tangible personal property to corporation B. Corporation B is the General Partner of Limited Partnership A. The sale is taxable.

(4) Corporation A brings tangible personal property to its yard and credits Limited Partnership B for its value. Corporation A is a partner in Limited Partnership B. A has bought the goods from B and the transaction is 100% taxable.

[Source: Amended at 18 Ok Reg 2823, eff 6-25-01]

710:65-19-241. Fractionation tanks (frac tanks) [REVOKED]

[Source: Added at 21 Ok Reg 2581, eff 6-25-04; Revoked at 22 Ok Reg 1561, eff 6-11-05]

710:65-19-242. Sale of wells and pipelines

All tangible personal property included in the sale of an oil, gas, disposal, or water well or of any pipeline is taxable. This includes any tangible personal property either above or below the earth's surface. All tangible personal property in a gas processing plant not directly used in processing is taxable.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-243. Sales by the State of Oklahoma, state agencies, etc.

The State of Oklahoma, its agencies and instrumentalities, all counties, townships, and municipal corporations, their respective agencies and instrumentalities, and all other state governmental entities and subdivisions, including state colleges and universities, shall collect, report and remit sales tax on taxable sales of tangible personal property and services. For example, sales of city maps, sales of gifts and souvenirs, sales of food from city operated concessions at stadiums, ballparks, auditoriums, rental of equipment such as golf carts, charges made for entering or engaging in any activity such as tennis, baseball, basketball, when spectators are charged no admission, etc., are subject to tax.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

PART 31. "P"

710:65-19-255. Pawnbrokers

Pawnbrokers are engaged primarily in the business of lending money for the repayment of which they accept as security tangible personal property from the pawner or pledger. In cases where the pawner or pledger does not redeem the property pledged or pawned within the specified time and the property is forfeited and title rests in the pawnbroker, the gross proceeds realized by the pawnbroker from a subsequent sale of the articles are taxable.

710:65-19-256. Taxability of items purchased by permit holders

The following are examples of items purchased by permit holders categorized by the classification of business with the notation of T (taxable at the time of purchase) or NT (may be purchased exempt from tax):

(1) **Retail food stores.** Retail food stores (grocery and meat markets) should treat the following items as indicated:

- (A) Adding Machine Tape T
- (B) Bags and Sacks NT
- (C) Bag Holders T
- (D) Brooms-Use T
- (E) Broom Holders & Display Racks T
- (F) Butcher Paper-For Food Preparation NT
- (G) Cashier Pads T
- (H) Cellophane Bags NT
- (I) Cellophane, Sheets or Roll NT
- (J) Cellophane Cutters T
- (K) Egg Cartons NT
- (L) Food Pails and Tubs NT
- (M) Greaseproof Paper NT
- (N) Grocery Bags NT
- (O) Gum Tape NT
- (P) Gum Tape Dispensers T
- (Q) Heat Sealing Equipment T
- (R) Ice Cream Bags NT
- (S) Trays NT
- (T) Locker Paper NT
- (U) Marking Pencils T
- (V) Meat Boards T
- (W) Meat Interleaver T
- (X) Paper Cans NT
- (Y) Paper Cutters T
- (Z) Parchment NT
- (AA) Patty Paper NT
- (BB) Plastic Film NT
- (CC) Pork Loin Wrap NT
- (DD) Prepackaging Trays NT
- (EE) Pressure Sensitive Tape NT
- (FF) Price Markers T
- (GG) Produce Bags NT
- (HH) Roll Paper NT
- (II) Sausage Boxes and Liners NT
- (JJ) Signboard T
- (KK) Skewers T (Nontaxable only if accompanies sale and cannot be reused.)
- (LL) Steak Interleaver T
- (MM) Sugar Bags NT
- (NN) Sweeping Compounds T
- (OO) It-Packs & Twistems NT
- (PP) Twine NT
- (QQ) Window Display Bags NT

(2) **Food and beverage servers.** Food and beverage servers (restaurants, drive-ins, cafeterias, concession stands, bars, lounges and night clubs) should treat the following items as indicated (Items are exempt, if they are nonreusable and accompany sale. If items can be reused then they would be taxable.):

- (A) Adding Machine Tape T

- (B) Aluminum Foil T (Nontaxable only if accompanies sale and cannot be reused.)
- (C) Aluminum Plates NT
- (D) Barbecue Bags NT
- (E) Bibs (Paper) NT
- (F) Burger Cups NT
- (G) Burger Cup Holders T
- (H) Butter Chips NT
- (I) Chop Holders T
- (J) Coasters (If not reusable) NT
- (K) Cocktail Forks & Spoons (If not reusable) NT
- (L) Coffee Stirrers (If not reusable) NT
- (M) Crab Shells NT (Nontaxable only if accompanies sale and cannot be reused.)
- (N) Cups and Lids NT
- (O) Cup Dispensers T
- (P) Doilies (If not reusable) NT
- (Q) Eclair Cases NT
- (R) Guest Checks T
- (S) Hot Dog Trays NT
- (T) Napkins (If not reusable) NT
- (U) Napkin Dispensers T
- (V) Paper Bags NT
- (W) Paper Plates NT
- (X) Paper Trays NT
- (Y) Paper Linen Caps T
- (Z) Patty Paper NT
- (AA) Place Mats (If not reusable) NT
- (BB) Printing Charge on Special Print Orders T
- (CC) Sandwich Bags NT
- (DD) Sandwich and Drink Trays NT
- (EE) Skewers T
- (FF) Souffle Cups NT
- (GG) Steak Markers T
- (HH) Straws NT
- (II) Sundae Dishes NT (Nontaxable only if accompanies sale and cannot be reused.)
- (JJ) Table Covers T
- (KK) Table Wiping Towels T
- (LL) Tableware, Plastic and Spoons NT
- (MM) Tissue, 12 x 12 M.G. NT
- (NN) Toilet Tissue T
- (OO) Toothpicks and Frills NT
- (PP) Towels T
- (QQ) Tray Covers (If not reusable) NT
- (RR) Waxed Paper NT (Nontaxable only if accompanies sale and cannot be reused.)
- (SS) Wooden Salad Forks and Spoons T
- (TT) Wooden Dishes T

(3) Laundry and dry cleaning establishments. Laundry and dry cleaning supplies should be treated as follows:

- (A) Bridal Gown Boxes T
- (B) Coat Retainers T
- (C) Collar Supports T
- (D) Garment Bags T
- (E) Garment Roll Film T
- (F) Garment Roll Film Dispenser Racks T
- (G) Hanger Shields & Guards T
- (H) Hangers T
- (I) Laundry Boxes T
- (J) Laundry and Launderette Bags T
- (K) Laundry Shells T
- (L) Paper Cutters T
- (M) Shirt Bags T
- (N) Shirt Bands T
- (O) Shirt Boards T
- (P) Shirt Boxes T
- (Q) Shirt Packs T
- (R) Shirt Shells T
- (S) Storage Bags T
- (T) Sweater Bags T
- (U) Tape T
- (V) Trouser Guards T
- (W) Twine T
- (X) Wrapping Paper T

(4) **Retail bakery and candy shops.** Retail bakery and candy shops should treat the following items as indicated:

- (A) Adding Machine Tape T
- (B) Aluminum Foil NT (Nontaxable only if accompanies sale and cannot be reused.)
- (C) Aluminum Pie and Cake Plates NT (Nontaxable only if accompanies sale and cannot be reused.)
- (D) Bakery Bags NT
- (E) Bakery Boxes NT
- (F) Bakery Tissue NT
- (G) Baking Cups NT (Nontaxable only if accompanies sale and cannot be reused.)
- (H) Bread Bags NT
- (I) Cake Circles NT (Nontaxable only if accompanies sale and cannot be reused.)
- (J) Candy Bags NT
- (K) Candy Cups NT
- (L) Cellophane NT
- (M) Cellophane Bags NT
- (N) Doilies NT (Nontaxable only if accompanies sale and cannot be reused.)
- (O) Eclair Cups NT (Nontaxable only if accompanies sale and cannot be reused.)
- (P) Food Pails and Tubs NT (Nontaxable only if accompanies sale and cannot be reused.)
- (Q) Gift Wrap T
- (R) Glassine Bags NT

- (S) Grocery Bags NT
- (T) Gum Tape NT (If used as part of package.)
- (U) Gum Tape Dispensers T
- (V) Heat Sealing Equipment T
- (W) Jiffy Bags NT
- (X) Marking Pencils T
- (Y) Pan Liners NT (Nontaxable only if accompanies sale and cannot be reused.)
- (Z) Paper Cans NT
- (AA) Paper Caps T
- (BB) Paper Cutters T
- (CC) Paper Pie Plates NT (Nontaxable only if accompanies sale and cannot be reused.)
- (DD) Parchment NT
- (EE) Ribbon T
- (FF) Sales Books T
- (GG) Sandwich Bags NT
- (HH) Sandwich Wrap NT
- (II) Shredded Cellophane NT
- (JJ) Signboard T
- (KK) Sweeping Compound T
- (LL) Toothpicks and Frills NT
- (MM) Transparent Tape NT (If used as part of package.)
- (NN) Twine NT (If used as part of package.)
- (OO) Wax Paper NT
- (PP) Window Bags NT
- (QQ) Wrapping Paper T

(5) **Drug, variety and sundry stores.** Drug, variety and sundry stores (See also (2) of this subsection) should treat the following items as indicated:

- (A) Adding Machine Tape T
- (B) Gift Wrapping Paper T
- (C) Grocery Bags NT
- (D) Guest Checks T
- (E) Gum Tape NT (If used as part of package.)
- (F) Gum Tape Dispensers T
- (G) Millinery Bags NT
- (H) Notion Bags NT
- (I) Paper Cutters T
- (J) Prescription Bags NT
- (K) Ribbon and Accessories T
- (L) Sanitary Napkin Bags (resale)NT
- (M) Shopping Bags NT
- (N) Signboard T
- (O) Twine NT (If used as part of package.)
- (P) Wrapping Paper T

(6) **Florists and nurseries.** Florists and nurseries should treat the following items as indicated:

- (A) Cellophane NT
- (B) Cellophane Bags NT
- (C) Cellophane Tape NT
- (D) Florist Tissue NT

- (E) Flower Boxes NT
- (F) Flower Pots NT
- (G) Gift Papers and Foil NT
- (H) Gummed Tape NT
- (I) Gummed Tape Dispensers T
- (J) Paper Bags NT
- (K) Polyethylene Rolls and Bags NT
- (L) Polyethylene and Paper Cutters T
- (M) Pressure Sensitive Tape NT (If used as part of package.)
- (N) Ribbon and Accessories NT
- (O) Shredded Cellophane NT
- (P) It-Packs and Twistems NT (If used as part of package.)
- (Q) Twine NT (If used as part of package.)
- (R) Wrapping Paper NT
- (S) Wrapping Tissue NT

(7) **Retail department stores and specialty stores.** Retail department stores and specialty stores (including book and stationery stores, gift shops, hardwares, etc.) should treat the following items as indicated:

- (A) Curtained Rod Bags NT
- (B) Garment Bags NT
- (C) Garment Bag Boxes NT
- (D) Gift Boxes T
- (E) Gift Wrap T
- (F) Grocery Bags NT
- (G) Gum Tape NT (If used as part of package.)
- (H) Gum Tape Dispensers T
- (I) Lampshade Bags NT
- (J) Marking Pencils T
- (K) Millinery Bags NT
- (L) Millinery Boxes NT
- (M) Nail Bags NT
- (N) Notion Bags NT
- (O) Paper Cutters T
- (P) Record Bags NT
- (Q) Ribbon and Accessories
- (R) Sales Books T
- (S) Shirt Bags NT
- (T) Shoe Bags NT
- (U) Shopping Bags NT
- (V) Shredded Cellophane NT
- (W) Shredded Tissue NT
- (X) Signboard T
- (Y) Transparent Tape NT (If used as part of package.)
- (Z) Twine NT (If used as part of package.)
- (AA) Wrapping Paper T
- (BB) Wrapping Tissue T

(8) **Meat and poultry packers, food lockers and dairies.** Meat and poultry packers, food lockers and dairies should treat the following items as indicated:

- (A) Butcher Paper NT
- (B) Butter Tubs NT

- (C) Butter Wraps NT
- (D) Cellophane & Plastic Films NT
- (E) Cellophane Tape NT
- (F) Chic Packs NT
- (G) Chic Trainer Trays NT
- (H) Cone Bottles NT
- (I) Creamer Caps NT
- (J) Cups and Tubs NT
- (K) Egg Cartons NT
- (L) Freezer and Locker Paper NT
- (M) Freezer Tape NT
- (N) Grocery Bags NT
- (O) Gum Tape NT
- (P) Gum Tape Dispenser T
- (Q) Ham Wraps NT
- (R) Ice Cream Bags NT
- (S) Ice Cream Cans and Cartons NT
- (T) Ice Cream Pails NT
- (U) Ice Cream Sticks NT
- (V) It-Packs and Twistems NT
- (W) Marking Pencils T
- (X) Meat Boards T
- (Y) Parchment NT
- (Z) Poly Bags NT
- (AA) Pork Loin Wrap NT
- (BB) Poultry Bags NT
- (CC) Sacks NT
- (DD) Sausage Boxes and Liners NT
- (EE) Twine T
- (FF) Waxed Paper NT
- (GG) Wrapping Paper T (If the sales are made to a food locker business, it must be determined if the products are used in rendering a service, or if they are in the actual retail meat business. If they are wrapping meat for customers to be stored in their individual lockers, this is a service and the items are taxable.)

(9) **Farms; assemblers of farm products.** Farms and assemblers of farm products should treat the following items as indicated:

- (A) Box Liners NT
- (B) Butter Tubs NT
- (C) Car Liners T
- (D) Cellophane NT
- (E) Cellophane Bags NT
- (F) Cellophane Tape NT
- (G) Chic Pack NT
- (H) Chic Trainer Trays NT
- (I) Egg Cartons NT
- (J) Flour and Meal Bags NT
- (K) Fruit Baskets NT (Nontaxable only if accompanies sale.)
- (L) Grocery Bags NT
- (M) Gum Tape NT
- (N) Gum Tape Dispensers T

- (O) Marking Pencils T
- (P) Poly Bags NT
- (Q) Poly Sheets and Rolls NT
- (R) Potato Bags NT
- (S) Poultry Bags NT
- (T) Prepackage Trays NT
- (U) Shredded Paper and cellophane NT
- (V) Tomato Cartons NT
- (W) Twine NT (Nontaxable only if accompanies sale.)
- (X) Window Bags NT
- (Y) Wrapping Paper NT (Nontaxable only if accompanies sale.)
- (Z) Wrapping Tissue NT (Nontaxable only if accompanies sale.)

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97]

710:65-19-257. Pest exterminators

Persons engaged in the business of exterminating insects, rodents and other pests primarily render services. They are not required to collect the tax from their customers on account of the services rendered. They are the ultimate users or consumers of the tangible personal property sold to them and used in connection with their service and are required to pay the tax imposed upon such sales of tangible personal property to their vendors.

710:65-19-258. Registered pharmacists and druggists

- (a) When registered pharmacists or druggists sell "**over-the-counter**" drugs or other tangible personal property to purchasers they must collect, report and remit the sales tax on these sales, unless otherwise exempt.
- (b) When registered pharmacists and druggists, who, themselves, are engaged in the practice of a licensed profession, sell medicines or drugs on the prescription of a licensed physician or other person qualified to issue prescriptions which are exempt from taxation, such registered pharmacists and druggists are not required to collect and remit sales tax on their receipts from such transactions, including receipts from both labor and tangible personal property.

[Source: Amended at 21 Ok Reg 2581, eff 6-25-04]

710:65-19-259. Photocopying

The sale of photocopies and photostats represents the taxable sale of tangible personal property. "Quick printers" and persons operating photocopy or photostating machines primarily for the reproduction of copy furnished by customers are not manufacturers and are not entitled to exemption from the tax on machinery, tools, and supplies such as toner/fixative used in their businesses. Such persons may purchase exempt from the tax only those items, such as paper, that will become ingredients or component parts of the finished products they sell. [See: 68 O.S. § 1354(6)]

[Source: Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-19-260. Commercial photographers and videographers

- (a) **Sales subject to tax.** The gross receipts associated with the sale of photographs and videos delivered in a tangible format along with any services connected with such sales are subject to sales and use taxes, including, but not limited to, gross receipts from:

- (1) Sitting fees.
- (2) Taking, reproducing and selling photographs.
- (3) Processing, developing, printing and enlarging film.
- (4) Enlarging, retouching, tinting or coloring photographs.
- (5) Processing exposed film into color transparencies, mounted or unmounted.
- (6) Reproducing copies of documents, drawings, photographs, or prints by mechanical and chemical reproduction machines, blue printing and process camera equipment.

(b) **Nontaxable sales.** The gross receipts related to the sale of digital photographs and videos that are transmitted electronically are not subject to sales and use tax. Charges for services associated with these sales are considered to be nontaxable.

(c) **School photographs.** Sales of photographs to students are subject to tax, even though school personnel may participate by collecting payments from students.

(d) **Sales for resale.** Property sold by or to a photographer or photo processor for resale by the purchaser is not subject to sales or use tax at the time of such sale, but the gross receipts from the resale to the consumer or user are taxable.

(e) **Manufacturing.** The processing of photographic film by photographers is not considered manufacturing.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-261. Physicians and optometrists

(a) Physicians and optometrists are the consumers of the supplies, medicines, office furniture and fixtures, and special tools and equipment they use in the practice of their profession. Sales of supplies, etc., to them are subject to the sales tax.

(b) When physicians or surgeons sell items of tangible personal property such as medical bracelets, crutches, wheelchairs, first-aid kits, and the like, to purchasers apart from their rendering of service as physicians or surgeons, they collect, report and remit sales tax on the gross receipts from these sales.

(c) Physicians and optometrists are engaged in professions that primarily render service. To the extent to which they engage in such professions, they are not engaged in the business of selling tangible personal property to purchasers within the meaning of the Code. Consequently, they are not required to remit sales tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property dispensed incidentally to such service, such as eyeglasses or contact lenses. However, the physician or optometrist must pay sales or use tax when purchasing such tangible personal property.

[Source: Amended at 22 Ok Reg 1561, eff 6-11-05]

710:65-19-262. Picture-framers

(a) Picture-framers must collect, report and remit sales tax when they sell frames, even though they make such picture frames only upon receipt of orders thereof. This is true even though the picture-framer installs, in such frame, a picture belonging to his customer.

(b) A picture-framer need not collect, report and remit tax on his gross receipts from his service of installing a picture owned by a customer in a frame owned by that customer.

710:65-19-263. Plating

(a) Gross receipts from the sale of plating are not subject to sales tax if the sale is made to a person engaged in the business of manufacturing and the buyer delivers a Manufacturers/Sales Tax Exemption Permit (MSEP).

(b) The purchaser claiming the exemption, by presenting a valid certificate of exemption, must have the service performed directly upon tangible personal property which he is in the business of manufacturing or upon ingredients or component parts thereof, or he will be liable for the sales tax on the value of the plating.

[Source: Amended at 30 Ok Reg 2089, eff 7-25-13]

710:65-19-264. Pole line construction

Materials used in the construction of pole lines for the transmission of electric power and telephone, telegraph, radio, and television signals are building materials. These materials are purchased subject to sales or use tax, whichever may apply, by the persons who erect the pole lines into place by attachment to real property. These materials include poles, lines, lightning arresters, circuit breakers, switch gear, all pole accessories and also include all the materials and equipment used in the construction of sub stations.

710:65-19-265. Printers

(a) **Sales of printed matter to consumers.** Gross receipts accruing from the sales of printed matter of all kinds are subject to the sales tax. Sales to consumers of printed matter such as catalogs, books, letterheads, bills, invoice forms, envelopes, folders, advertising circulars, T-shirts, caps, clothing and the like by printers or others engaged in selling printed matter are subject to the sales tax. A printer may not deduct from the selling price of such tangible personal property charges for the labor or service of performing the printing even though such labor or service charges may be billed to the customer separately from the charge for the stock. Such labor or service is embodied in and becomes a part of the tangible personal property sold. The service of printing on stock provided by the customer is also subject to sales tax.

(b) **Sales of services to non-manufacturers.** If sold to a non-manufacturer, the service of typesetting, color separation, design, art, and camera work invoiced by a printer to a customer is subject to sales tax, even if separately stated on the invoice.

(c) **Lease of equipment to non-manufacturers.** The lease of typesetting, printing, duplicating, and miscellaneous equipment to non-manufacturers or persons not regularly engaged in reselling the same is subject to sales tax.

(d) **Sales of printed U. S. Post Office cards and envelopes.** Where printers purchase from the United States Post Office stamped cards and envelopes and print thereon various legends for customers, the printers must collect, report and remit sales tax measured by their gross proceeds of sales of the printed cards or envelopes to their customers. Such cards and envelopes constitute tangible personal property and, unless the cards and envelopes are to be resold by such customers in the ordinary course of their business, the sales by the printers are subject to sales tax. Such printers will not be required to collect sales tax on the amount of the postage where stated separately in billing to customers.

(e) **Sales of services to another printer.** No sales tax liability arises from the service of printing or from the service of typesetting performed by the printer for another printer where there is no transfer of ownership of tangible personal property from the printer to his customer.

(f) **Sales of materials and services to be used in manufacturing.** Sales of materials, supplies and services to printers holding a current Sales/Manufacturers Permit, to be used in a manufacturing operation, are exempt from sales and use tax in the same manner as sales to other manufacturers. [See: 710:65-13-150.1]

(g) **Newspaper advertising supplements or circulars.** Newspaper advertising supplements or circulars inserted in newspapers usually fall in the following categories:

(1) A buyer enters into a contract with a printer for the printing of advertising circulars, catalogs, etc., and directs the printer to deliver the printed material to a newspaper or several newspapers, or directs that they be delivered to another location, sometimes the buyer's place of business. The buyer then enters into a second contract with the newspaper for distribution of the inserts. That portion of advertising supplements or inserts retained by the buyer for distribution to buyer's customers, that do not become part of newspapers manufactured for sale, will be subject to sales or use tax. Those advertising supplements or inserts that are delivered to the purchasers or newspaper companies to be inserted into and become part of the newspaper are not sales or use taxable to the buyer.

(2) Newspaper advertising supplements and inserts which are inserted into newspapers and sold as part and parcel of the newspaper are not subject to tax such as:

(A) Printed by the publishers of the newspaper and inserted into and sold as part and parcel of the newspaper published by such publishers; or

(B) Printed by another printer for the newspaper publisher and paid for by the newspaper publisher for insertion into and sold as part and parcel of the newspaper.

(h) **Special nexus provision.** No vendor, not otherwise required to collect and remit sales tax or use tax, shall be required to register and collect either tax simply because of having entered into an agreement with a commercial printer in this state to have printing or printing-related activities, or both, done in this state, even though the vendor:

(1) Owns tangible or intangible personal property located on the premises of the commercial printer in this state;

(2) Periodically has employees at the Oklahoma premises of the commercial printer; or,

(3) Has the printer engage in printing-related activities, including distribution of the printed material in this state. [See: 68 O.S. § 1376]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02]

710:65-19-266. Printers, materials used by [REVOKED]

[Source: Revoked at 19 Ok Reg 1859, eff 6-13-02]

710:65-19-267. Printing; graphic arts production

Graphic arts production means printing by one or more of the common processes or graphic arts production services. Persons engaged in graphic arts production are manufacturers and are eligible to obtain a Sales/Manufacturers Permit and to make purchases for use in a qualified manufacturing operation exempt from sales tax in the same manner as other manufacturers. [See: 710:65-13-150.1]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02]

710:65-19-268. Sales of parking privileges

- (a) Sales of the service of storage or of parking privileges by auto hotels or parking lots are subject to sales tax.
- (b) The sale of parking privileges for motor vehicles is taxable even if the person making the sale is primarily engaged in some other business or profession.
- (c) Mandatory charges for valet parking are subject to sales tax regardless of whether the charge is made by an auto hotel, parking lot, or person who is primarily engaged in some other business or profession, such as a hotel, restaurant, or club.
- (d) The charges for the storage of impounded motor vehicles, made by persons operating wrecking services are subject to sales tax. Charges separately stated from the storage charges are not subject to sales tax.
- (e) Charges for parking privileges sold, leased or used by institutions of the Oklahoma System of Higher Education are not subject to sales tax.
- (f) Charges for the storage of vehicles other than motor vehicles, such as aircraft or boats, are not subject to sales tax.

[Source: Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 34 Ok Reg 2089, eff 9-11-17]

**PART 33. "Q" [RESERVED]
PART 35. "R"**

710:65-19-290. Radio and television antennas and television satellite dishes

- (a) Sales of radio and television antennas, television satellite dishes, and parts and attachments thereto are subject to tax
- (b) Where an antenna or satellite dish, along with parts and attachments therefor, is sold for a lump sum amount which includes both the antenna or satellite dish and the cost of erection or installation, such lump sum amount shall be used as the gross receipts for purposes of computing the tax. In instances where separate contracts are made for the sale of the antenna or satellite dish and other property and for the erection or installation, the tax should be computed on the sales price of the antenna or dish only, provided that the billing to the customer and the books of the seller clearly show the receipts from the sale and from erection and installation.
- (c) Where dealers and suppliers make over-the-counter sales of antennas or satellite dishes and parts and attachments therefor to customers not for resale, such sales are subject to sales tax which is to be collected by the seller and remitted to the Commission.
- (d) The dealers and suppliers who make the sales described above may purchase tax exempt the antennas or satellite dishes and parts and attachments therefor which are resold by them if they hold a valid sales tax permit.

710:65-19-291. Commercial railroads and railroad spikes

- (a) Vendors who sell within Oklahoma, equipment, supplies or other tangible personal property to railroads are required to collect, report and remit sales tax on their gross receipts from such sales unless such sales are specifically exempt.
- (b) Tangible personal property purchased by commercial railroads outside Oklahoma and brought into Oklahoma is specifically exempt from use tax.
- (c) Railroad spikes, if manufactured in Oklahoma, and sold in this State for use on railroad tracks, turnouts, switches and sidings, are exempt from sales tax regardless

of to whom the spikes are sold. Vendors should document that the purchaser will use the spikes for construction or repair.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-292. [RESERVED]

710:65-19-293. Religious organizations and institutions other than churches

Religious organizations and institutions, including men's clubs, sisterhoods, teen groups, day-care centers, pre-schools, schools, hospitals, etc., are not exempt from the payment of sales or use taxes when purchasing or using property subject to these taxes. Further, such organizations and institutions must comply with the provisions of the Sales Tax Code which require the collection of sales tax and the filing of sales tax returns when engaging in the business of selling tangible personal property or when engaging in the business of operating a place of amusement or entertainment. [See: 68 O.S. §1356]

710:65-19-294. Research and development

(a) The development of information pursuant to a research and development contract is a sale of a service which is not subject to the sales tax. Although the person performing the research and development may be under contract to provide such things as plans, designs and specifications, or to test and evaluate a proposed product, the primary objective of the customer is to obtain the results of the technical skill and the experimental and research work of the engineers and other technicians of the researcher.

(b) In certain instances under a research and development contract, the information cannot be developed without the production of a prototype. In this situation, the research and development company must pay tax on the materials used to construct the prototype since it is used to compile the data, designs, drawings and whatever else is provided the customer. The measure of the tax is the cost of the materials going into the production of the prototype as well as other materials consumed in performing the contract. The transfer of the prototype is incidental to the transfer of information, and for sales tax purposes is deemed not a sale of tangible personal property.

(c) A research and development contract is distinguishable from a contract for the production of an item after the research and development has been completed. All charges to the researcher's customer relating to the production of such an item are for the sale of tangible personal property, not research and development services, and as such are subject to the tax.

(d) A new or expanding business primarily engaged in research and development as defined under Industrial Group Numbers 8731, 8732, 8733, and 8734 of the SIC Manual, latest revision, may qualify for sales and/or use tax exemption on certain of its purchases under the Oklahoma Research and Development Incentives Act. [See: 68 O.S. § 54001 et seq. and *OAC* 710:65-13-52]

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04]

PART 37. "S"

710:65-19-305. Scrap metal facilities and junkyards

(a) The term "**scrap metal processing facility**" means an establishment having facilities used primarily for processing iron, steel, or nonferrous metals and whose

principal products, is such iron, steel or scrap for sale, for remelting purposes only. Scrap metal facilities qualify as manufacturers.

(b) The term "**junkyard**" means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard and includes garbage dumps and sanitary fills. Junkyards do not qualify as manufacturers.

710:65-19-306. Secondhand stores

Secondhand store operators receiving secondhand merchandise for sale on behalf of some person must collect sales tax on all merchandise that they sell.

710:65-19-307. Vendors of seeds and fertilizer

(a) Sales of seeds or fertilizer to purchasers who use the seeds in raising lawn grass, vegetables, crops or other plants which they will either use or consume are subject to tax.

(b) Sales of seeds to purchasers who employ such seeds or fertilizer in raising vegetables, crops or other plants in agriculture production are exempt from tax.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-308. Installation or sale of septic tanks

(a) A person who, upon order of the owner of land or upon order of a building contractor or subcontractor, furnishes a septic tank for a building and delivers to by placing it in an excavation prepared by another, but does not connect the inlet of the tank to the building and the outlet to the leaching bed, is the vendor of the septic tank and is responsible for collection of the sales tax on the sale.

(b) The mere fact that several sections of the tank may be cemented together by the vendor in the excavation, at the time of delivery, does not result in the tank being incorporated into the structure or an improvement to real property at that time, since it is still unavailable for use until connections are completed.

710:65-19-309. Tangible personal property purchased by providers of nontaxable services

Equipment, materials and supplies purchased, leased or rented for use in providing nontaxable services are taxable to the person providing the service. The tax exempt status of the ultimate customer is not passed through to the person providing the services.

710:65-19-310. Shoe repairs

(a) A shoe repair shop renders a service and also sells tangible personal property. The gross receipts from a job which does not involve a sale of tangible personal property but merely represents the rendering of service is not subject to sales tax. In any transaction where tangible personal property is sold, sales tax applies to the full purchase price without any deduction for labor or service.

(b) If tangible personal property is sold and labor or service is furnished in a separate transaction, each transaction being separately stated on the bill, the tax applies to the gross receipts received from the sale of the tangible personal property and not the gross receipts received from the labor or service.

(c) Materials and supplies used by shoe repairmen in rendering services, but which are not resold as merchandise are subject to sales tax when purchased by the repairmen from the supply dealer.

710:65-19-311. Vendors of signs

Vendors who engage in selling signs must collect, report and remit sales tax not withstanding the fact that the signs have use or value (other than salvage value) only to the purchaser. However, effective July 1, 1997, the servicing of advertising devices is not subject to sales tax. [See: 68 O.S. §§1354, 1361]

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-312. [RESERVED]

710:65-19-313. Toning salons and tanning salons

Operators of toning and tanning salons are required to pay sales or use tax on the acquisition of all materials and equipment to be used in their business. Total gross receipts derived from providing access to toning services and tanning services, including fees for services and memberships, are subject to the appropriate state and local sales tax pursuant to the sales tax code. [See: 68 O.S. §1354]

710:65-19-314. Professional shoppers

- (a) When a professional shopper purchases tangible personal property either in his own name or in the name of his client, such sales are taxable without deduction for any commission or other compensation of the shopper.
- (b) However, if the professional shopper purchases items pursuant to a valid sales tax permit for purposes of reselling the items purchased to clients, the purchases by the professional shopper are exempt. The commission or other compensation paid to professional shoppers is not deductible from the selling price of such property when the items are resold.

710:65-19-315. Scaffolding

- (a) Persons providing scaffolding to customers for their use are required to remit sales tax to the Commission upon the total price charged, without deduction for any services rendered in connection with the providing of the scaffolding.
- (b) Charges for delivery of scaffolding, separately stated, are not subject to sales tax. [See OAC 710:65-19-70]
- (c) Assembly, maintenance, disassembly, and other services rendered in connection with the providing of scaffolding do not constitute "rental with an operator". [See OAC 710:65-1-2]

[Source: Added at 35 Ok Reg 2102, eff 9-14-18]

710:65-19-316. Eyeglasses, contact lenses, and hearing aids

Sales of eyeglasses, contact lenses, and hearing aids are subject to sales tax unless their cost will be reimbursed by Medicare or Medicaid pursuant to the terms and conditions outlined in 710:65-13-173.

[Source: Added at 37 Ok Reg 2234, eff 9-11-20]

PART 39. "T"

710:65-19-325. Telegraph service [REVOKED]

[Source: Revoked at 10 Ok Reg 1111, eff 2-23-93 (emergency); Revoked at 10 Ok Reg 3847, eff 7-12-93]

710:65-19-326. Telephone companies, mobile telephone and telephone answering services [REVOKED]

[Source: Revoked at 10 Ok Reg 1111, eff 2-23-93 (emergency); Revoked at 10 Ok Reg 3847, eff 7-12-93]

710:65-19-327. Sales tickets, cash register receipt paper, invoice forms, etc.

Sales of sales tickets, cash register receipt paper, invoice and bill of lading forms, and other forms sold for use in receipting, billing, invoicing, or shipping are subject to sales tax at the time they are purchased.

710:65-19-328. Transportation for hire

(a) Sales tax is due on the gross receipts or gross proceeds of transportation for hire to persons by common carrier, including motor transportation companies, pullman car companies, limousines, shuttle services, and other means of transportation for hire. Sales tax is not due on the gross receipts of the sale of transportation by taxicabs.

(b) Transportation for hire is exempt from sales tax:

- (1) if the transportation services are provided by a tourism service broker,
- (2) if the transportation services are provided by funeral establishments for purposes of conducting a funeral, or
- (3) if the transportation services are sales of intrastate charter and tour bus transportation. As used in this paragraph, "intrastate charter and tour bus transportation" means the transportation of persons from one location in this state to another location in this state in a motor vehicle which has been constructed in such a manner that it may lawfully carry more than eighteen persons, and which is ordinarily used or rented to carry persons for compensation. Provided, this exemption shall not apply to regularly scheduled bus transportation for the general public. [See: 68 O.S. § 1357(36)]

(c) Charges for local transportation are exempt where the fare does not exceed One Dollar (\$1.00) or where the transportation is entirely within the corporate limits of a single municipality.

(d) Examples:

- (1) A limousine picks up a passenger at a hotel in city A and transports the passenger to the airport which is also located in City A. The charge for the transportation is not subject to sales tax.
- (2) A shuttle picks up a passenger in city B and transports the passenger to the airport in city A. The charge for the transportation is subject to sales tax at the state and local tax rate of city B where the service was first initiated.

(e) Transportation by horse-drawn carriages or similar conveyances are sales of transportation and are subject to this rule.

[Source: Reserved at 10 Ok Reg 1111, eff 2-23-93 (emergency); Added at 10 Ok Reg 3847, eff 7-12-93; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 35 Ok Reg 2102, eff 9-14-18]

710:65-19-329. Services relating to telecommunications

(a) **General provisions.** Charges for labor or repair services associated with the installation, connection, change or initiation of telecommunication services received by a customer are subject to sales tax, regardless of whether the charge is stated separately from charges for telecommunications services.

(b) **Maintenance contracts.** The sale of maintenance contracts for services subject to sales tax as described in this Section is subject to sales tax.

(c) **Applicability of rule.** The provisions of this Section apply generally to all providers of services relating to telecommunications and telecommunications equipment. In addition to requirements similar to those set out in this Section, taxation of telecommunications services rendered by telephone companies is further addressed in 710:65-19-330.

[Source: Reserved at 10 Ok Reg 1111, eff 2-23-93 (emergency); Reserved at 10 Ok Reg 3847, eff 7-12-93; Added at 12 Ok Reg 2635, eff 6-26-95; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-330. Telecommunications services

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Air-to-ground radiotelephone service"** means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft. [68 O.S. § 1354.30(A)(1)]

(2) **"Ancillary services"** means services that are associated with or incidental to the provision of telecommunication services, including but not limited to "detailed telecommunications billing", "directory assistance", "vertical service", and "voice mail service". [68 O.S. § 1354(A)(4)(d)]

(3) **"Call-by-call basis"** means any method of charging for telecommunications services where the price is measured by individual calls. [68 O.S. § 1354.30(A)(2)]

(4) **"Communications channel"** means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points. [68 O.S. § 1354.30(A)(3)]

(5) **"Customer"** means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. **"Customer"** does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area. [68 O.S. § 1354.30(A)(4)]

(6) **"Customer channel termination point"** means the location where the customer either inputs or receives the communications. [68 O.S. § 1354.30(A)(5)]

(7) **"End user"** means the person who utilizes the telecommunications service. In the case of an entity, **"end user"** means the individual who utilizes the service on behalf of the entity. [68 O.S. § 1354.30(A)(6)]

(8) **"Home service provider"** means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act. [68 O.S. § 1354.30(A)(7)]

(9) **"International telecommunications services" defined.**

"International telecommunications services" means all telecommunications services that either (1) originate in this state and terminate outside of the United States or (2) originate outside of the United States and terminate in this state, where, in either instance, a service address of the telecommunications service is in this state.

(10) **Interstate and International "800 service"** means a "telecommunications service" that allows a caller to dial a toll-free number without incurring a charge for the call typically marked under the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission,

(11) **Interstate and International "900 service"** means an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call into the subscriber's prerecorded announcement of live service typically marketed under the name "900" service and any subsequent numbers designated by the Federal Communications Commission. "900 service" does not include charges for collection services provided by the seller of the "telecommunications services" to the subscriber, or service or product sold by the subscriber to the subscriber's customer

(12) **"Interstate"** means a telecommunications service that originates in one state, territory or possession of the United States, and terminates in a different state, territory or possession of the United States.

(13) **"Intrastate"** means a telecommunications service that originates in one state, territory or possession of the United States, and terminates in the same state, territory or possession of the United States.

(14) **"Local exchange telecommunications services" defined. "Local exchange telecommunications services"** means the provision of each access line and each dial tone to a fixed location for sending and receiving service in the provider's local exchange network. Local exchange service includes, but is not limited to, all ordinary exchange and toll service, extra listings, joint-user service, customer access line charges, and auxiliary services (call waiting, call forwarding, etc.).

(15) **"Mobile telecommunications service"** means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act. [68 O.S. § 1354.30(A)(8)]

(16) **"Paging service"** means a "telecommunications service" that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

(17) **"Place of primary use"** means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, **"place of primary use"** must be within the licensed service area of the home service provider. [68 O.S. § 1354.30(A)(9)]

(18) **"Post-paid calling service"** means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service. [68 O.S. § 1354.30(A)(10)]

(19) **"Prepaid calling service"** means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization

code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount. [68 O.S. § 1354.30(A)(11)]

(20) **"Private communication service"** means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels. [68 O.S. § 1354.30(A)(13)]

(21) **"Prepaid wireless calling services"** means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other nontelecommunication services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount. [68 O.S. § 1354.30(A)(12)]

(22) **"Service address"** means:

(A) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in subparagraph (A) of this paragraph is not known, **"service address"** means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and,

(C) If the locations in subparagraphs (A) and (B) of this paragraph are not known, **"service address"** means the location of the customer's place of primary use. [68 O.S. § 1354.30(A)(14)]

(23) **"Value-added non-voice services"** means a service in which computer applications are used, other than for purposes of transmission conveyance or routing, to act on the form, content, code or protocol of the information or data.

(b) **Sales tax levied on the sale of telecommunications services, ancillary services and telecommunications nonrecurring charges.** Sales tax is levied on the sale of telecommunications services regardless of the vendor of said service as follows:

(1) Intrastate, interstate and international telecommunications services sourced to this state in accordance with Section 710:65-18-5.

(2) Ancillary services.

(3) Telecommunications nonrecurring charges, which means an amount billed for the installation, connection, charge or initiation of telecommunication services received by a customer.

(c) **Transactions to which the tax is applicable.** Telecommunications services include:

(1) The electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(2) The transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for

purposes of transmission, conveyance or routing as voice-over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added.

(d) Transactions to which the tax is not applicable. Telecommunications services do not include:

- (1) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser's primary purpose for the underlying transaction is the processed data or information.
- (2) The installation or maintenance of wiring or equipment on a customer's premises.
- (3) Tangible personal property.
- (4) Advertising, including but not limited to directory advertising.
- (5) Billing and collection services provided to third parties.
- (6) Regulatory assessments and charges, including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High Cost Fund Internet access services.
- (7) If charges for taxable telecommunications services are aggregated with and not separately stated from charges for nontaxable services or products, the nontaxable charges will be subject to taxation unless the provider can reasonably identify charges not subject to the tax, charge or fee from the provider's books and records kept in the regular course of business; Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S. C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3.
- (8) Ancillary services.
- (9) Digital products delivered electronically, including but not limited to, software, music video, reading materials or ring tones.

(e) Transactions exempted from the telecommunications levy. The following transactions are exempt from the telecommunications levy:

- (1) Interstate and International "800 service".
- (2) Interstate and International "900 service".
- (3) Interstate and International "private communications service".
- (4) Value-added non-voice services in which computer applications are used, other than for purposes of transmission, conveyance or routing, to act on the form, content, code or protocol of the information or data.
- (5) Interstate and International telecommunication service which is:
 - (A) Rendered by a company for private use within its organization
or
 - (B) Used, allocated, or distributed by a company to its affiliated group.
- (6) Regulatory assessments and charges, including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High Cost Fund.
- (7) Telecommunications nonrecurring charges, including but not limited to the installation, connection, change or initiation of telecommunications services which are not associated with a retail consumer sale.

(f) **Coin-operated telephone taxable.** Gross receipts from a coin-operated telephone are subject to sales tax.

(g) **Purchases of tangible personal property by persons providing telecommunications services.** Except as otherwise set out in this paragraph, persons engaged in the business of providing telecommunications services are the consumers of tangible personal property used in providing those services. Sales of such tangible personal property to persons providing telecommunications services are taxable. However, sales of wireless telecommunications equipment to a wireless telecommunications vendor, who subsequently transfers the equipment to a customer for no charge or for a discounted charge, in connection with the customer's purchase of new or continued wireless telecommunications service, are exempt. 68 O.S. § 1357(26)

(h) **Access charges billed to customer.** Access charges billed to consumers of telecommunications services are taxable.

(i) Sales of telecommunications services shall be sourced as set out in Section 710:65-18-5.

(j) If charges for taxable telecommunications services are aggregated with and not separately stated from charges for nontaxable services or products, the nontaxable charges will be subject to taxation unless the provider can reasonably identify charges not subject to the tax, charge or fee from the provider's books and records kept in the regular course of business.

[Source: Added at 10 Ok Reg 1111, eff 2-23-93 (emergency); Added at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 28 Ok Reg 1844, eff 6-25-11; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-331. Prepaid telephone calling cards, telephone authorization numbers, and recharges

(a) **General provisions.** A prepaid telephone calling card is an article of tangible personal property, which entitles the holder of the card to a predetermined amount of telecommunications services. The holder of a calling card can generally initiate calls from any location in the United States. The cards may be sold by retail vendors, such as convenience stores, which are not, otherwise, providers of telecommunications services and may be purchased exempt for resale by vendors who hold valid sales tax permits.

(b) **Point of sale.** The sale of a prepaid telephone calling card, prepaid telephone authorization number, or the recharge of a prepaid calling card or authorization number is subject to sales tax at the point of sale by the retail vendor, as determined by *OAC* 710-65-18-3.

(c) **Vending machines.** Vending machines which are used to vend prepaid telephone calling cards require a Coin-operated Vending Device decal. As a result, the entire gross proceeds from the sale of the cards through vending machines are exempt from sales tax pursuant to 68 O.S. §1503(B).

[Source: Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 22 Ok Reg 1561, eff 6-11-05]

PART 41. "U"

710:65-19-340. Upholsterers and furniture repairers

(a) A furniture repairer or upholsterer primarily renders services and is considered the consumer of items like fabric, glue, tacks, nails, paints, varnishes, etc. Sales to him of such items are taxable.

(b) Sales of machinery, tools, etc., to furniture repairers and upholsterers for use in their business are taxable.

710:65-19-341. Natural or artificial gas and electric utility services

(a) **General provisions.** Generally, the sale of utilities or public services, including natural or artificial gas and electricity, are subject to sales tax. [See: 68 O.S. § 1354(A)(2)]

(b) **Exemptions and exclusions.** Natural or artificial gas and electricity sold exclusively for residential use are exempt from the Oklahoma sales tax, but remain subject to any applicable municipal and county sales taxes in effect at the time of the sale. [See: 68 O.S. § 1357(8) and *OAC* 710:65-13-120]

(c) **Point of sale for gas and electricity.** For purposes of any applicable municipal and county sales taxes, the point of sale for gas and electric utility services is determined to be the location of the meter by which the purchaser's usage is measured.

(d) **Minimum service charges.** When a fixed monthly charge is billed to a customer by a natural gas or electric utility and there is no consumption, this charge is not subject to sales tax. If any amount of gas or electricity is consumed, the minimum charge is subject to sales tax.

(e) **Other charges.** Charges which are separately stated and are unrelated to the amount of gas or electricity used such as fees for meter reading, installation, initiation, disconnection, or restoration of service, as well as charges for returned checks or for late payment, are not subject to sales tax.

[Source: Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1561, eff 6-11-05; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10]

PART 43. "V"

710:65-19-350. Veterinarians

(a) **General provisions.** Persons engaged in the practice of rendering veterinary services are consumer/users of all tangible personal property used in their veterinary practices. Items of tangible personal property to be used or sold for the prevention, diagnosis, or treatment of animals are subject to sales tax upon their purchase by the veterinarian rendering the services.

(b) **When a sales tax permit is needed.** Veterinarians who hold inventories and market products to the public outside the client/patient relationship are engaged in selling tangible personal property and must obtain a sales tax permit to allow the purchase of inventory exempt from sales tax.

(c) **Withdrawals from inventory.** If a veterinarian with a sales tax permit, withdraws items from inventory which were purchased for resale and consumes the items in the practice of veterinary medicine, the veterinarian must remit sales tax on the "sales value" of the items, as defined in *OAC* 710:65-1-2, unless the veterinarian can document that the items were applied on a contract or custom basis pursuant to an agreement with the holder of an agricultural exemption permit. [68 O.S. § 1358(4)]

(d) **Examples of taxable products.** Examples of items upon which sales tax must be collected and remitted if not dispensed for the prevention, diagnosis or treatment of animals may include:

- (1) beds
- (2) books

- (3) clothing
- (4) decorative collars
- (5) combs
- (6) grooming products
- (7) halters
- (8) leashes
- (9) lint brush
- (10) livestock equipment
- (11) riding equipment
- (12) ropes
- (13) snack products
- (14) toys
- (15) food

(e) **Transactions in which the veterinarian is acting as a vendor.** A person, who is not a client, walks into the clinic and buys an item displayed or available in the clinic. The person is charged sales tax on the product because it is not being dispensed by the veterinarian for use in treating an animal. There is no patient/client relationship.

(f) **Transactions in which the veterinarian is acting as a consumer/user.** Where a course of prevention, diagnosis, or treatment is reflected in patient records kept by the veterinarian, the dispensing of tangible personal property used in the prevention, diagnosis, or treatment of an animal is not subject to sales tax. For example, if the veterinarian examines a client's animal and prescribes a specific type of preventive, the client is not charged sales tax on the treatment product. Moreover, if the client comes back to the clinic in a few weeks to get a prescription refill, and does not bring the animal to see the veterinarian, the client may, nevertheless, purchase the prescribed product without incurring sales tax on the purchase. Notation in the patient record must be made, however, to reflect the subsequent purchase.

(g) **Dispensing of products and services to agricultural exemption permit-holders.** Veterinarians may **dispense or administer**, tax exempt, products for the prevention, diagnosis, or treatment of animals, on a contract or custom basis, pursuant to an agreement with the holder of an agricultural exemption permit:

- (1) **Veterinarians holding a sales tax permit.** If a veterinarian holds a sales tax permit, sales tax exempt purchases may be made of items to be used on a contract or custom basis, with documentation that the client has an agricultural exemption permit. For example, the veterinarian may purchase antibiotics, using his sales tax permit and not pay tax. The veterinarian may then dispense or administer the antibiotics to the client who has an agricultural exemption permit, and the use of the antibiotic is not subject to sales tax. If the veterinarian purchases antibiotic tax exempt, using his sales tax permit, but subsequently dispenses or administers the antibiotic to a client without an agricultural exemption permit, the veterinarian must remit sales tax on the "sales value" of the product.
- (2) **Veterinarians without a sales tax permit.** If a veterinarian does not hold a sales tax permit, all products purchased are subject to sales tax upon their purchase. However, if the veterinarian holds an agricultural exemption permit, purchases may be made free from sales tax only of items to be dispensed or administered on a contract or custom basis to another agricultural exemption permit-holder.

[Source: Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-351. Volunteer fire companies [REVOKED]

[Source: Revoked at 22 Ok Reg 1561, eff 6-11-05]

PART 45. "W"

710:65-19-365. Extended warranty

(a) Charges for parts used to make extended warranty repairs are subject to sales tax on a withdrawal basis to the company providing the warranty service, if there is no charge to the customer for the parts. If an article purchased or acquired in trade is salvaged or 'cannibalized' for parts by the company providing the warranty service, the sale or use of such parts is subject to sales tax. In the case of the use of 'cannibalized' parts by a company providing warranty service, if there is no charge to the customer for the parts, such use is taxable as a withdrawal to the company providing the parts. Sales tax must be imposed if the customer is charged for the parts.

(b) If the agreement specifies the vendor will supply maintenance only and parts will be billed separately, the buyer will pay sales tax on the parts only. Labor charges, separately stated, are not subject to sales tax. If the charges to the customer include parts and labor, and the labor is not separately stated, the charges for labor will be considered part of gross receipts and will be taxable.

(c) If the price paid for the equipment includes an extended maintenance agreement or warranty, the buyer pays sales tax on the entire purchase price including the maintenance agreement. If the extended maintenance agreement is not included in the sales price and the buyer has an option of purchasing the agreement, the maintenance agreement is not considered to be a part of taxable gross proceeds.

[Source: Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 11 Ok Reg 4695, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-366. Watch and jewelry repair shops

(a) Watch and jewelry repairmen render services in repairing, cleaning or servicing articles which belong to other persons. They also sometimes engage in the business of selling tangible personal property for use or consumption, such as watches, clocks, watch cases, watch parts, etc.

(b) Materials and supplies used by watch and jewelry repairmen in rendering services but which are not resold as merchandise are subject to sales tax when purchased by the repairman from the supply dealer.

710:65-19-367. Water conditioning and water softeners

(a) Water conditioning companies (including all soft water companies) are vendors with respect to all tangible personal property sold, leased, or rented by them and must collect the sales tax on all such property unless the purchaser or user is entitled to claim exemption from the sales tax and furnished an exemption certification.

(b) For purposes of collection of the tax, the term "**water conditioner**" means all automatic softeners, softener tanks, exchange tanks, purifiers, chlorinators, or any other device or equipment, together with the minerals contained therein used to condition, purify, or soften water.

- (c) Rented or leased water conditioners, including those leased with an option for purchase, or those otherwise furnished for a monthly or other periodic charge, are subject to the sales tax on the amount charged. Such conditioners sold shall be subject to sales tax on the full selling price.
- (d) Purchasers by a water conditioning or softening company of water conditioners, tanks, and other equipment to be sold or rented are not subject to tax.
- (e) Purchases of all other equipment supplies, and materials not for resale, including salt or any other cleaning agent used to rejuvenate water tanks or the minerals therein, are subject to sales or use tax.
- (f) When a customer is billed separately for materials used to alter or change plumbing to accommodate conditioning equipment, the sales tax shall be collected, reported and remitted on the gross receipts from such materials.

[Source: Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-368. Wheel balancing [REVOKED]

[Source: Amended at 17 Ok Reg 2677, eff 6-25-00; Revoked at 18 Ok Reg 2823, eff 6-25-01]

710:65-19-369. Wholesalers and jobbers

The gross proceeds derived from sales of goods, wares, and merchandise by wholesalers and jobbers for resale to persons having a valid sales tax permit who are regularly engaged in reselling the articles purchased are exempt from sales tax. The sales tax applies to all sales made by a wholesaler or jobber to a consumer/user, even though the wholesaler or jobber may be selling to him in wholesale quantities and at a wholesale price.

710:65-19-370. Storm windows, combination windows, etc.

- (a) In the case of lump sum contracts where the vendor actually fabricates the windows - that is, buys the metal, screen, glass, etc., and makes the whole window to measure and installs same - the vendor is to be treated as a contractor and should pay the tax to suppliers as a consumer.
- (b) Where the vendor does not actually fabricate the window, but merely measures each window and sends these measurements to a factory to be manufactured, the vendor is considered as selling and installing a complete unit of standard equipment and should charge sales or use tax on the full selling piece. If the full retail selling price is segregated from the charge for installation on the sales invoice, the tax applies only to the selling price of the property.
- (c) Where the vendor sells the type of ready-made window which is not measure to fit but is merely attached to the outside wall, the vendor should charge sales or use tax on the total selling price.
- (d) This rule applies to vendors only. Contractors should see specific rules dealing with contractors.

710:65-19-371. Manufacturer's original product warranty

(a) **Definitions. "Manufacturer's original product warranty"** means those warranties which are provided as a condition of all sales of a product and which constitute an indistinguishable part of the product sold. For purposes of this section, a **"Manufacturer's original product warranty"**, is included within the basis for determining sales tax, without regard for whether the charges for the warranty and for the product are separately stated.

(b) **Sale of a product covered by a manufacturer's warranty.** The entire gross proceeds of a product covered by a manufacturer's original product warranty is subject to sales tax, including any separately-stated charges for the manufacturer's original product warranty, if the sale is not otherwise exempt.

(c) **Parts used by the manufacturer.** Parts used by the manufacturer to perform original manufacturers warranty repair or replacement, are not taxable to the manufacturer. If the parts are included in the terms of the original warranty, and are not sold/billed to the customer, sales tax will not be due upon use by the manufacturer to effect repair or replacement. Parts billed/sold to the customer are subject to sales tax.

(d) **Work done by dealers.** If the manufacturer has agreements with dealers or the representatives to perform original manufacturers' warranty repairs, the parts used to perform the repairs, if not sold/billed to the customer, are considered to be sold to the manufacturer for re-sale or manufacturing.

[Source: Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97]

PART 47. "X"

710:65-19-380. X-ray laboratories

Producers of x-ray film for the purpose of diagnosis are the consumers of materials and supplies used in the production thereof. Thus, the tax applies to the sale of such materials and supplies to laboratories producing x-ray film for the purpose of diagnosis. Whether the laboratory is a "lay laboratory" or is operated by a physician, surgeon, dentist, or hospital is immaterial.

PART 49. "Y" [RESERVED]

PART 51. "Z" [RESERVED]

SUBCHAPTER 21. USE TAX

710:65-21-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to 68 O.S. §§1401 et seq., of the Oklahoma Statutes (Use Tax Code).

710:65-21-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Manufacturing operation" means the designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site. **"Manufacturing operation"** does not include administration, sales, distribution, transportation, site construction, or site maintenance. [68 O.S. § 1352(15)]

"Person" means any individual, partnership, association, or corporation.

"Purchase price" has the same meaning as **"gross receipts"**, as set out in 710:65-1-9.

"Sale" means the transfer of either title or possession of tangible personal property for a valuable consideration. The term **"sale"** includes the exchange, barter, lease, or rental of tangible personal property.

"Use tax" means an excise tax charged on the sale of tangible personal property purchased from outside Oklahoma and brought into the state for consumption or use. [See: 68 O.S. § 1401]

[Source: Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-21-3. Use tax

All purchases of tangible personal property which are purchased in a manner such that, pursuant to *OAC 710:65-15-1*, sales tax is not due, but which are stored, used or otherwise consumed in Oklahoma are subject to the use tax. The use tax must be remitted directly to the Commission by the vendor, if the vendor is either "maintaining a place of business in this state", as defined by *OAC 710:65-1-8*, and has knowledge that the goods are being sold for use in this state; or if the vendor is not "maintaining a place of business in this state", but has voluntarily agreed to collect Oklahoma Use Tax. In the event that the vendor is not "maintaining a place of business in this state" and has not voluntarily agreed to collect the use tax, the Oklahoma purchaser must accrue, report, and remit the use tax.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-21-4. Use tax on out-of-state purchases

(a) Tangible personal property bought outside this State either by an Oklahoma user or consumer or out-of-state user or consumer in such a way that the vendor need not collect sales tax in that State, and brought into this State for storage, use, or other consumption is subject to the use tax. Use tax must be reported and paid by the purchaser on forms prescribed by and available from the Commission.

(b) If the purchaser buys such tangible personal property from an out-of-state vendor who is authorized or required by the Use Tax Code to collect, report and remit use tax, the purchaser should pay the use tax to such vendor. Vendors who are required to collect use tax are those who maintain places of business both within and without Oklahoma. [See: 68 O.S. §§1402, 1405-1406]

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-21-5. Voluntary registration by certain out-of-state retailers or vendors

The Commission, in its discretion, upon application, may authorize the collection of the Use Tax by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible personal property for use in this state. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect use tax upon all tangible personal property sold to his knowledge for use within this State, in the same manner and subject to the same requirements, as a retailer maintaining a place of business within this State. [See: 68 O.S. §1407]

710:65-21-5.1. Filing requirements for certain vendors registered under the Streamlined Sales and Use Tax Agreement

A seller that is registered under the Streamlined Sales and Use Tax Agreement which has indicated at the time of registration that it anticipates making

no sales which would be sourced to Oklahoma under the Agreement is exempt from the filing of a return. A seller shall lose such exemption upon making any taxable sales into this state and shall file a return in the month following such sale.

[Source: Added at 30 Ok Reg 2089, eff 7-25-13]

710:65-21-6. Retailers required to obtain a use tax permit

Every vendor who is "maintaining a place of business" as defined in *OAC* 710:65-1-8, both inside Oklahoma and outside Oklahoma, must obtain a use tax permit. The permit, which is free of charge, is issued upon receipt of a Business Registration form. As a part of the form, the vendor must list the names and addresses of all the vendor's agents operating in the state, along with the location of any and all other warehouses in which goods are stored, offices, and other places of business in the state, or the location of any tangible personal property or real property owned, which is located in Oklahoma.

[Source: Added at 15 Ok Reg 2827, eff 6-25-98]

710:65-21-7. Reports, payments, and penalties

(a) **General provisions.** Payment of use tax is due on the first of each month for purchases made the preceding month. Every person, whether responsible to report and remit the tax as a vendor, or as a purchaser, must file for each month for which a liability exists. If not reported and not paid on the 20th day of the month following the month in which the goods were sold for use in Oklahoma, or in which the goods were purchased for use in Oklahoma, the tax and report shall be delinquent and interest and penalty will be assessed as allowed by statute. Reports are to be made on forms which can be obtained from the Commission.

(b) **Semimonthly electronic reporting.** *Persons owing an average of Two Thousand Five Hundred Dollars (\$2,500.00) or more, per month, in total use taxes for the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:*

- (1) *For sales from the first (1st) day through the fifteenth (15th) day of each month, the tax shall be due and payable on the twentieth (20th) day of the month, and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth (20th) day of each month, the taxpayer paid at least ninety (90) percent of the liability for that fifteen-day period, or at least fifty (50) percent of the liability incurred during the immediate preceding calendar year for the same month; and*
- (2) *For sales from the sixteenth (16th) day through the end of each month, the tax shall be due and payable on the twentieth (20th) day of the following month, and remitted to the Tax Commission by electronic funds transfer.*

(c) **Electronic reporting; due dates; delinquency dates.** *Persons required to remit the tax due pursuant to subsection (b) shall file a monthly use tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth (20th) day of the month following that in which the tax is levied. Taxes not paid on or before the due dates specified in subsection (b) shall be delinquent from such dates. [68 O.S. § 1405(D)]*

(d) **Payment.** Remittances covering the use tax liability reported shall accompany the use tax return. Use taxes will be considered delinquent and interest as provided by law will be charged if payment is not received or postmarked by the date the

return is due.

(e) **Interest.** Interest at the rate provided by law will be imposed on all liability not paid at the time when required to be paid. Said interest will be imposed and collected on the delinquent tax at the statutory rate from the date the tax is delinquent until paid.

(f) **Audit; refund/credit for overpayment; assessment inclusive of interest due.** When, in the course of an audit, it is found that the tax being audited was overpaid for any period included in the audit, and the taxpayer has not filed a verified claim for refund of the overpayment, the overpayment may be allowed as a credit against the total liability established during the audit. The overpayment shall be applied to the liability as of the date of the overpayment. Whenever an assessment is made for any delinquent tax, the amount of interest due thereon at the time the assessment is made shall be included in the assessment.

(g) **Liability for tax, penalty, interest; interest computation.** Any taxpayer responsible for the payment of any tax levied by any state tax law shall be liable for payment of interest at the rate set by statute on any amount of tax not paid before it becomes delinquent. Interest shall be computed for each day of delinquency from the date the tax becomes delinquent until it is paid.

(h) **Penalty for failure to file and remit.** A vendor who fails to file a return and remit the full amount of the tax within fifteen (15) days after the tax is due shall be subject to a penalty of ten (10) percent of the amount of tax due.

(i) **Penalty for failure or refusal to file after demand.** In the case of failure or refusal to file within ten (10) days after written demand has been served upon the taxpayer by the Commission, a penalty of twenty-five (25) percent may be assessed and collected.

(j) **Penalty for fraud.** If any portion of the deficiency is due to fraud with intent to evade tax, a penalty of fifty (50) percent shall be added, collected, and paid.

(k) **Waiver of penalty; interest.** At the discretion of the Commission, the interest or penalty assessed, or both, may be waived provided the taxpayer can demonstrate that the failure to pay the tax when due is satisfactorily explained, or that the failure resulted from a mistake by the taxpayer of either law or fact, or that the taxpayer is unable to pay the interest or penalty due to insolvency. Requests for waiver or remission must be made in writing and must include all pertinent facts to support the request. [See: 68 O.S. §§ 217, 1365, 1405]

[Source: Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2847, eff 6-25-06; Amended at 35 Ok Reg 2102, eff 9-14-18]

710:65-21-8. Out-of-state retailers or vendors not registered in Oklahoma

(a) **Definitions.** For the purposes of this Section:

(1) **"De minimis online auction website"** means any online auction website that facilitates total gross sales in Oklahoma in the prior year of less than \$100,000.00 and reasonably expects Oklahoma sales in the current year will be less than \$100,000.00.

(2) **"De minimis retailer"** means any non-collecting retailer that made total gross sales in Oklahoma in the prior year of less than \$100,000.00 and reasonably expects Oklahoma sales in the current year will be less than \$100,000.00.

(3) **"Non-collecting retailer"** means a retailer, not currently registered to collect and remit Oklahoma sales and use tax, who makes sales of tangible personal property from a place of business outside of Oklahoma to be shipped to Oklahoma for use and who is not required to collect Oklahoma

sales or use taxes.

(4) "**Oklahoma purchaser**" means a purchaser that requests goods be shipped to Oklahoma.

(5) "**Online auction website**" means a collection of web pages on the Internet that allows persons to display tangible personal property for sale which is purchased through a competitive process where participants place bids with the highest bidder purchasing the item when the bidding period ends.

(b) **Requirements for notice.** Effective October 1, 2010, every non-collecting retailer must give notice that Oklahoma use tax is due on nonexempt purchases of tangible personal property and should be paid by the Oklahoma purchaser.

(1) **Notice contents.** The notice must be readily visible and contain the information set forth as follows:

(A) The non-collecting retailer is not required, and does not collect Oklahoma sales or use tax;

(B) The purchase is subject to Oklahoma use tax unless it is specifically exempt from taxation;

(C) The purchase is not exempt merely because it is made over the Internet, by catalog, or by other remote means;

(D) The State of Oklahoma requires Oklahoma purchasers to report all purchases that were not taxed and pay tax on those purchases.

The tax may be reported and paid on the Oklahoma individual income tax return [Form 511] or by filing a consumer use tax return; and

(E) The referenced forms and corresponding instructions are available on the Oklahoma Tax Commission website, www.tax.ok.gov.

(2) **Website and/or catalog notice.** Notice on a website shall occur on a page necessary to facilitate the applicable transaction. It shall be sufficient if the non-collecting retailer provides a prominent linking notice that reads as follows: "See important Oklahoma sales tax information regarding the tax you may owe directly to the State of Oklahoma", if such linking notice directs the purchaser to the principal notice required by this Section. Notice in a catalog shall be part of the order form. It shall be sufficient if the non-collecting retailer provides a prominent reference to a supplemental page that reads as follows: "See important Oklahoma sales tax information regarding the tax you may owe directly to the State of Oklahoma on page ___", if such page includes the principal notice required by this Section.

(3) **Invoice notice.** For internet purchases, the invoice notice must occur on the electronic order confirmation. It shall be sufficient if the non-collecting retailer provides a prominent linking notice that reads as follows: "See important Oklahoma sales tax information regarding the tax you may owe directly to the State of Oklahoma", if such linking notice directs the purchaser to the principal notice required by this Section. If the non-collecting retailer does not issue an electronic order confirmation, the complete notice must be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement. For catalog purchases, the complete notice must be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

(4) **Exceptions.**

(A) For internet purchases, notice on the check-out page fulfills both the website and invoice notice requirements simultaneously. It shall be sufficient if the non-collecting retailer provides a prominent linking notice that reads as follows: "See important Oklahoma sales tax information regarding the tax you may owe directly to the State of Oklahoma", if such linking notice directs the purchaser to the principal notice required by this Section.

(B) If a retailer is required to provide a similar notice for another state in addition to Oklahoma, the retailer may provide a consolidated notice so long as such notice includes the information contained in (b) of this Section, specifically references Oklahoma and meets the placement requirements of this Section.

(c) **Prohibition from advertising no tax due.** A non-collecting retailer may not state or display or imply that no tax is due on any Oklahoma purchase unless such display is accompanied by the notice required by (b) of this Section each time the display appears.

(1) For example, a summary of the transaction including a line designated "sales tax" and showing the amount of sales tax as "zero" or "0.00" would constitute a "display" implying that no tax is due on the purchase. Such a display must be accompanied by the notice required by (b) of this Section every time it appears.

(2) Notwithstanding the limitation in this subsection, if a non-collecting retailer knows that a purchase is exempt from Oklahoma tax pursuant to Oklahoma law, the non-collecting retailer may display or indicate that no sales tax is due even if such display is not accompanied by the notice required by (b) of this Section.

(d) **Invoice notification exception for online auction websites.** With the exception of notification on invoices, the provisions of this Section shall apply to online auction websites as defined in (a) of this Section.

(e) **De minimis exception.** A de minimis retailer and a de minimis online auction website, as defined in (a) of this Section, shall be exempt from the notice requirements in (b) of this Section.

(f) **Annual purchase statement.** In addition to the requirements outlined in (b) of this Section, every non-collecting retailer must provide, by February 1 of each year, a statement to each customer to whom tangible personal property was delivered in this state a statement of the total sales made to the customer during the preceding calendar year.

(1) **Statement contents.** The statement must contain language substantially similar to the following: *You may owe Oklahoma use tax on purchases you made from us during the previous tax year. The amount of tax you may owe is based on the total sales price of [insert total sales price] that must be reported and paid when you file your Oklahoma income tax return unless you have already paid the tax.*

(2) **Confidential information prohibited.** The statement must not contain any information that would indicate, imply or identify the class, type, description or name of the products purchased.

(3) **Statement distribution.** The statement may be provided by first-class mail, email or other electronic communication.

710:65-21-9. [RESERVED]

710:65-21-10. [RESERVED]

710:65-21-11. [RESERVED]

710:65-21-12. [RESERVED]

710:65-21-13. [RESERVED]

710:65-21-14. [RESERVED]

710:65-21-15. [RESERVED]

710:65-21-16. [RESERVED]

710:65-21-17. [RESERVED]

710:65-21-18. [RESERVED]

710:65-21-19. [RESERVED]

710:65-21-20. Use tax exemptions

The following are specifically exempt from use tax: [See: 68 O.S. §§ 1404 and 1411]

- (1) Tangible personal property brought into this state by a non-resident for his or her personal use visiting or with the intent to become a resident.
- (2) Tangible personal property that is purchased for resale.
- (3) Tangible personal property on which sales/use tax has been paid that is equal to or greater than the rate charged by Oklahoma. If the rate charged by another state is less than the rate charged by Oklahoma, the difference in the rate is to be multiplied by the purchase price of the tangible personal property to give the amount of tax due for that purchase. In the same manner, a credit against any municipal or county use tax paid may be taken if a municipal or county sales or use tax, respectively, has been paid to an out-of-state municipality or county.
- (4) Those items specifically exempted by the Oklahoma Sales Tax Code. [See: 68 O.S. §§ 1350 et seq.]
- (5) Tangible personal property used in or by commercial airlines and railroads.
- (6) Livestock purchased for feeding or breeding purposes and later resold.
- (7) For municipal and county uses tax purposes only, the municipal or county rate does not apply to goods which are brought into the city or county temporarily for the purpose of fabrication, repair, testing, alteration, maintenance or other service.
- (8) The use of rail transportation cars to haul coal to coal-fired electric generating plants located in Oklahoma.
- (9) Tangible personal property purchased for use by manufacturers in manufacturing operations located in Oklahoma.

(10) Municipal and county use taxes do not apply to property purchased in Oklahoma.

[Source: Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07]

CHAPTER 70. TOBACCO, TOBACCO PRODUCTS, AND CIGARETTES

[Authority: 37 O.S., § 600.22(10); 68 O.S., §§ 203, 308, 304, 309, 312(A), 312.1, 322, 344, 345, 349.1, 360.6(E), 360.8(E), 403(A), 403.1, 407, 408(a), 413, 415, and 420]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:70-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250. 1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to tobacco and tobacco products.

710:70-1-2. Definitions [RESERVED]

SUBCHAPTER 2. CIGARETTE STAMP TAX

PART 1. GENERAL PROVISIONS

710:70-2-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250.1 et seq, and to facilitate the administration, enforcement, and collection of the levies enacted by the Oklahoma Legislature with respect to cigarettes. [68 O.S. § 301 et seq.]

[Source: Added at 21 Ok Reg 1145, eff 5-13-04]

710:70-2-2. Definitions

The following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"Cigarette" means all rolled tobacco or any substitute therefor, wrapped in paper or any substitute therefor and weighing not to exceed three (3) pounds per thousand cigarettes. [68 O.S. § 301(1)]

"Delivery sale" means:

(A) *Any sale of cigarettes to a consumer in Oklahoma where either:*

- (i) *The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, by use of the mails, or by any other delivery service, including the Internet or other online service; or,*
- (ii) *The cigarettes are delivered by use of the mails or other delivery service.*

(B) *A sale of cigarettes which satisfies the criteria in subparagraph (A) of this paragraph shall be a "delivery sale" regardless of whether the seller is located within or outside of Oklahoma.*

"Delivery sale" shall include any sale of cigarettes to an individual in Oklahoma and shall be treated as a sale to a consumer unless such individual is licensed as a distributor or retailer of cigarettes by the Tax Commission; but shall not include a sale of cigarettes, not for personal consumption, to a person who is a wholesale dealer or a retail dealer. [68 O.S. § 301(13)]

[Source: Added at 21 Ok Reg 1145, eff 5-13-04]

710:70-2-3. When stamps must be applied

Oklahoma cigarette stamps and Oklahoma Tribal stamps may be applied only to cigarette packages that the wholesaler, has received directly from either a manufacturer or importer of cigarettes, providing that manufacturer or importer possesses a valid permit under 26 U.S.C. § 5712. Effective January 1, 2010, a wholesaler must purchase cigarettes from a manufacturer holding an Oklahoma Cigarette Manufacturer License.

[Source: Added at 21 Ok Reg 1145, eff 5-13-04; Amended at 27 Ok Reg 2350, eff 7-11-10]

710:70-2-4. Conditions under which a cigarette license may be granted, maintained, or renewed

(a) No cigarette license shall be granted, maintained, or renewed pursuant to this Subchapter and Article 3 of Title 68 of the Oklahoma Statutes, if any owner of an interest of ten (10) percent in the applicant, or holder of a license, meets any of the following conditions:

- (1) Applicant owes Five Hundred Dollars (\$500.00) or greater in cigarette taxes that are delinquent;
- (2) Applicant has been convicted of a crime relating to or for receiving stolen or counterfeit cigarettes;
- (3) Applicant has been convicted of or has entered a plea of guilty or nolo contendere to any felony;
- (4) Applicant is a manufacturer, and is not a participating manufacturer as defined in 37 O.S. § 600.22;
- (5) Applicant is not a participating manufacturer as defined 37 O.S. § 600.22 and is not in full compliance with 37 O.S. § 600.23(A).
- (6) Applicant is a manufacturer, and cigarettes have been imported into the United States by the applicant in violation of 19 U.S.C. § 1681a; or,
- (7) Applicant is a manufacturer and has manufactured or imported into the United States, cigarettes that do not fully comply with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §1331 et seq. [68 O.S. § 304(E)]

(b) In addition to any civil or criminal penalty provided by law, upon a finding that a licensee has violated any provisions of 68 O.S. §301 et seq., the Tax Commission may revoke or suspend the license or licenses of the licensee pursuant to the procedures applicable to revocation of a license set forth in 68 O.S. § 316. [68 O.S. § 304(G)]

[Source: Added at 21 Ok Reg 1145, eff 5-13-04; Amended at 27 Ok Reg 2350, eff 7-11-10]

710:70-2-5. Filing requirements for persons making "delivery sales of cigarettes" [RENUMBERED]

[Source: Added at 21 Ok Reg 1145, eff 5-13-04; Renumbered to 710:70-2-50 at 22 Ok Reg 2243, eff 6-25-05]

710:70-2-6. Requirements placed on vendors making delivery sales of cigarettes [RENUMBERED]

[Source: Added at 21 Ok Reg 1145, eff 5-13-04; Renumbered to 710:70-2-51 at 22 Ok Reg 2243, eff 6-25-05]

710:70-2-7. Payment of taxes due on delivery sales of cigarettes [RENUMBERED]

[Source: Added at 21 Ok Reg 1145, eff 5-13-04; Renumbered to 710:70-2-52 at 22 Ok Reg 2243, eff 6-25-05]

710:70-2-8. Penalties for failure to comply with statutory provisions

Section 316 of Title 68 of the Oklahoma Statutes provides for administrative fines and penalties for failure to comply with the laws concerning the sale of cigarettes, including the possession, distribution, manufacture or sale of counterfeit cigarettes.

[Source: Added at 21 Ok Reg 1145, eff 5-13-04; Amended at 27 Ok Reg 2350, eff 7-11-10]

710:70-2-9. Cigarette stamp tax rates [REVOKED]

[Source: Added at 22 Ok Reg 525, eff 1-28-05 (emergency); Added at 22 Ok Reg 2243, eff 6-25-05; Amended at 27 Ok Reg 2350, eff 7-11-10; Revoked at 36 Ok Reg 1241, eff 8-11-19]

710:70-2-9.1. Vehicle Cigarette Licenses

Vehicles from which cigarettes are sold constitute a "place of business" and are required to be permitted. If the vehicle is owned or operated by a place of business for which the regular Two Hundred Fifty Dollar (\$250.00) fee has been paid the fee for the vehicle is to be \$10.00 and the expiration date of the vehicle license permit is to be the expiration date of the permit issued to the other place of business.

[Source: Added at 23 Ok Reg 2867, eff 6-25-06; Amended at 27 Ok Reg 2350, eff 7-11-10]

710:70-2-10. Discount on cigarette tax stamps purchased

(a) **Allowable discount.** Every person purchasing cigarette or tobacco tax stamps from the Oklahoma Tax Commission may do so at a reduction of one and one-half cents (\$0.015) per stamp. The discount herein provided shall be the only discount allowed to purchasers from the Tax Commission.

(b) **Exceptions and limitations.** The discount described in this Section shall not be applicable or available:

- (1) On purchases of less than One Hundred Dollars (\$100.00) at any one time;
- (2) To out-of-state purchasers who reside in states that do not give discounts on cigarette stamps purchased by State of Oklahoma cigarette dealers;
- (3) To a purchaser who has an unpaid assessment or is delinquent in one or more required reports; or,
- (4) To a purchaser who refuses to comply with the laws of the State of Oklahoma. [See: 68 O.S.Supp.2004, §311]

[Source: Added at 22 Ok Reg 525, eff 1-28-05 (emergency); Added at 22 Ok Reg 2243, eff 6-25-05; Amended at 28 Ok Reg 966, eff 6-1-11]

710:70-2-11. Requirements placed on wholesalers and retailers to maintain copies of invoices

(a) Wholesalers shall keep copies of invoices or equivalent documentation for each of its facilities for every transaction in which the wholesaler is the seller, purchaser, consignor, consignee, or recipient of cigarettes. The invoices or documentation

must show the name, address, phone number and wholesale license number of the consignor, seller, purchaser, or consignee, and the quantity by brand style of the cigarettes involved in the transaction. [68 O.S. § 312.1(E)].

(b) Retailers shall keep copies of invoices or equivalent documentation for every transaction in which the retailer receives or purchases cigarettes at each of its facilities. The invoices or documentation must show the name and address of the wholesaler from whom, or the address of another facility of the same retailer from which, the cigarettes were received, the quantity of each brand style received in such transaction and the retail cigarette license number or sales tax license number. [68 O.S. § 312.1(F)].

(c) The invoices or equivalent documentation must be kept on the premises described in the license in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the Oklahoma Tax Commission. With the permission of the Tax Commission, manufacturers, wholesalers, and retailers with multiple places of business may retain centralized records, but must transmit duplicates of the invoices or the equivalent documentation to each place of business within twenty-four (24) hours upon the request of the Tax Commission. Written requests for permission to keep centralized records should be submitted to the Business Tax Services Division of the Oklahoma Tax Commission by mail at 123 Robert S. Kerr Ave, Oklahoma City, Ok 73102 or by FAX at (405) 522-4450. [68 O.S. § 312.1(H)].

(d) The invoices or equivalent documentation must be retained for a period of three (3) years from the date of the transaction. [68 O.S. § 312.1(I)].

[Source: Added at 22 Ok Reg 1690, eff 5-10-15 (emergency); Added at 23 Ok Reg 2867, eff 6-25-06; Amended at 26 Ok Reg 2373, eff 6-25-09; Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 38 Ok Reg 1573, eff 9-1-21]

710:70-2-12. Limitation on sale of number of packs of cigarettes at a reduced tax rate [REVOKED]

[Source: Added at 22 Ok Reg 1690, eff 5-10-15 (emergency); Added at 23 Ok Reg 2867, eff 6-25-06; Revoked at 26 Ok Reg 2373, eff 6-25-09]

710:70-2-13. Stamps required, applicable compact and non-compact tax rates, and refund procedures relating to sales of packs of cigarettes to tribal retailers [REVOKED]

[Source: Added at 22 Ok Reg 1690, eff 5-10-05 (emergency); Added at 23 Ok Reg 1195, eff 4-7-06 (emergency); Added at 23 Ok Reg 2866, eff 6-25-06; Revoked at 26 Ok Reg 2373, eff 6-25-09]

710:70-2-14. Retail to retail sales of cigarettes prohibited

Effective January 1, 2010, a licensed cigarette retailer is prohibited from selling cigarettes to another licensed cigarette retailer unless the purpose of the sale is to move inventory between stores which are owned by the same legal entity.

[Source: Added at 27 Ok Reg 2350, eff 7-11-10]

710:70-2-15. Minimum requirements of monthly cigarette tax reports of licensed manufacturers and wholesalers

(a) Every licensed manufacturer and every wholesaler licensed by the Oklahoma Tax Commission, to possess, use or in any manner deal with cigarettes subject to the excise tax, upon which such tax has not been paid, shall report, to the Oklahoma Tax Commission, all purchases and invoices of all such cigarettes and merchandise subject to such excise tax monthly, on the monthly cigarette tax report form prescribed by the Commission. Each monthly report shall include the

following information:

- (1) Name, business address and cigarette license number of the tax reporter;
 - (2) All purchases or deliveries, stated separately according to the dates of delivery in this State, of all cigarettes received, possessed, used or in any manner dealt with in the previous calendar month;
 - (3) Invoice numbers of all purchases or deliveries of such cigarettes for the previous calendar month;
 - (4) Name and business address of each consignee and consignor; and
 - (5) Copy of each invoice of all purchases or deliveries of such cigarettes for the previous month attached to the monthly report form. Copies of invoices submitted shall be subject to destruction upon completion of an office audit of the monthly report and shall not discharge the reporter from the statutory duty to maintain records and files of all such transactions. [See: 68 O.S. §201; 68 O.S. §301 et seq.]
- (b) Monthly reports due after October 31, 2011, must be filed electronically in the format prescribed by the Commission.
- (c) Copies of each invoice for sales of cigarettes made during the previous calendar month shall be attached to the monthly report form. If the number of invoices is voluminous, reporter may request and obtain authorization to submit a schedule of sales in lieu of copies of invoices.

[Source: Added at 29 Ok Reg 564, eff 5-11-12]

PART 3. DELIVERY SALES

710:70-2-50. Filing requirements for persons making "delivery sales of cigarettes" [REVOKED]

[Source: Renumbered from 710:2-5 at 22 Ok Reg 2243, eff 6-25-05; Amended at 28 Ok Reg 966, eff 6-1-11; Amended at 30 Ok Reg 1473, eff 7-1-13; Revoked at 32 Ok Reg 1400, eff 8-27-15]

710:70-2-50.1. Definitions

The following words and terms, when used in Part 3 of this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cigarette" means:

- (A) Any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:
 - (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco,
 - (ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette, or
 - (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (i) of this subparagraph.
- (B) And includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette",

nine one-hundredths (0.09) of an ounce of "roll-your-own" tobacco shall constitute one individual "cigarette". [37 O.S. § 600.22(4)]

"Distributor" or "Wholesaler" means and includes a person, firm or corporation organized and existing, or doing business, primarily to sell cigarettes to, and render service to retailers in the territory such person, firm or corporation chooses to serve, and that:

- (A) purchases cigarettes directly from the manufacturer;
- (B) at least seventy-five percent (75%) of whose gross sales are made at wholesale;
- (C) handles goods in wholesale quantities and sells through salespersons, advertising and/or sales promotion devices;
- (D) carries at all times at its principal place of business a representative stock of cigarettes for sale, and
- (E) comes into the possession of cigarettes for the purpose of selling them to retailers or to persons outside or within the state who might resell or retail such cigarettes to consumers.
- (F) In addition to the foregoing, and irrespective of the percentage or type of sales, the term **"wholesaler" or "distributor"** shall also include all purchasers of cigarettes making purchases directly from the manufacturer for distribution at wholesale or retail sale and this shall not affect the requirements relating to retail licenses. [68 O.S. § 301(3)]

"Retailer" means:

- (A) A person who comes into the possession of cigarettes for the purpose of selling, or who sells them at retail, or
- (B) A person, not coming within the classification of wholesaler, distributor and/or jobber as herein defined, having possession of more than one thousand cigarettes. [68 O.S. § 301(4)]

[Source: Added at 32 Ok Reg 1400, eff 8-27-15]

710:70-2-51. Requirements placed on vendors making delivery sales of cigarettes

(a) No person or entity engaged in the business of selling or distributing cigarettes, that is not a manufacturer, wholesaler, or distributor of cigarettes or other tobacco products licensed by the Oklahoma Tax Commission shall mail, ship or otherwise deliver cigarettes to any person in this state that is not:

- (1) A distributor or wholesaler of cigarettes licensed by the Oklahoma Tax Commission under Section 304 of Title 68 of the Oklahoma Statutes;
- (2) An export warehouse proprietor pursuant to Chapter 52 of the Internal Revenue Code or the operator of a customs bonded warehouse pursuant to 19 U.S.C., Section 1311 or 1555; or
- (3) A person who is an officer, employee or agent of the United States government, this state or a department, agency, instrumentality or political subdivision of the United States or this state when the person is acting in accordance with the official duties of the person.

(b) It shall be illegal for any common or contract carrier to knowingly transport cigarettes to any person in this state reasonably believed by the carrier to be a person other than described in paragraph 1, 2 or 3 of subsection a of this section. For purposes of this subsection, cigarettes may be transported to a home or residence in this state by persons other than common and contract carriers in quantities that do not exceed one thousand cigarettes at any one time.

(c) Any cigarettes that are shipped or transported into this state in violation of this section shall be forfeited to the state and destroyed.

[Source: Renumbered from 710:70-2-6 at 22 Ok Reg 2243, eff 6-25-05; Amended at 32 Ok Reg 1400, eff 8-27-15]

710:70-2-52. Payment of taxes due on delivery sales of cigarettes [REVOKED]

[Source: Renumbered from 710:70-2-7 at 22 Ok Reg 2243, eff 6-25-05; Revoked at 32 Ok Reg 1400, eff 8-27-15]

SUBCHAPTER 3. UNFAIR CIGARETTE AND TOBACCO PRODUCTS SALES

710:70-3-1. Procedures relating to enforcement of the Unfair Cigarette and Tobacco Products Sales Act

Pursuant to the authority and power granted by statute, the Oklahoma Tax Commission hereby directs that enforcement of the Unfair Cigarette and Tobacco Products Sales Act (68 O.S. §326 et seq.) within this state shall be established and implemented through the procedures set out in this Subchapter. [See: 68 O.S. §344]

710:70-3-2. Filing of a complaint

Any person or entity who has been injured or who would suffer injury from any violation or threatened violation of the provisions of the Unfair Cigarette and Tobacco Products Sales Act (68 O.S. §§326 et seq.) (the Act) shall file a written signed complaint of the complaining party with the Alcohol and Tobacco Section, Business Tax Services Division of the Oklahoma Tax Commission setting forth details and all evidence then available, together with the name and address of the person or entity that has allegedly violated and/or failed to comply with the provisions of the Act. [See: 68 O.S. §§340, 343]

[Source: Amended at 38 Ok Reg 1573, eff 9-1-21]

710:70-3-3. Investigation and referral procedure

The Business Tax Services Division of the Oklahoma Tax Commission, upon receipt of the complaint described in 710:70-3-2, shall make a determination as to whether or not a probable violation of the provisions of the Unfair Cigarette and Tobacco Products Sales Act (68 O.S. §§326 et seq.) (the Act) appears to have occurred and shall forward such to the office of the General Counsel of the Oklahoma Tax Commission together with evidence of the relevant basic cost of cigarette and tobacco products and other relevant information in its possession. The General Counsel shall review the complaint and determine whether there exists a prima facie case of violation or failure to comply and, if so, shall issue a notice to the alleged violator to attend a hearing where the alleged violator's license may be cancelled or suspended. A hearing shall be set after giving the complaining party and the person or entity who has allegedly violated the Act at least ten (10) days'notice and a copy of this Subchapter shall be available at the Oklahoma Tax Commission for all affected parties and may be mailed to such parties with the notice. If the General Counsel determines that the violation warrants additional action, an action may be instituted in any court of competent jurisdiction and the rules of the court shall apply. [See: 68 O.S. §344]

[Source: Amended at 38 Ok Reg 1573, eff 9-1-21]

710:70-3-4. Complaining party must appear

When an administrative hearing is set, the Business Tax Services Division of the Oklahoma Tax Commission and the complaining party shall be notified of the show cause hearing and it shall be mandatory for the complaining party to appear and submit evidence and/or testimony at the hearing to substantiate the alleged violation and/or failure by the alleged violating party to comply with the provisions of the Unfair Cigarette and Tobacco Products Sales Act (68 O.S. §§326 et seq.).

[Source: Amended at 38 Ok Reg 1573, eff 9-1-21]

710:70-3-5. Evidence admissible to establish cost

The Business Tax Services Division shall appear at the hearing on an alleged violation of the Act and give testimony and evidence establishing the relevant basic cost of cigarettes and tobacco products and the minimum wholesale/retail price of such products based upon the provisions of the Unfair Cigarette and Tobacco Products Sales Act (68 O.S. §§326 et seq.), and such other evidence as may relate to the complaint. It shall be a rebuttable presumption that the basic cost to the wholesaler and to the retailer is that defined in the Act, unless a lesser cost can be established by competent evidence, as set out in the Act. [See: 68 O.S. §§329, 330, 335, 337]

[Source: Amended at 38 Ok Reg 1573, eff 9-1-21]

710:70-3-6. Burden of production of evidence on permit holder

The person or entity allegedly violating the provision of the Unfair Cigarette and Tobacco Products Sales Act (68 O.S. §§326 et seq.) shall produce at the hearing sufficient evidence including books, business records and invoices to establish that the alleged violation is without merit. [See: 68 O.S. §103]

710:70-3-7. Hearing procedure

An Administrative Law Judge of the Oklahoma Tax Commission shall hear testimony and take evidence from the parties at a hearing on an alleged violation of the Act and shall then submit to the Commission findings, recommendations and conclusions, concerning the alleged violation of the Unfair Cigarette and Tobacco Products Sales Act (68 O.S. §§326 et seq.) and whether or not the license of the alleged violator should be revoked or suspended. [See: 68 O.S. §207]

710:70-3-8. Final ruling by Commission

The Commission shall review the findings, recommendations and conclusions of the Administrative Law Judge, make its determination and enter its Order in the matter.

SUBCHAPTER 5. EXCISE ON TOBACCO PRODUCTS

710:70-5-1. Authority to direct procedures for payment of excise tax levied on tobacco products

(a) Pursuant to the authority and power granted by statute, the Oklahoma Tax Commission hereby directs that excise tax levied upon the sale, distribution, use, exchange, barter or possession of tobacco products within this State shall be paid through monthly tobacco products tax reporting procedures as established by rules of this Commission and shall be administered in accordance with the laws of this State and the provisions of this Subchapter establishing procedures for monthly

tobacco tax reporting system. [See: 68 O.S. §§401 et seq.]

(b) The purchasing of stamps to pay the excise tax levied and the affixing of stamps as evidence of payment of the excise tax are hereby abolished. [See: 68 O.S. §§403, 408]

710:70-5-2. Payment of tax on tobacco products

The excise tax levied upon the sale, use, distribution, exchange, barter or possession of tobacco products in this State shall be paid on a monthly basis by the licensed manufacturer, wholesaler or retailer first possessing, selling, using, distributing, exchanging, bartering, or in any manner dealing with such tobacco products in this State. No other person, shall first possess, use, sell, exchange, distribute, barter or in any manner deal with such tobacco products in this State upon which the excise tax has not been paid.

[Source: Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 30 Ok Reg 1473, eff 7-1-13]

710:70-5-3. Minimum requirements of monthly tobacco products tax reports of licensed manufacturers, wholesalers or retailers

(a) Every licensed manufacturer and every wholesaler licensed by the Oklahoma Tax Commission, to possess, use or in any manner deal with tobacco products subject to the excise tax, upon which such tax has not been paid, and every retailer who receives tobacco products upon which excise tax has not been paid shall report, to the Oklahoma Tax Commission, all purchases and invoices of all such tobacco products and merchandise subject to such excise tax monthly, on the Monthly Tobacco Products Tax Report form prescribed by the Commission. Each monthly report shall include the following information:

- (1) Name, business address and Tobacco License Number of the tax reporter;
- (2) All purchases or deliveries, stated separately according to the dates of delivery in the State, of all tobacco products received, possessed, used or in any manner dealt with in the previous calendar month;
- (3) Invoice numbers of all purchases or deliveries of such products for the previous calendar month;
- (4) Name and business address of each consignee and consignor; and
- (5) Copy of each invoice of all purchases or deliveries of such products for the previous month attached to the monthly report form. Copies of invoices submitted shall be subject to destruction upon completion of an office audit of the monthly report and shall not discharge the reporter from the statutory duty to maintain records and files of all such transactions. [See: 68 O.S. §201; 68 O.S. §401 et seq.]

(b) Monthly reports must be filed electronically in the format prescribed by the Commission and the tax remitted to the Tax Commission by electronic funds transfer.

(c) Copies of each invoice for sales of tobacco products made during the previous calendar month shall be attached to the monthly report form. If the number of invoices is voluminous, reporter may request and obtain authorization to submit a schedule of sales in lieu of copies of invoices.

[Source: Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 28 Ok Reg 2363, eff 6-6-11 (emergency); Amended at 29 Ok Reg 564, eff 5-11-12; Amended at 30 Ok Reg 1473, eff 7-1-13; Amended at 32 Ok Reg 1400, eff 8-27-15]

710:70-5-4. Incomplete monthly tobacco tax reports of licensed manufacturers or wholesalers; forfeiture of discount

Any Monthly Tobacco Products Tax Report form filed with the Business Tax Services Division of the Oklahoma Tax Commission shall include, and have attached thereto, the minimum information specified in 68 O.S. §413 and 710:70-5-3. Any such monthly report form that does not include these minimum requirements shall not constitute the mandatory report. And, in the event a proper, complete monthly report is not filed on or before the due dates in accordance with 710:70-5-5, the discount of two percent (2%) of the tax due for maintaining and collecting such tax, shall not be allowed, and the report shall be delinquent.

[Source: Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 38 Ok Reg 1573, eff 9-1-21]

710:70-5-5. Due dates for timely filing of monthly tobacco products tax reports and paying tax

(a) On or before the twentieth (20th) day of the calendar month immediately following the calendar month in which the tobacco products subject to taxation were first received, delivered, possessed, used or in any manner dealt with in this State, the Monthly Tobacco Products Tax Reports and payment of the tax due shall be submitted to the Oklahoma Tax Commission. If such due date is a Saturday, Sunday, holiday recognized by the executive department of this State, or a date when the Federal Reserve Banks are closed then the due date shall be the next official working day for the Oklahoma Tax Commission immediately following the Saturday, Sunday, holiday or Federal Reserve Bank closure date.

(b) Any report or payment mailed and postmarked by the United States Postal Service on or prior to the due date shall be considered to have been filed or paid on the due date.

(c) All excise tax or monthly reports due and not paid or submitted to the Commission on or before the due date shall be delinquent.

[Source: Amended at 29 Ok Reg 686, eff 5-25-12; Amended at 30 Ok Reg 1473, eff 7-1-13]

710:70-5-6. Discount for timely filing of monthly tobacco products tax reports and paying taxes

(a) Every licensed manufacturer and every wholesaler required to report and pay the tobacco products excise tax shall be allowed a discount of two percent (2%) of the tax due under each monthly report and shall, at the time of filing each monthly report, pay to the Oklahoma Tax Commission, ninety-eight percent (98%) of the tax due.

(b) The two percent (2%) discount shall not be allowed to any taxpayer who fails to timely file the required monthly report or who fails to timely pay the tax due in accordance with 710:70-5-5.

[Source: Amended at 27 Ok Reg 2350, eff 7-11-10]

710:70-5-7. Penalty and interest for failure to timely pay tax

(a) If any amount of the tobacco products excise tax is not paid, before the tax becomes delinquent, as set out in 710:70-5-5, interest, at the rate of one and one-fourth percent (1¼% per month from the date due until payment of the tax, shall be calculated and collected as part of the delinquent tax. [See: 68 O.S. §217(a)]

(b) If any amount of the tobacco products excise tax is not paid within thirty (30) calendar days after the tax becomes delinquent, as set out in 710:70-5-5, a penalty, at the rate of ten percent (10%) of the total amount of such delinquent tax, shall be calculated and collected as part of the delinquent tax. [See: 68 O.S. §217(c)]

710:70-5-8. Reports on tobacco products by persons, retailers, consumers, carriers or bailees other than those required to report and pay tax

(a) Every person or entity, listed below, who possesses, controls, transports, uses or in any manner deals with tobacco products within this State subject to the tobacco products excise tax, upon which the tax has not been paid, even though not the party required to pay the tax, shall file a monthly report to the Oklahoma Tax Commission on prescribed forms as follows:

(1) Every retailer or consumer purchasing tobacco products subject to tax in drop shipments shall report those purchases to the Oklahoma Tax Commission on the Monthly Tobacco Products Tax Reports in accordance with 710:70-5-3 through 710:70-5-5, as required of licensed manufacturers, wholesalers, retailers or consumers.

(2) Every carrier transporting tobacco products, subject to tax, to a point within this State shall monthly report to the Oklahoma Tax Commission the following information:

(A) Name and business address of the carrier;

(B) The date of delivery of each shipment of said tobacco products transported and delivered into this State in the previous calendar month;

(C) The point of origin and the point of delivery of each shipment of said tobacco products transported and delivered into this State in the previous calendar month;

(D) The name of the person or entity to whom said tobacco products were delivered in this State in the previous calendar month; and

(E) Copies of all invoices, bills of lading or instruments of consignment of said tobacco products transported and delivered into this State in the previous calendar month, attached to said report.

(3) Every bailee having possession, custody, control, use or in any manner dealing with tobacco products within this State subject to the tax, shall report monthly to the Oklahoma Tax Commission as is required of carriers.

(b) All required monthly reports shall be due on or before the twentieth (20th) day of the calendar month immediately following the calendar month in which the tobacco products subject to the tax are possessed, controlled, transported, used or in any manner dealt with in this State, in accordance with 710:70-5-5.

(c) Copies of invoices, bills of lading or other instruments of consignment submitted shall be subject to destruction upon completion of an office audit of the monthly report and shall not discharge the reporter from the statutory duty to maintain records and files of all such transactions and to permit inspection and examination thereof by the Commission. [See: 68 O.S. § 201; 68 O.S. §§ 401 et seq.]

[Source: Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 30 Ok Reg 1473, eff 7-1-13]

710:70-5-9. Reports and payment of taxes on drop shipments of tobacco products

It shall be the duty of every licensed wholesaler to report and pay the tobacco products excise tax, levied upon all drop shipments of tobacco products subject to such tax, purchased by any wholesaler, retailer or consumer receiving and paying for such drop shipment through the licensed wholesaler. The tax on such drop shipments shall be reported and paid in the same manner as if the drop

shipment had first been received or delivered to the licensed wholesaler through whom the drop shipment was purchased.

[Source: Amended at 27 Ok Reg 2350, eff 7-11-10]

710:70-5-10. Prohibition against the possession, sale, use, distribution, exchange, barter, giving away or in any manner dealing with tobacco products upon which the tobacco products tax has not been paid [REVOKED]

[Source: Amended at 27 Ok Reg 2350, eff 7-11-10; Revoked at 30 Ok Reg 1473, eff 7-1-13]

710:70-5-11. Seizure of tobacco products

(a) Any authorized agent of the Oklahoma Tax Commission or any sheriff, deputy sheriff or police law enforcement officer may seize all tobacco products subject to the Tobacco Products Excise Tax, found in the possession, custody or control of any person required to file monthly reports or to pay said taxes, if:

- (1) The person has failed to timely file a required monthly report; or
- (2) The person has failed to timely pay said taxes when due; or
- (3) The Commission has determined that the person is attempting to evade or avoid payment of the tobacco excise tax; or
- (4) The Commission has determined the person has violated any of the provisions of the Tobacco Products Tax Act or the Rules of the Oklahoma Tax Commission.

(b) Intent to evade or avoid payment of Tobacco Products taxes may be presumed upon:

- (1) Failure to timely file reports or to timely pay taxes; or
- (2) Receipt of possession, control or custody, within this State, of any tobacco products, upon which the tobacco products tax has not been paid, from any person not holding a valid Oklahoma Tobacco License. The burden of proof shall be on the person, taxpayer or reporter to prove otherwise. [See: 68 O.S. §417]

710:70-5-12. Oklahoma tobacco products tax rates [REVOKED]

[Source: Added at 22 Ok Reg 525, eff 1-28-05 (emergency); Added at 22 Ok Reg 2243, eff 6-25-05; Amended at 26 Ok Reg 2373, eff 6-25-09; Revoked at 36 Ok Reg 1241, eff 8-11-19]

710:70-5-13. Requirements placed on wholesalers and retailers to maintain copies of invoices with certain information that must be shown on each invoice

(a) Wholesalers of tobacco products, as defined in 68 O.S. § 401, shall keep copies of invoices or equivalent documentation for each of its facilities for every transaction in which the wholesaler is the seller, purchaser, consignor, consignee, or recipient of tobacco products. The invoices or documentation must contain the wholesaler's tobacco license number and the quantity by brand style of the tobacco products involved in the transaction. [68 O.S. Section 420.1(A)]

(b) Retailers of tobacco products, as defined in 68 O.S. § 401, shall keep copies of invoices or equivalent documentation for every transaction in which the retailer receives or purchases tobacco products at each of its facilities. The invoices or documentation must show the name and address of the wholesaler from whom, or the address of another facility of the same retailer from which, the tobacco products were received, the quantity of each brand style received in such transaction, and the retail tobacco license number. [68 O.S. § 420.1(B)]

(c) The invoices or equivalent documentation must be kept on the premises described in the license in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the Oklahoma Tax Commission. With the permission of the Tax Commission, manufacturers, wholesalers, and retailers with multiple places of business may retain centralized records, but must transmit duplicates of the invoices or the equivalent documentation to each place of business within twenty-four (24) hours upon the request of the Tax Commission. Written requests for permission to keep centralized records should be submitted to the Business Tax Services Division of the Oklahoma Tax Commission by mail at 123 Robert S. Kerr Ave, Oklahoma City, OK 73102 or by FAX at (405) 522-4450.

(d) The invoices or equivalent documentation must be retained for a period of three (3) years from the date of the transaction.

[Source: Added at 23 Ok Reg 2867, eff 6-25-06; Amended at 26 Ok Reg 2373, eff 6-25-09; Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 38 Ok Reg 1573, eff 9-1-21]

710:70-5-14. Wholesale, retail, and distributing agent licenses required

(a) Effective January 1, 2010, every dealer or wholesaler of tobacco products must annually obtain a license from the Tax Commission.

(b) The license fee shall not be paid if the applicant has paid the fee for a cigarette wholesaler license to the Tax Commission.

(c) A retailer of tobacco products must obtain a retail tobacco license prior to purchasing or selling tobacco products after January 1, 2010.

(d) Effective January 1, 2010, retailers of tobacco products shall purchase tobacco products only from a supplier who holds a current tobacco wholesaler license.

(e) Effective January 1, 2010, wholesalers of tobacco products are prohibited from purchasing tobacco products from a person required to obtain an Oklahoma license. A wholesaler shall sell only to a retailer holding an Oklahoma tobacco retailer license.

(f) A licensed retailer is prohibited from selling tobacco products to another licensed tobacco products retailer unless the purpose of the sale is to move inventory between stores which are owned by the same legal entity.

[Source: Added at 27 Ok Reg 2350, eff 7-11-10; Amended at 29 Ok Reg 564, eff 5-11-12]

SUBCHAPTER 7. CIGARETTE AND TOBACCO PRODUCTS SALES BY FEDERALLY RECOGNIZED INDIAN TRIBES AND NATIONS

710:70-7-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of the levies enacted by the Oklahoma Legislature with respect to tobacco and tobacco products.

[Source: Added at 10 Ok Reg 683, eff 12-23-92 (emergency); Added at 10 Ok Reg 3867, eff 7-12-93]

710:70-7-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Indian country" means:

(A) *Land held in trust by the United States of America for the benefit of a federally recognized Indian tribe or nation;*

(B) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, including rights-of-way running through the reservation;

(C) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and,

(D) All Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same.

[68 O.S. § 348(3)]

[Source: Reserved at 10 Ok Reg 683, eff 12-23-92 (emergency); Reserved at 10 Ok Reg 3867, eff 7-12-93; Added at 22 Ok Reg 525, eff 1-28-05 (emergency); Added at 22 Ok Reg 2243, eff 6-25-05]

710:70-7-3. Affixing of cigarette stamp; usage limited

(a) Cigarette stamps must be affixed to the bottom of the package containing the cigarettes.

(b) Cigarette stamps cannot be used more than once.

[Source: Added at 10 Ok Reg 683, eff 12-23-92 (emergency); Added at 10 Ok Reg 3867, eff 7-12-93]

710:70-7-4. Stamps required

All cigarettes sold or held for sale in the State of Oklahoma shall bear one of the following stamps:

(1) A stamp indicating that the retailer selling or holding for sale such cigarettes is a federally recognized Indian tribe or nation, or licensee thereof, which has entered into a Compact with the State of Oklahoma and is paying the payments specified thereunder; or

(2) A stamp indicating that the retailer selling or holding for sale such cigarettes is a federally recognized Indian tribe or nation, or licensee thereof, which has not entered into a Compact with the State of Oklahoma and the cigarettes bearing such stamps are being held for sale to members of that Indian tribe or nation; or

(3) A stamp indicating that the retailer selling or holding for sale such cigarettes does not meet the requirements of one of the above-referenced categories and is paying the tax levied pursuant to 68 O.S. §301 et seq.

[Source: Added at 10 Ok Reg 683, eff 12-23-92 (emergency); Added at 10 Ok Reg 3867, eff 7-12-93; Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 28 Ok Reg 966, eff 6-1-11]

710:70-7-5. Documentation that purchaser is tribally owned or licensed retail store must be obtained and retained [REVOKED]

[Source: Added at 10 Ok Reg 683, eff 12-23-92 (emergency); Added at 10 Ok Reg 3867, eff 7-12-93; Amended at 27 Ok Reg 2350, eff 7-11-10; Revoked at 28 Ok Reg 966, eff 6-1-11]

710:70-7-6. List of compacting tribes and retail outlets to be provided

The Oklahoma Tax Commission shall provide to cigarette wholesalers, distributors, jobbers and warehousemen a listing of those tribes who have entered into a compact with the State of Oklahoma. This list shall include a listing of each retail outlet which is owned or licensed by the compacting tribes.

[Source: Added at 10 Ok Reg 683, eff 12-23-92 (emergency); Added at 10 Ok Reg 3867, eff 7-12-93]

710:70-7-7. Documentation required for refund on sales of cigarettes or tobacco products sold by tribally-owned or licensed stores to tribal members [REVOKED]

[Source: Added at 10 Ok Reg 683, eff 12-23-92 (emergency); Added at 10 Ok Reg 3867, eff 7-12-93; Revoked at 27 Ok Reg 2350, eff 7-11-10]

710:70-7-8. Cigarette stamp tax rate for sales by federally-recognized Indian tribes and nations [REVOKED]

[Source: Added at 22 Ok Reg 525, eff 1-28-05 (emergency); Added at 22 Ok Reg 2243, eff 6-25-05; Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 28 Ok Reg 966, eff 6-1-11; Amended at 32 Ok Reg 1400, eff 8-27-15; Revoked at 36 Ok Reg 1241, eff 8-11-19]

710:70-7-9. Tobacco products tax rates for sales by federally-recognized Indian tribes and nations [REVOKED]

[Source: Added at 22 Ok Reg 525, eff 1-28-05 (emergency); Added at 22 Ok Reg 2243, eff 6-25-05; Amended at 27 Ok Reg 2350, eff 7-11-10; Amended at 28 Ok Reg 966, eff 6-1-11; Amended at 32 Ok Reg 1400, eff 8-27-15; Revoked at 36 Ok Reg 1241, eff 8-11-19]

710:70-7-10. Calculation of probable demand for noncompacting federally recognized Indian tribes or nations

(a) **Purpose of rule:** The purpose of this rule is to provide the procedure necessary for the implementation of calculation of probable demand for Native American tax free stamps for each noncompacting tribe or nation resident in Oklahoma for cigarettes and other tobacco products, pursuant to 68 O.S. § 349.1., effective January 1, 2010.

(b) **Calculation of probable demand:** Probable demand shall be calculated in conformity with the requirements of 68 O.S. § 349.1.

(c) **Service of preliminary calculation of probable demand upon affected noncompacting tribes and nations:** Not less than seventy-five (75) calendar days prior to the first calendar day of each calendar year, the preliminary calculation of probable demand for cigarette and other tobacco products shall be served upon the governing authorities or other designated agent of each and every noncompacting tribe and nation, together with a copy of this Section. Service shall be deemed complete upon the date of placing said preliminary calculation in the first class mail, postage prepaid, addressed to the governing authorities or other designated agent of each and every noncompacting tribe or nation.

(d) **Service of objections/dispute of preliminary calculation of probable demand by affected noncompacting tribes and nations:** Within thirty (30) calendar days from the date of service of the preliminary calculation of probable demand, affected noncompacting tribes and nations may serve upon the Office of the General Counsel, Oklahoma Tax Commission, any objections/dispute of the preliminary calculation of probable demand, together with any verifiable information in its possession regarding such probable demand, including, but not limited to, a verifiable record of previous sales to tribal members or other statistical evidence. Service shall be deemed complete upon placing of objections/dispute of the preliminary calculation of probable demand, together with supporting verifiable evidence in the first class mail, postage prepaid, addressed to the Office of the General Counsel, Oklahoma Tax Commission.

(e) **Failure to file objection/dispute of preliminary calculation of probable demand.** If, within thirty (30) calendar days from the date of service of the preliminary calculation of probable demand upon an affected tribe or nation, that tribe or nation has failed to file its objection/dispute to the preliminary calculation served upon it, that preliminary calculation shall become the final calculation, final and nonappealable.

(f) **Final calculation of probable demand.** If an affected tribe or nation timely files its objection/dispute to the preliminary calculation of probable demand for that affected tribe or nation and furnishes supporting verifiable information pursuant to (d) of this Section, said objection/dispute, together with supporting verifiable evidence shall be considered, and a final calculation of probable demand issued and served within fifteen (15) calendar days from the date of service of said objection/dispute. Service shall be deemed complete upon the date of placing said preliminary calculation in the first class mail, postage prepaid, addressed to the governing authorities or other designated agent of each and every noncompacting tribe or nation.

(g) **Timely filing of objections/dispute of final calculation of probable demand.** If, within fifteen (15) calendar days from the date of service of the final calculation of probable demand upon an affected tribe or nation, that tribe or nation has timely filed its objection/dispute to the final calculation served upon it, the matter of the final calculation of probable demand shall proceed as a protested matter, pursuant to the provisions of the *OAC* 710:1-5-21 through *OAC* 710:1-5-49.

(h) **Final calculation of probable demand to be used while any timely protest and appeal of the final calculation of probable demand is pending.** If an affected tribe or nation files a timely objection/dispute to the final calculation served on it, cigarettes and other tobacco products may be obtained, on a monthly basis, with entitlement based upon 1/12th of the final calculated probable demand for cigarettes and other tobacco products. Provided, however, at the option of the affected tribe or nation, it may obtain cigarettes and other tobacco products each month, based upon 1/12th of the final calculated probable demand, plus not more than an additional twenty five percent (25%) of 1/12th of the final calculated probable demand for cigarettes and other tobacco products. In the event an affected tribe or nation elects to obtain such an additional amount of untaxed cigarettes and other tobacco products, entitlement to request those additional amounts shall cease when the total of cigarettes and other tobacco products obtained in a calendar year equals the final calculation of probable demand for that calendar year.

(i) **Final determinations of the final calculated probable demand appealable pursuant to 68 O.S. § 225.** Final orders of the Oklahoma Tax Commission pursuant to 68 O.S. § 349.1 and this Section shall be appealable to the Oklahoma Supreme Court, as a matter of right, pursuant to 68 O.S. §225.

[Source: Added at 27 Ok Reg 646, eff 1-11-10 (emergency); Added at 27 Ok Reg 2350, eff 7-11-10; Amended at 32 Ok Reg 1400, eff 8-27-15; Amended at 36 Ok Reg 1241, eff 8-11-19]

SUBCHAPTER 9. REPORTING REQUIRED BY THE PREVENTION OF YOUTH ACCESS TO TOBACCO ACT AND THE MASTER SETTLEMENT AGREEMENT COMPLEMENTARY ACT

710:70-9-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq. and to facilitate the determination, compilation, and reporting of certain

information required by Sections 600.21 through 600.23 of the Prevention of Youth Access to Tobacco Act (37 O.S.Supp.1999, §600.1 et seq.) Further, the provisions are intended to implement, administer, and interpret "The Master Settlement Agreement Complementary Act (68 O.S.Supp.2004, §§ 360.1 through 360.8).

[Source: Added at 17 Ok Reg 3284, eff 7-7-00 (emergency); Added at 18 Ok Reg 2848, eff 6-25-01; Amended at 22 Ok Reg 2243, eff 6-25-05]

710:70-9-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cigarette":

(A) means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(i) any roll of tobacco wrapped in paper or in any substance not containing tobacco,

(ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette, or

(iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in [(i) of this subparagraph].

(B) includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette", nine one-hundredths (0.09) of an ounce of "roll-your-own" tobacco shall constitute one individual "cigarette". [See: 37 O.S. § 600.22(4)]

"Commission" means the Oklahoma Tax Commission.

"Non-participating manufacturer" means any tobacco product manufacturer, as the term is defined by 37 O.S. § 600.22(9), selling products to consumers within Oklahoma, whether directly or through a distributor, retailer or similar intermediary or intermediaries, who does **not** elect to become a participating manufacturer, pursuant to 37 O.S. § 600.23(A)(1), and thus incurs the duty to place funds into a qualified escrow fund, as required by the provisions of 37 O.S. § 600.23(A)(2).

"Tobacco taxpayer" means every wholesaler, distributor, retailer, manufacturer or any other person, firm, corporation, club, or association; selling, receiving, distributing, storing, or using cigarettes or roll-your-own tobacco products, or both, in the State of Oklahoma, whether qualified to do business in this state or not, and without regard to whether the person is licensed or permitted, as required by any tax law.

"Units sold" means the number of individual cigarettes (including the quantity of calculated unit-equivalents of roll-your-own tobacco) manufactured by a non-participating manufacturer and sold in the state each month, either directly, or through a distributor, retailer, or similar intermediary or intermediaries.

[Source: Added at 17 Ok Reg 3284, eff 7-7-00 (emergency); Added at 18 Ok Reg 2848, eff 6-25-01]

710:70-9-3. Procedures pertaining to the Tobacco Master Settlement Agreement concerning non-participating manufacturers

In addition to any information currently reported, and in addition to any return presently required to be filed, each Tobacco Taxpayer shall report, for each non-participating manufacturer, all purchases and all units sold in Oklahoma of cigarettes (including all roll-your-own tobacco unit-equivalents), as those terms are defined in 37 O.S.Supp.1999 § 600.22. The Tobacco Taxpayer shall report the required information to the Oklahoma Tax Commission, on forms prescribed by the Commission, no later than the twentieth day of each calendar month for the preceding calendar month's activity. The following information must be reported monthly, regardless of whether any applicable sales have been made, for each non-participating manufacturer:

- (1) The month of activity;
- (2) The name and address of the non-participating manufacturer from whom the cigarettes or roll-your-own tobacco originated;
- (3) The brand name of the cigarettes or roll-your-own tobacco sold; and
- (4) The number of **units sold**, as defined by 710:70-9-2, of cigarettes and roll-your-own tobacco unit-equivalents.

[Source: Added at 17 Ok Reg 3284, eff 7-7-00 (emergency); Added at 18 Ok Reg 2848, eff 6-25-01; Amended at 19 Ok Reg 2444, eff 6-27-02]

710:70-9-4. Quarterly escrow installments required from certain nonparticipating manufacturers pursuant to the Master Settlement Agreement Complementary Act

(a) **Quarterly escrow payments for certain nonparticipating manufacturers required.** The Oklahoma Tax Commission shall require a tobacco product manufacturer subject to the escrow requirements of 37 O.S. § 600.23, to make quarterly installments during the year in which the sales covered by the deposits are made when the Attorney General notifies the Tax Commission that:

- (1) A nonparticipating manufacturer has not previously established and funded a qualified escrow fund in Oklahoma; or,
- (2) A nonparticipating manufacturer has not made any escrow deposits for more than one year; or,
- (3) A nonparticipating manufacturer has failed to pay any judgment awarded to the state, including any civil penalty; or,
- (4) A nonparticipating manufacturer sells more than 2,000,000 sticks or 180,000 ounces of roll-your-own product during a quarter.

(b) **Quarterly escrow payments for all nonparticipating manufacturers may be required.** All nonparticipating manufacturers shall be required to make quarterly payments if, thirty (30) days prior to the beginning of any quarter, the Attorney General serves a written request upon the Tax Commission, requesting that quarterly payments be required. Such quarterly payments under this subsection shall be required for every quarter after such notice until such time as the Attorney General notifies the Tax Commission that quarterly payments, in his judgment, are no longer necessary to provide compliance with the escrow requirements of a nonparticipating manufacturer.

(c) **Deadlines.** Nonparticipating manufacturers required to make quarterly payments must do so as follows:

(1) Payments for sales occurring in the first quarter, January 1 through March 31, are due April 30 of the same year. The Attorney General's office must receive official notification of the payments no later than May 15 of the same year.

(2) Payments for sales occurring in the second quarter, April 1 through June 30, are due July 31 of the same year. The Attorney General's office must receive official notification of the payments no later than August 15 of the same year.

(3) Payments for sales occurring in the third quarter, July 1 through September 30, are due October 31 of the same year. The Attorney General's office must receive official notification of the payments no later than November 15 of the same year.

(4) Payments for sales occurring in the fourth quarter, October 1 through December 31, are due January 31 of the next year. The Attorney General's office must receive official notification of the payments no later than February 15 of the next year.

(d) Grounds for removal of nonparticipating manufacturer from Oklahoma Directory of Certified Tobacco Manufacturers and Brands. The nonparticipating manufacturer and its brands may be removed from the Oklahoma Directory of Certified Tobacco Manufacturers and Brands by the Attorney General if:

(1) Required quarterly escrow payments are not timely made in full; or,

(2) An outstanding final judgment, and interest thereon, for a violation of 37 O.S. §§600.21 through 600.23 has not been fully satisfied; or,

(3) The Attorney General is not timely notified that the quarterly escrow payments have been made in full; or,

(4) The Attorney General determines that the nonparticipating manufacturer has otherwise failed to comply with any requirement of the Master Settlement Agreement Complementary Act

(e) Additional grounds for removal or exclusion from the Directory. In addition to the grounds contained in subsection (d) of this Section, a nonparticipating manufacturer and its brands may be removed or not included in the Oklahoma Directory of Certified Tobacco Manufacturers and Brands by the Attorney General if the manufacturer:

(1) Does not certify it is subject to, without immunity, the Master Settlement Agreement Complementary Act and the Prevention of Youth Access to Tobacco Act; or

(2) Fails to disclose that a state or federal government has brought an action in compliance with any state or federal law, regulating the sale and or distribution of tobacco products, including the escrow statute of another state; or

(3) Fails to sell only through an Oklahoma-licensed wholesaler any tobacco product sold into the state or fails to provide monthly PACT Act reports to the Oklahoma Tax Commission and the Oklahoma Attorney General for sales into the state.

[Source: Added at 22 Ok Reg 294, eff 11-29-04 (emergency); Added at 22 Ok Reg 2243, eff 6-25-05; Amended at 32 Ok Reg 1400, eff 8-27-15]

710:70-9-5. Electronic tobacco sales report

(a) Each wholesaler or distributor shall report information relating to sales of cigarettes and roll-your- own tobacco to each retailer and wholesaler. The required

information shall be reported to the Attorney General and the Oklahoma Tax Commission, electronically, no later than the twentieth day of each calendar month for the preceding calendar month's activity. The report is to contain the following information:

- (1) The name and address of the outlet location of each retailer and wholesaler to which the wholesaler or distributor delivered cigarettes, including the city and zip code;
- (2) Monthly sales, including the number of individual cigarettes, by brand name, made to:
 - (A) Wholesalers and retailers in packages bearing the excise tax stamp of the State of Oklahoma;
 - (B) Tribal retailers of compacting Tribes, in packages bearing the joint "unity rate" tax stamp purchased from the Oklahoma Tax Commission;
 - (C) Wholesalers, retailers or consumers located outside the State of Oklahoma in packages not bearing the excise tax stamp of the State of Oklahoma;
 - (D) Noncompacting Tribes located in the State of Oklahoma that bear the black tax-free stamp for sales to tribal members of a noncompacting Tribe;
- (3) Monthly sales of individual containers of roll-your-own tobacco products, by brand name and by weight, upon which the state excise or "unity" tax has been paid; and
- (4) Monthly sales of individual containers of roll-your-own tobacco products, by brand name and by weight, made to:
 - (A) Wholesalers, retailers or consumers located outside the State of Oklahoma on which the state excise tax has not been paid;
 - (B) Noncompacting Tribes located within the State of Oklahoma.

(b) All monthly net sales reports provided for in subsection (a) of this Section shall include the invoice number and invoice date of cigarettes sold, distributed or shipped into Oklahoma. The reports shall also include the beginning and ending inventory for each type of stamp held during the reporting period.

(c) The report required by this Section if timely filed shall be considered as meeting the reporting requirements of Section 360.6 of Title 68 of the Oklahoma Statutes.

[Source: Added at 32 Ok Reg 1400, eff 8-27-15]

CHAPTER 75. TOURISM PROMOTION [REVOKED]

[Authority: 68 O.S., §§ 203]

[Source: Codified 12-30-91]

710:75-1-1. Purpose [REVOKED]

[Source: Amended at 12 Ok Reg 601, eff 12-5-94 (emergency); Amended at 12 Ok Reg 2951, eff 7-14-95; Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-2. Definitions [REVOKED]

[Source: Amended at 10 Ok Reg 3869, eff 7-12-93; Amended at 12 Ok Reg 601, eff 12-5-94 (emergency); Amended at 12 Ok Reg 2951, eff 7-14-95; Amended at 16 Ok Reg 2672, eff 6-25-99; Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-3. General applicability of Tourism Promotion Tax [REVOKED]

[Source: Amended at 10 Ok Reg 3869, eff 7-12-93; Amended at 12 Ok Reg 601, eff 12-5-94 (emergency); Amended at 12 Ok Reg 2951, eff 7-14-95; Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-4. Application of Tourism Tax [REVOKED]

[Source: Amended at 10 Ok Reg 3869, eff 7-12-93; Amended at 17 Ok Reg 2715, eff 6-25-00; Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-5. Tourism and Recreation Department and Historical Society facilities [REVOKED]

[Source: Amended at 10 Ok Reg 3869, eff 7-12-93; Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-6. Tax not applicable to campsites [REVOKED]

[Source: Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-7. Nonprofit charitable organizations [REVOKED]

[Source: Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-8. Filing requirements; interest; penalty [REVOKED]

[Source: Amended at 19 Ok Reg 2445, eff 6-27-02; Amended at 22 Ok Reg 1588, eff 6-11-05; Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-9. Recordkeeping [REVOKED]

[Source: Amended at 12 Ok Reg 601, eff 12-5-94 (emergency); Amended at 12 Ok Reg 2951, eff 7-14-95; Revoked at 24 Ok Reg 1449, eff 7-1-07]

710:75-1-10. Examples and applications [REVOKED]

[Source: Added at 12 Ok Reg 601, eff 12-5-94 (emergency); Added at 12 Ok Reg 2951, eff 7-14-95; Amended at 17 Ok Reg 2715, eff 6-25-00; Revoked at 24 Ok Reg 1449, eff 7-1-07]

CHAPTER 80. UNCLAIMED PROPERTY ADMINISTRATION [TRANSFERRED]

Editor's Note: Effective 7-1-99, "all administrative rules promulgated by the Tax Commission pursuant to the Uniform Unclaimed Property Act [were] transferred to and [became] a part of the administrative rules of the State Treasurer" [Laws 1999, c. 10, § 1(D)]. These rules are now located in OAC 735:80. For additional information relating to this transfer, see Laws 1999, c. 10, Editor's Notice published at 17 Ok Reg 217, and 60 O.S., §§ 681, 683.1, and 688.

[Authority: 60 O.S., §§ 681 and 688]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS [TRANSFERRED]

710:80-1-1. Purpose [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-1-2. Definitions [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-1-3. Mineral interest in land escheatable [TRANSFERRED]

[Source: Amended at 12 Ok Reg 2655, eff 6-26-95; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-1-4. Protest procedure; procedure for administrative protest to examination or audit findings or demands for reportable or deliverable property issued to holders [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-1-5. Confidentiality of reports, records and files in the administration of the Uniform Unclaimed Property Act [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-1-6. Payment of examination findings under protest [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-1-7. Relief from liability by payment or delivery [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-1-8. Recordkeeping requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Amended at 10 Ok Reg 3871, eff 7-12-93; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

SUBCHAPTER 3. REPORTING REQUIREMENTS [TRANSFERRED]

PART 1. GENERAL APPLICATION [TRANSFERRED]

710:80-3-1. General reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-3-2. Owner contact; reporting requirements; "owner generated activity" defined [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-3-3. Early delivery of property [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-3-4. Aggregate reporting; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-3-5. Abandoned mineral interests; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-3-6. Items of Fifty Dollars (\$50.00) or more; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-3-7. Requirement to report and remit current balance [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 3. FINANCIAL INSTITUTIONS [TRANSFERRED]

710:80-3-10. Banks, savings and loans or other financial institutions; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 5. BUSINESS ASSOCIATIONS [TRANSFERRED]

710:80-3-15. Business associations; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 7. CITY/COUNTY TREASURERS [TRANSFERRED]

710:80-3-20. City or county treasurers; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 9. COOPERATIVE POOLS [TRANSFERRED]

710:80-3-25. Cooperative pools; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 11. COURT CLERKS [TRANSFERRED]

710:80-3-30. Court clerks; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 13. MINERAL INTERESTS [TRANSFERRED]

710:80-3-35. Mineral interest proceeds; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 15. UTILITIES [TRANSFERRED]

710:80-3-40. Utilities; reporting requirements [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

SUBCHAPTER 5. ALLOWABLE CHARGES AND DEDUCTIONS [TRANSFERRED]

710:80-5-1. Charges and deductions that may be withheld [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-5-2. Discontinuance of interest or dividends; general [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

SUBCHAPTER 7. CLAIMS PROCESS [TRANSFERRED]

710:80-7-1. Claims process; general [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-7-2. Proof of ownership [TRANSFERRED]

[Source: Amended at 12 Ok Reg 2655, eff 6-26-95; Amended at 14 Ok Reg 2747, eff 6-26-97; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-7-3. Release of non-cash items [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-7-4. Payment of claims [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-7-5. Holder reimbursement [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Amended at 12 Ok Reg 2655, eff 6-26-95; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-7-6. Protest of claims [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-7-7. Claims paid in error [TRANSFERRED]

[Source: Amended at 12 Ok Reg 2655, eff 6-26-95; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-7-8. Disposition of unclaimed property other than cash [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

SUBCHAPTER 9. OFFICE AUDIT [TRANSFERRED]

710:80-9-1. Audit of holder reports [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-9-2. Interest/penalty; amended reports [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-9-3. Mailing of assessment letters to holders; office audits [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-9-4. Return of reports for correction [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-9-5. Amended reports [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

SUBCHAPTER 11. FIELD AUDIT [TRANSFERRED]

PART 1. GENERAL PROVISIONS [TRANSFERRED]

710:80-11-1. Field audits; general [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

710:80-11-2. Field audits conducted when [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 3. BANKING OR FINANCIAL INSTITUTIONS [TRANSFERRED]

710:80-11-10. Banking or financial institutions; field audits [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 5. COURTS [TRANSFERRED]

710:80-11-15. Courts; field audits [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 7. ENERGY RELATED COMPANIES [TRANSFERRED]

710:80-11-20. Energy related companies; field audits; "current litigation" defined [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 9. INSURANCE CORPORATIONS [TRANSFERRED]

710:80-11-25. Insurance corporations; life and property and casualty; field audits [TRANSFERRED]

[Source: Amended at 9 Ok Reg 3025, eff 7-13-92; Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 11. PUBLIC OFFICERS AND AGENCIES [TRANSFERRED]

710:80-11-30. Public officers and agencies; field audits [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

PART 13. UTILITIES [TRANSFERRED]

710:80-11-35. Utilities; field audits [TRANSFERRED]

[Source: Transferred to 735:80-1-1 at 60 O.S., §688, eff 7-1-99 (See Editor's Notice published at 17 Ok Reg 217)]

CHAPTER 85. VARIOUS TAX INCENTIVES

[Authority: 68 O.S., §§ 203, 3608, 3907, 3917, 4108, and 4208]

[Source: Codified 12-30-91]

SUBCHAPTER 1. OKLAHOMA QUALITY JOBS PROGRAM

710:85-1-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, allocation and payment of certain tax incentives pursuant to the Oklahoma Quality Jobs Program Act.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94]

710:85-1-2. Definitions

In addition to terms defined in 68 O.S. § 3603, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Baseline employment" means an establishment's total number of jobs which existed in this state prior to approval of the establishment's application by the Oklahoma Department of Commerce. A job shall be deemed to exist in this state prior to approval of an establishment's application if the activities and functions for which the particular job exists have been ongoing at any time within six months prior to approval of the establishment. Upon approval of an application or upon the start date of a project, if it is more than sixty days later than the approval date, the Department shall determine an establishment's baseline employment to be its current employment or its average employment over the last four quarters, whichever is greater.

"Commission" means the Oklahoma Tax Commission

"Department" means the Oklahoma Department of Commerce.

"Gross payroll" means wages subject to Oklahoma Income tax, as defined in 68 O.S. §2385.1, for new direct jobs.

"New direct jobs" means **"new direct jobs"** of a qualified establishment as recognized by the Oklahoma Department of Commerce.

"Qualified establishment" means an establishment for which the Commission has been notified of an approved application for incentive payments by the Oklahoma Department of Commerce.

"Start date" means *the date on which an establishment may begin accruing benefits for the creation of new direct jobs, which date shall be determined by the Department.* [See: 68 O.S.2001, § 3603]

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94; Amended at 12 Ok Reg 2659, eff 6-26-95; Amended at 20 Ok Reg 2594, eff 7-11-03; Amended at 24 Ok Reg 1452, eff 5-25-07]

710:85-1-3. Procedure upon qualification; reporting [REVOKED]

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94; Amended at 20 Ok Reg 2594, eff 7-11-03; Amended at 22 Ok Reg 2249, eff 6-25-05; Revoked at 24 Ok Reg 1452, eff 5-25-07]

710:85-1-4. Audits; auditors

(a) **Reports subject to audit.** The returns filed pursuant to the requirements of the Quality Jobs Program Act and the Rules promulgated thereunder shall be accepted, as filed, by the Commission, subject to audit.

(b) **Examination by agent of the Commission.** Any representative of the Commission holding a certificate of authority may make an examination or investigation of the place of business, tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any qualified establishment. [See: 68 O.S. §206]

(c) **Duty to comply and cooperate with examination.** It shall be the duty of every qualified establishment and every director, officer, or employee of every qualified establishment to exhibit to the Commission, or to the employees or agents of such Commission, the items mentioned in (b) of this Section.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94]

710:85-1-5. Commission to give notice of first incentive payment

Notification of the first incentive payment made to a qualified establishment shall be sent by the Commission to the Oklahoma Department of Commerce.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94]

710:85-1-6. Qualified establishments are employers

Qualified establishments are employers for purposes of Oklahoma Income Tax Withholding taxes. [See: 68 O.S. §2385.1 et seq. and 710:90-1-1 through 710:90-7-2]

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94; Amended at 22 Ok Reg 2249, eff 6-25-05]

710:85-1-7. Transfers to Quality Jobs Program Incentive Payment Fund

Each month the Commission shall transfer from income tax withholding collected, to the Quality Jobs Program Incentive Payment Fund ("Fund"), the sum total of the net benefit rate multiplied by the gross payroll for each qualified establishment.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94]

710:85-1-8. Procedure for filing claim, verification, payment, protest

(a) **Contents of claim.** As soon as practicable after the end of a calendar quarter, the qualified establishment shall file a claim for gross payroll paid the previous quarter. The claim, on forms prescribed by the Commission, shall include:

- (1) Name of qualified establishment;
- (2) Identification number of qualified establishment;
- (3) Period for which claim is filed;
- (4) Actual number of new direct jobs during period of claim;
- (5) Gross payroll of new direct jobs during period of claim;
- (6) Net benefit rate; and
- (7) Amount claimed for period.

(b) **Deadline for filing first claim.** For establishments that were approved after October 31, 2001, *in no event shall the first claim for incentive payments be filed later than three (3) years from the start date designated by the Oklahoma Department of Commerce.*

(c) **Amount of claim not to include penalty, interest paid.** The amount claimed shall not include any portion of penalty and/or interest paid by the qualified establishment because of delinquent filing and/or payment of withholding tax.

[See: 68 O.S. §2385.6]

(d) **Verification of claim.** The Commission shall verify the actual gross payroll utilizing information available to the Commission. All participating companies are required to retain documentation to verify the quality jobs employees and rebate amounts claimed. Documents retained shall include all employee names, both base and new employees, social security numbers, original hire dates, termination dates, individual wages drawn for each month, and copies of claim forms for the duration of the contract. Baseline employees must be filled by active employees as of the last business day of each month. If an employee in the baseline group is terminated or retires prior to the last business day of the month, the qualified establishment must replace the employee with a quality jobs employee or a newly hired employee. These records shall be retained in both hard copy form and in an electronic format approved by the Commission for a minimum of three (3) years after the final rebate payment is received by the company. In the event the Commission is unable to verify the gross payroll, the Commission may request additional information from the qualified establishment or may request the qualified establishment revise its claim to the amount verified by the Commission.

(e) **Payment of claim.** Except as provided in 710:85-1-11, the qualified establishment whose claim has been approved shall receive a warrant in an amount not to exceed the net benefit rate multiplied by the actual gross payroll for new direct jobs for the calendar quarter for which the claim is filed.

(f) **Procedure when claim cannot be verified or is revised.** The following shall apply when a claim cannot be verified or is revised by the Commission.

- (1) The qualified establishment may, within sixty (60) days after the mailing of notification of action by the Commission, file with the Commission a protest under oath, signed by the qualified establishment or a duly authorized agent setting out:
 - (A) a statement of the action by the Commission that is protested;
 - (B) a statement of the qualified establishment's disagreement with such action; and
 - (C) supporting documentation relied on by the qualified establishment in support of its claim.

(2) If the qualified establishment fails to file a written protest within the sixty (60) days, then the action of the Commission shall become final and no appeal will be entertained.

(3) A protest to the action of the Commission filed by a qualified establishment shall be governed by 710:1-5-21 through 710:1-5-49.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94; Amended at 12 Ok Reg 2659, eff 6-26-95; Amended at 20 Ok Reg 2594, eff 7-11-03; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 24 Ok Reg 1452, eff 5-25-07; Amended at 27 Ok Reg 2357, eff 7-11-10; Amended at 32 Ok Reg 1407, eff 8-27-15]

710:85-1-9. Disclosure of information

The Commission may, upon request, disclose the name of the qualified establishment that has received incentive payment(s) and the amount of payment(s) received.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94]

710:85-1-10. Limitation on incentive payments

(a) **Ten year limitation from initial claim.** No claim for an incentive payment shall be honored if made for a period later than ten (10) years after the quarter for which the qualified establishment's first claim was made.

(b) **Ceiling for total payments limited to "estimated net direct state benefits."** No claim for an incentive payment shall be honored if payment and other incentive payments made to the qualified establishment exceeds the "estimated net direct state benefits" established by the Oklahoma Department of Commerce except for establishments subject to 68 O.S. §3603.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 36 Ok Reg 1243, eff 8-11-19]

710:85-1-11. Incentive payments unavailable to delinquent tax reporters/remitters

No incentive payment will be made to any qualified establishment who is delinquent in the filing of any state tax return or report or who has an established liability for any state tax until the delinquent report(s) or return(s) is filed and established liability paid.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94]

710:85-1-12. Cessation, suspension, resumption of incentive payments

(a) **Cessation of incentive payments.** The Commission shall cease incentive payments if the gross payroll of the qualified establishment for one of any four (4) consecutive calendar quarters does not equal or exceed the applicable total required by Section 3604 of Title 68 within three (3) years of the start date. A qualified establishment whose incentive payments have ceased under this subsection may not receive any further incentive payments unless and until actual gross payroll equals or exceeds the amount specified in Section 3604 of Title 68.

(b) **Suspension, resumption of incentive payments for certain establishments that were approved prior to June 4, 2003.** Additionally, the Commission shall suspend the incentive payments if the average annualized wage of an establishment fails to meet the criteria required by the provisions of law under which it initially applied and was approved within three (3) years of the first incentive payment.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94; Amended at 22 Ok Reg 2249, eff 6-25-05]

710:85-1-13. Qualified establishment may protest suspension of incentive payments

The following procedures shall apply if the Commission ceases or suspends a qualified establishment's incentive payment(s):

(1) **Filing of protest.** The qualified establishment may, within sixty (60) days after the mailing of notification of action by the Commission, file with the Commission a protest under oath, signed by the qualified establishment or his duly authorized agent setting out:

- (A) a statement of action as determined by the Commission;
- (B) a statement of the qualified establishment's disagreement with such action; and
- (C) supporting documentation relied on by the qualified establishment in support of its claim.

(2) **Result of failure to file protest.** If the qualified establishment fails to file a written protest within the sixty (60) days, then the action of the Commission shall become final and no appeal will be entertained.

(3) **Rules of procedure to govern.** A protest to the action of the Commission filed by a qualified establishment shall be governed by 710:1-5-21 through 710:1-5-49.

[Source: Added at 11 Ok Reg 703, eff 11-29-93 (emergency); Added at 11 Ok Reg 3525, eff 6-26-94; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 32 Ok Reg 1407, eff 8-27-15]

SUBCHAPTER 3. SAVING QUALITY JOBS PROGRAM [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

710:85-3-1. Purpose [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Amended at 28 Ok Reg 969, eff 6-1-11; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-2. Definitions [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

PART 3. PREMIUM PAYMENT PROGRAM [REVOKED]

710:85-3-30. Procedure upon qualification; reporting [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Amended at 22 Ok Reg 2249, eff 6-25-05; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-31. Audits; auditors [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-32. Qualified establishments are employers [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Amended at 22 Ok Reg 2249, eff 6-25-05; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-33. Transfers to Saving Quality Jobs Premium Payment Fund [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-34. Procedure for filing claim, verification, payment, protest [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 32 Ok Reg 1407, eff 8-27-15; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-35. Disclosure of information [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-36. Limitations [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-37. Premium payments not available to delinquent tax reporters/remitters [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-38. Cessation or suspension of premium payments and incentive payments [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

PART 5. HIGH IMPACT PROJECTS [REVOKED]

710:85-3-50. Qualifications for establishment [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-51. Procedures upon qualification [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-52. Transfers to High Impact Projects Payment Fund [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-53. Disclosure of information [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-54. Limitations [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-55. Incentive payments not available to delinquent tax reporters/remitters [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-56. Cessation or suspension of premium payments and incentive payments [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Revoked at 36 Ok Reg 1243, eff 8-11-19]

710:85-3-57. Qualified establishment may protest suspension of payments [REVOKED]

[Source: Added at 12 Ok Reg 2659, eff 6-26-95; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 32 Ok Reg 1407, eff 8-27-15; Revoked at 36 Ok Reg 1243, eff 8-11-19]

SUBCHAPTER 5. SMALL EMPLOYER QUALITY JOBS PROGRAM

710:85-5-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq. and to facilitate the administration, allocation and payment of certain tax incentives pursuant to the Small Employer Quality Jobs Incentive Act. [68 O.S. §§3901 et seq.]

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 28 Ok Reg 969, eff 6-1-11]

710:85-5-2. Definitions

In addition to terms defined in 68 O.S. §3903, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Oklahoma Tax Commission.

"Department" means the Oklahoma Department of Commerce.

"New direct jobs" means **"new direct jobs"** of a qualified establishment as recognized by the Oklahoma Department of Commerce.

"Qualified establishment" means an establishment for which the Commission has been notified of an approved application for incentive payments by the Oklahoma Department of Commerce.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98]

710:85-5-3. Procedure upon qualification; reporting [REVOKED]

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 22 Ok Reg 2249, eff 6-25-05; Revoked at 24 Ok Reg 1452, eff 5-25-07]

710:85-5-4. Audits; auditors

(a) **Reports subject to audit.** The reports filed pursuant to the requirements of the Small Employer Quality Jobs Incentive Act and the rules promulgated thereunder shall be accepted, as filed, by the Commission, subject to audit.

(b) **Examination by agent of the Commission.** Any representative of the Commission holding a certificate of authority may make an examination or investigation of the place of business, tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any qualified establishment. [See: 68 O.S. §206]

(c) **Duty to comply and cooperate with examination.** It shall be the duty of every qualified establishment and every director, officer, or employee of every qualified establishment to exhibit to the Commission, or to the employees or agents of such Commission, the items mentioned in (b) of this Section.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98]

710:85-5-5. Commission to give notice of first incentive payment

Notification of the first incentive payment made to a qualified establishment shall be sent by the Commission to the Oklahoma Department of Commerce.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98]

710:85-5-6. Qualified establishments are employers

Qualified establishments are employers for purposes of Oklahoma Income Tax Withholding taxes. [See: 68 O.S. § 2385.1 et seq. and *OAC* 710:90-1-1 through 710:90-7-2]

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 22 Ok Reg 2249, eff 6-25-05]

710:85-5-7. Transfers to Small Employer Quality Jobs Incentive Payment Fund

Each month the Commission shall transfer from income tax withholding collected, to the Small Employer Quality Jobs Incentive Payment Fund ("Fund"), the sum total of the net benefit rate multiplied by the amount of gross payroll of new direct jobs actually paid by qualified establishments.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 22 Ok Reg 2249, eff 6-25-05]

710:85-5-8. Procedure for filing report, review, determination

(a) **Contents of report.** As soon as practicable after the end of a calendar quarter, the qualified establishment shall file a report for gross payroll paid the previous quarter. The report on forms prescribed by the Commission, shall include:

- (1) Name of qualified establishment;
- (2) Identification number of qualified establishment;
- (3) Period for which report is filed;
- (4) Actual number of new direct jobs during period of report;
- (5) Gross payroll for each new direct job for the establishment for the report period; and
- (6) Other information required to be submitted by the Commission.

(b) **Reports to constitute a claim.** The reports filed pursuant to this Section shall constitute a claim for incentive payments. The establishment must continue to file quarterly reports until reports covering the seven year incentive period have been filed, or until it is no longer qualified to receive incentive payments.

(c) **Commission action upon receipt of reports.** Upon receipt of the reports for the initial calendar quarter and for each subsequent calendar quarter, the Commission shall make the following determinations:

- (1) That the establishment has created or maintained the minimum number of new direct jobs as specified in 68 O.S. § 3904(C)(3);
- (2) That the individuals employed in the new direct jobs were paid an annualized wage which equaled or exceeded the applicable percentage of the average county wage as determined by the Department upon the approval of the application; and
- (3) That a determination by the Department has been made that the establishment continues to meet the requirements set out in the initial approval.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 28 Ok Reg 969, eff 6-1-11]

710:85-5-9. Verification of claim

The Commission shall verify the actual gross payroll for new direct jobs utilizing all available information. All participating companies are required to retain documentation to verify the quality jobs employees and rebate amounts claimed. Documents retained shall include all employee names, both base and new

employees, social security numbers, original hire dates, termination dates, individual wages drawn for each month, and copies of claim forms for the duration of the contract. Baseline employees must be filled by active employees as of the last business day of each month. If an employee in the baseline group is terminated or retires prior to the last business day of the month, the qualified establishment must replace the employee with a quality jobs employee or a newly hired employee. These records shall be retained in both hard copy form and in an electronic format, approved by the Commission, for a minimum of three (3) years after the final rebate payment is received by the company. In the event the Commission is unable to verify the gross payroll, the Commission may request additional information from the qualified establishment or may request the qualified establishment revise its claim to the amount verified by the Commission.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 16 Ok Reg 2673, eff 6-25-99; Amended at 27 Ok Reg 2357, eff 7-11-10]

710:85-5-10. Payment of claim

(a) After the review of the reports and the verification that the establishment qualifies, as set out in *OAC* 710:85-5-9, the Commission shall issue a warrant in the amount equal to the net benefit multiplied by the amount of gross payroll of new direct jobs actually paid by the establishment.

(b) The amount claimed shall not include in the computation of gross payroll any portion of penalty or interest paid as a result of delinquency in filing or paying income tax withheld.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 24 Ok Reg 1452, eff 5-25-07]

710:85-5-11. Procedure when claim cannot be verified, is revised, or is denied

The procedures set out in this Section shall apply when a claim cannot be verified, or is revised, by the Commission:

(1) The qualified establishment may, within sixty (60) days after the mailing of notification of action by the Commission, file with the Commission a protest under oath, signed by the qualified establishment or a duly authorized agent, setting out:

- (A) A statement of the action determined by the Commission;
- (B) A statement of the qualified establishment's disagreement with such action; and
- (C) Supporting documentation relied on by the qualified establishment in support of its claim.

(2) If the qualified establishment fails to file a written protest within the sixty (60) days, then the action of the Commission shall become final and no appeal will be entertained.

(3) A protest to the action of the Commission filed by a qualified establishment shall be governed by *OAC* 710:1-5-21 through 710:1-5-49.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 32 Ok Reg 1407, eff 8-27-15]

710:85-5-12. Disclosure of information

The Commission may, upon request, disclose the name of the qualified establishment that has received any incentive payments and the amount of payments received.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98]

710:85-5-13. Limitation on incentive payments

No claim for an incentive payment shall be honored if made for a period later than seven (7) years after the first quarter of the year for which the qualified establishment's first claim was made.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 22 Ok Reg 2249, eff 6-25-05]

710:85-5-14. Incentive payments unavailable to delinquent tax reports/remitters

No incentive payment will be made to any qualified establishment that is delinquent in the filing of any state tax return or report or for which there is an established liability for any state tax until all delinquent reports or returns are filed and the established liability paid.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98]

710:85-5-15. Denial, cessation, and resumption of incentive payments

(a) **Failure to meet requirements for incentive payments.** An establishment that has not met the requirements for receiving incentive payments, as determined by the review described in *OAC* 710:85-5-8, within twelve (12) months of the date of its application or after July 1, 2011, within twenty-four (24) months of the date of its application, is ineligible to receive any incentive payments under the existing application and approval.

(b) **Failure to meet requirements during any of the twenty-seven (27) calendar quarters subsequent to the initial calendar quarter.** An establishment which fails to meet the requirements set out in *OAC* 710:85-5-8 in any of the twenty-seven (27) calendar quarters subsequent to the initial calendar quarter, is ineligible for an incentive payment for that calendar quarter. If the establishment meets the requirements in a later calendar quarter, the incentive payment for the later calendar quarter may be made after the review and determination for that later calendar quarter, as set out in *OAC* 710:85-5-8 is completed.

[Source: Added at 15 Ok Reg 2421, eff 6-11-98; Amended at 22 Ok Reg 2249, eff 6-25-05; Amended at 28 Ok Reg 969, eff 6-1-11]

SUBCHAPTER 7. OKLAHOMA FILM ENHANCEMENT REBATE PROGRAM

710:85-7-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250.1 et seq. and to facilitate the administration and payment of certain tax incentives pursuant to the *Compete with Canada Film Act*. [See: 68 O.S.2001, § 3621 et seq.]

[Source: Added at 20 Ok Reg 2594, eff 7-11-03]

710:85-7-2. Definitions

In addition to terms defined in 68 O.S. § 3623, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Oklahoma Tax Commission.

"Fund" means the Oklahoma Film Enhancement Rebate Program Revolving Fund.

"Office" means the Office of the Oklahoma Film and Music Commission.

[Source: Added at 20 Ok Reg 2594, eff 7-11-03; Amended at 22 Ok Reg 2249, eff 6-25-05]

710:85-7-3. Procedure upon qualification; payment

(a) **Procedures upon approval by Office.** Upon notification to the Commission of each approved claim by the Office, the Commission will verify:

- (1) That the claim of the production company contains an affidavit stating that the company has not received an exemption from sales taxes pursuant to the provisions of 68 O.S. § 1357; and,
- (2) The production company has filed or will file any Oklahoma tax return or tax document which may be required by law.

(b) **When repayment of taxes may be required.** If the facts set out in (a) of this Section cannot be verified, then the Commission shall require repayment of previously exempted sales taxes, and documentation that the taxes have been repaid shall be included in the claim.

(c) **Payment of claims.** Upon approval of the claim by the Office and processing by the Commission, the Commission shall issue payment for all approved claims from funds in the "Fund" on or after July 1, 2006, and on or after each July 1 thereafter following the fiscal year in which the documented expenditures were made. The amount of payments in any single fiscal year shall not exceed Four Million Dollars (\$4,000,000.00). If the amount of approved claims exceeds the amount specified in this Section in a fiscal year, then the payments will be made in the order in which claims are approved by the office and any remaining approved claims will be carried over to the next fiscal year, subject to the same limitations for that year as set out in this Section.

[Source: Added at 20 Ok Reg 2594, eff 7-11-03; Amended at 22 Ok Reg 2249, eff 6-25-05; Added at 23 Ok Reg 2870, eff 6-25-06; Amended at 28 Ok Reg 969, eff 6-1-11; Amended at 32 Ok Reg 1407, eff 8-27-15; Amended at 36 Ok Reg 1243, eff 8-11-19]

SUBCHAPTER 9. OKLAHOMA QUALITY INVESTMENT ACT

710:85-9-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250.1 et seq. and to facilitate the administration, allocation and payment of certain tax incentives pursuant to the Oklahoma Quality Investment Act.

[Source: Added at 22 Ok Reg 2249, eff 6-25-05]

710:85-9-2. Definitions

In addition to terms defined in 68 O.S. § 4103, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Capital costs" means costs incurred by a qualified establishment for land, buildings, improvements to buildings, fixtures and for machinery, equipment, and other personal property used in and for the manufacturing process with respect to its manufacturing site in Oklahoma and specified in a quality investment agreement.

"Commission" means the Oklahoma Tax Commission.

"Department" means the Oklahoma Department of Commerce.

"Manufacturing site" means a location where a manufacturing operation is conducted, including a location consisting of one or more buildings or structures

in an area owned, leased, or controlled by a manufacturer. [68 O.S. § 1352]

"Qualified establishment" means an establishment for which the Commission has been notified of an approved application for incentive payments by the Oklahoma Department of Commerce.

"Qualified investment agreement" means an agreement between a qualified establishment and the Department for a period not to exceed 5 years for the purpose of computing the total incentive payment amount.

"Start date" means the date on which an establishment may begin accruing benefits because of investment of new capital costs in a manufacturing site that is designated in a quality investment agreement.

[Source: Added at 22 Ok Reg 2249, eff 6-25-05; Amended at 36 Ok Reg 1243, eff 8-11-19]

710:85-9-3. Transfers to Quality Investment Payment Fund

Each month the Commission shall transfer from state sales tax and withholding tax collected, to the Quality Investment Payment Fund, ("Fund") the sum total of the amount required to make the investment payments.

[Source: Added at 22 Ok Reg 2249, eff 6-25-05]

710:85-9-4. Procedure for filing claim, review determination

(a) **Contents of claim.** As soon as practicable after the end of a fiscal year, the qualified establishment shall file a claim for the payment with the commission for ten percent (10%) of the total amount of capital costs actually invested by the establishment during that fiscal year. The claim, on forms prescribed by the Commission, shall include:

- (1) Name of qualified establishment;
- (2) Identification number of qualified establishment;
- (3) Period for which claim is filed;
- (4) Total amount of capital costs invested during the period of claim;
- (5) Amount claimed for period.

(b) **Verification of claim.** The Commission shall verify the actual amount of capital costs and the actual tax benefit accrued or accruing to the State of Oklahoma utilizing information available to the Commission. In the event the Commission is unable to verify, the Commission may request additional information from the qualified establishment or may reject the establishment's claim based upon analysis of actual capital costs incurred by the establishment.

(c) **Payment of claim.** Except as provided in 710:85-9-7, the qualified establishment whose claim has been approved shall receive a warrant in an amount not to exceed a total of One Millions (\$1,000,000.00). If the amount of investment payment claimed exceeds \$1,000,000.00, the establishment may carry over the excess investment payment amount to any subsequent fiscal year during the term of the quality investment agreement and may be paid such amount if the combined amount of carryover and the investment payment claimed in that subsequent fiscal year do not exceed \$1,000,000.00. No more than Five Million Dollars (\$5,000,000.00) in total investment payments shall be payable or paid to a qualified establishment.

(d) **Procedure when claim cannot be verified or is revised.** The following shall apply when a claim cannot be verified and is rejected by the Commission.

- (1) The qualified establishment may, within sixty (60) days after the mailing of notification of action by the Commission, file with the Commission a protest under oath, signed by the qualified establishment or a duly authorized agent setting out:

- (A) a statement of the action by the Commission that is protested;
- (B) a statement of the qualified establishment's disagreement with such action; and
- (C) supporting documentation relied on by the qualified establishment in support of its claim.

(2) If the qualified establishment fails to file a written protest within the sixty (60) days then the action of the Commission shall become final and no appeal will be entertained.

(3) A protest to the action of the Commission filed by a qualified establishment shall be governed by 710:1-5-21 through 710:1-5-49.

[Source: Added at 22 Ok Reg 2249, eff 6-25-05; Amended at 32 Ok Reg 1407, eff 8-27-15]

710:85-9-5. Disclosure of information

The Commission may, upon request, disclose the name of the qualified establishment that has received any incentive payment and the amount of payments received.

[Source: Added at 22 Ok Reg 2249, eff 6-25-05]

710:85-9-6. Limitation on incentive payments

No claim for an incentive payment shall be honored if filed later than two (2) years from the start date designated by the Department.

[Source: Added at 22 Ok Reg 2249, eff 6-25-05]

710:85-9-7. Incentive payments unavailable to delinquent tax reporters/remitters

No incentive payment will be made to any qualified establishment that is delinquent in the filing of any state tax return or report or for which there is an established liability for any state tax until all delinquent reports or returns are filed and the established liability paid.

[Source: Added at 22 Ok Reg 2249, eff 6-25-05]

710:85-9-8. Cessation of incentive payments

In the event an establishment does not meet the terms of the agreement and all provisions of the Act, investment payments shall cease and shall not be resumed, and the agreement shall expire and be void.

[Source: Added at 22 Ok Reg 2249, eff 6-25-05]

SUBCHAPTER 11. 21ST CENTURY QUALITY JOBS PROGRAM

710:85-11-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §250.1 et seq. and to facilitate the administration, allocation, and payment of certain tax incentives pursuant to the **21st Century Quality Jobs Incentive Act**. [68 O.S. §3911 et seq.]

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

710:85-11-2. Definitions

In addition to terms defined in 68 O.S. §3913, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Oklahoma Tax Commission.

"Department" means the Oklahoma Department of Commerce.

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

710:85-11-3. Qualified establishments are employers

Qualified establishments are employers for purposes of Oklahoma Income Tax Withholding taxes. [See: 68 O.S. § 2385.1 et seq. and *OAC* 710:90-1-1 through 710:90-7-2]

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

710:85-11-4. Procedure for filing report, review, determination

(a) **Contents of report.** Beginning with the first complete calendar quarter following the start date designated by the Department the establishment shall file with the Oklahoma Tax Commission a report of jobs and gross taxable payroll paid during quarter. The report, on forms prescribed by the Commission, shall include:

- (1) Name of qualified establishment;
- (2) Identification number of qualified establishment;
- (3) Period for which report is filed;
- (4) Actual number of new direct jobs during period of report;
- (5) Individual gross taxable payroll for each new direct job for the establishment for the report period; and
- (6) Other information required to be submitted by the Commission.

(b) **Reports to constitute a claim.** A report filed pursuant to this Section shall constitute a claim for incentive payment. The establishment must continue to file quarterly reports for the ten (10) year incentive period or until it is no longer qualified to receive incentive payments.

(c) **Commission action upon receipt of reports.** Upon receipt of the reports for the initial calendar quarter and for each subsequent calendar quarter, the Commission shall make the following determinations:

- (1) During the initial twelve (12) quarters, the establishment paid individuals in new direct jobs an average annualized wage that equaled or exceeded the requirements of §3914(C); or
- (2) After the establishment has created ten (10) new direct jobs, it paid individuals in new direct jobs an average annualized wage that equaled or exceeded the requirements of §3914(C), and maintained the minimum number of new direct jobs.

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

710:85-11-5. Verification of claim

The Commission shall verify the report data utilizing available information. In the event the Commission is unable to verify the data, the Commission may request additional information from the qualified establishment or may request the qualified establishment revise its claim to an amount verified by the Commission.

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

710:85-11-6. Payment of claim

- (a) After the review of the report and the verification that the establishment qualifies, as set out above, for an incentive payment, the Commission shall issue a warrant in an amount equal to the applicable benefit rate multiplied by the amount of gross taxable payroll of new direct jobs actually paid by the establishment.
- (b) The amount claimed shall not include in the computation of gross taxable payroll any portion of penalty or interest paid as a result of delinquency in filing or paying income tax withheld.

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

710:85-11-7. Procedure when claim cannot be verified, is revised, or is denied

The procedures set out in this Section shall apply when a claim cannot be verified, is revised, or denied by the Commission:

- (1) The qualified establishment may, within sixty (60) days after the mailing of notification of action by the Commission, file with the Commission a protest under oath, signed by the qualified establishment or a duly authorized agent, setting out:
- (A) A statement of the action determined by the Commission;
 - (B) A statement of the qualified establishment's disagreement with such action; and
 - (C) Supporting documentation relied on by the qualified establishment in support of its claim.
- (2) If the qualified establishment fails to file a written protest within the sixty (60) days, then the action of the Commission shall become final and no appeal will be entertained.
- (3) A protest to the action of the Commission filed by a qualified establishment shall be governed by *OAC* 710:1-5-21 through 710:1-5-49.

[Source: Added at 27 Ok Reg 2357, eff 7-11-10; Amended at 32 Ok Reg 1407, eff 8-27-15]

710:85-11-8. Limitation on incentive payments

- (a) No claim for an incentive payment shall be honored if the report for the first complete calendar quarter is not submitted to the Commission within three (3) years from the start date designated by the Department.
- (b) An establishment that does not meet the wage and new jobs requirements of §3914(C) within twelve (12) quarters of the date its application is approved shall be ineligible to receive additional incentive payments;
- (c) An establishment, after the creation of ten new direct jobs, that does not meet the minimum wage and job requirements for a calendar quarter shall be ineligible to receive an incentive payment for that quarter;
- (d) An establishment, after the creation of ten (10) new direct jobs, which does not meet the minimum wage and job requirements for four (4) consecutive quarters shall be ineligible to receive any further incentive payments. [See: 68 O.S. § 3915]

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

710:85-11-9. Audits

- (a) **Reports subject to audit.** The reports filed pursuant to the requirements of the 21st Century Quality Jobs Incentive Act shall be accepted as filed by the Commission, subject to audit.
- (b) **Examination by agent of the Commission.** Any representative of the Commission holding a certificate of authority may make an examination or investigation of the place of business, tangible personal property, equipment and

facilities, and the books, records, papers, vouchers, accounts and documents of any qualified establishment.

(c) **Duty to comply and cooperate with examination.** It shall be the duty of every qualified establishment and every director, officer, or employee of every qualified establishment to exhibit to the Commission, or to the employees or agents of such Commission, the items mentioned in (b) of this Section. [See: 68 O.S. §206]

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

710:85-11-10. Disclosure of information

The Commission may, upon request, disclose the name of the qualified establishment that has received any incentive payments and the amount of payments received.

[Source: Added at 27 Ok Reg 2357, eff 7-11-10]

CHAPTER 90. WITHHOLDING

[Authority: 68 O.S., §§ 203, 2385.9(C), 2385.15, and 2385.17]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

710:90-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to the withholding, reporting, and remitting of Oklahoma Income taxes.

710:90-1-2. Definitions

Oklahoma Statutes provide that any term used in the Oklahoma Income Tax Code shall have the same meaning as when used in a comparable context in the Internal Revenue Code, unless a different meaning is clearly required. The terms used in this Chapter are subject to control by the Oklahoma Statutes, and therefore subject to the interpretation and application provided by the Internal Revenue Code. [See: 68 O.S. Sections 2353, 2385.1] In addition, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Employee", as described in this Section, means a "resident individual," performing services for an employer whether such services are performed within or without the State of Oklahoma, or both, and any "nonresident individual" performing services within the State of Oklahoma.

(A) The term **"employee"** includes every individual performing services if the relationship between him and the person for whom services are performed is the legal relationship of employer and employee, as follows:

(i) Generally, the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished.

(ii) An employee is subject to the will and control of the employer, not only as to what shall be done, but how it shall be done. It is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so. In general, if the individual is subject to the control or direction of another merely as to the result to be accomplished by the work, and not as to the means and methods for accomplishing the result, he is not an employee.

(iii) The existence of an employer-employee relationship shall be determined, when in doubt, by an examination of the particular facts of each case.

(iv) If an employer-employee relationship exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial.

(v) It is of no consequence that an employee is designated as a partner, coadventurer, agent, independent contractor, contract labor, or the like. It also does not matter how payments are made, what they are called or whether the service is performed full or part-time.

(B) Generally, persons who follow an independent trade, business, or profession, in which they offer their services to the public, such as physicians, attorneys, dentists, veterinarians, contractors and others, are not "**employees.**"

(C) Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who performs no services in this capacity or only minor services, and who neither receives nor is entitled to receive, directly or indirectly, any remuneration, is not considered to be an employee of the corporation.

(D) All classifications or grades of employees are included within the employer-employee relationship. Superintendents, managers and other supervisory personnel are employees. A director of a corporation in his capacity as such, is not an employee of the corporation. Officers of a Subchapter S Corporation are subject to these same provisions.

(E) An officer, employee or elected official of the United States, a state, a territory, the District of Columbia, or any agency, instrumentality, or political subdivision is considered an employee subject to Withholding Tax.

(F) Although an individual may be an employee, the services performed may be of such a nature or be performed under such circumstance that the remuneration paid does not constitute wages within the meaning of 68 O.S. Section 2385.1(e) or the Internal Revenue Code.

"Employer" means any person transacting business or deriving any income from sources within the State of Oklahoma for whom an individual performs or performed any services, of whatever nature, as the employee of such person. **"Employer"** does not include nonresident employers who have no place of

business in Oklahoma and whose transactions are limited to the solicitation of orders for merchandise filled outside Oklahoma and shipped directly to a purchaser in Oklahoma.

(A) An **"employer"** may be an individual, a corporation, a partnership, a trust, a joint-stock company, an association; or a syndicate, group, pool, joint venture, or other unincorporated organization, group or entity.

(B) The term **"employer"** means not only individuals and organizations engaged in trade or business, but also organizations exempt from Income Tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies.

(C) The term **"employer"** includes the governments of the United States, the States, the Territories, the District of Columbia, their agencies, instrumentalities and political subdivisions.

(D) If the person for whom the services are or were performed does not have legal control of the payment of wages for such services, the term **"employer"** means the person having such control.

(E) The term **"employer"** includes an officer or employee of a partnership who is under a duty to act for a corporation or partnership to withhold and remit.

(F) The word **"employer"** also means any person paying wages on behalf of a nonresident alien individual as defined by the Internal Revenue Code.

"Nonresident individual" means any individual other than a resident individual as defined by this Section. This includes "nonresident aliens" as defined by the Internal Revenue Code.

"Resident individual" means a natural person domiciled in Oklahoma who spends a total of more than seven (7) months of the taxable year within Oklahoma. Such person is presumed to be a resident in absence of proof to the contrary.

"Wages" means all remuneration (other than fees to public officials) for services performed by an employee for his employer unless specifically exempted.

(A) Generally, the medium in which remuneration is paid is immaterial. The term **"wages"** includes the cash value of all remuneration paid in any medium other than cash, such as stocks, bonds, or tangible property.

(B) The name by which remuneration is designated is also immaterial. Remuneration such as salaries, tips, fees, bonuses, commission on sales or on insurance premiums, pensions, and retired pay are considered wages if paid as compensation for services performed by the employee for his employer, unless specifically exempted as wages not subject to Withholding Tax by Oklahoma Statutes or the Internal Revenue Code.

(C) The basis upon which the remuneration is paid is immaterial. It may be paid on the basis of piecework, or as a percentage of profits, and may be paid hourly, daily, weekly, monthly, or annually.

(D) Remuneration for services performed constitutes wages subject to Income Tax Withholding, even though paid at a time after the employer-employee relationship no longer exists.

(E) Authorized fees to public officials such as notaries public, clerks of courts, sheriffs, etc., for services rendered in the performance of their official duties are not subject to Withholding Tax. However salaries paid such officials by the government or by a government agency or instrumentality are subject to withholding.

(F) The term "**wages**" does not include any remuneration for services performed by an employee for his employer which is specifically exempt from wages under 68 O.S. Section 2385.1(e) or the Internal Revenue Code. Any exception attaches to the remuneration for services performed by an employee and not to the employee as an individual. Remuneration for services performed which is specifically excepted from the definition of wages to which a voluntary withholding agreement is in effect are deemed to be wages for purposes of administering the provisions of the Oklahoma Income Tax Withholding Act.

(G) Oklahoma Statutes provide that any term used in the Oklahoma Income Tax Code shall have the same meaning as when used in a comparable context in the Internal Revenue Code, unless a different meaning is clearly required. The terms used in this Chapter are subject to control by the Oklahoma Statutes, and therefore subject to the interpretation and application provided by the Internal Revenue Code. Therefore, any remuneration paid for services performed by an employee for his employer not specifically exempted by Oklahoma Statute or specifically named in this Section as wages shall be subject to Oklahoma Income Tax Withholding if subject to Income Tax Withholding as required by the Internal Revenue Code. [See: 68 O.S. Section 2353]

[Source: Amended at 16 Ok Reg 2674, eff 6-25-99; Amended at 37 Ok Reg 2243, eff 9-11-20]

710:90-1-3. Registration of employers

(a) Every employer required to deduct and withhold tax as required under 68 O.S. §2355(C) and 68 O.S. § 2385.2 shall register with the Commission for purposes of withholding, reporting, and remitting such tax. An employer must register on the prescribed Commission Business Registration Form and shall furnish such information as required by said form to include the following:

- (1) How the business is owned;
- (2) Federal Employer Identification Number;
- (3) Business phone;
- (4) Ownership information consisting of:
 - (A) Name of legal owner, social security number, if applicable, and mailing address;
 - (B) Name of partners or corporate officers, social security numbers, titles, and residential mailing address;
- (5) Withholding Tax information:
 - (A) Is tax withheld;
 - (B) Date Withholding Tax was or is expected to commence;
 - (C) Is the amount withheld greater than \$500.00 per quarter;
- (6) Name of officer, partner, employee, or agent responsible for the remittance of Withholding Tax, social security number, title, and residential mailing address;

- (7) Other information required to include but not limited to: Location information, previous owner information, etc.;
 - (8) Signature of sole owner, partner, officer or agent and the date thereof.
- (b) All taxes withheld must be reported and paid when due.

[Source: Amended at 31 Ok Reg 2451, eff 9-12-14; Amended at 33 Ok Reg 1100, eff 8-25-16; Amended at 37 Ok Reg 2243, eff 9-11-20]

710:90-1-4. Taxpayer identification number; consolidated returns

- (a) The employer's identification number for Oklahoma Withholding Tax purposes will be the same number assigned by the Internal Revenue Service for reporting Federal employment taxes. Every employer must have a Federal Employer Identification Number.
- (b) Commission files will be maintained by the taxpayer identification number (Federal Employer Identification Number); any correspondence relating to withholding should refer to this number to expedite the processing of returns and the crediting of payments.
- (c) Only one valid taxpayer identification number may be assigned to an employer. A new Federal Employer Identification Number should be obtained and registered with the Commission when any of the following changes occur:
- (1) A sole proprietorship incorporates;
 - (2) A sole proprietorship takes in a partner and operates as an partnership;
 - (3) A partnership incorporates;
 - (4) A partnership is taken over by one of the partners and is operated as a sole proprietorship;
 - (5) A corporation changes to a partnership or to a sole proprietorship;
 - (6) A sole proprietorship purchases or inherits an existing business (the employer identification number of the former owner cannot be used even if he or she is a spouse);
 - (7) A partnership is terminated and a new one is begun; or
 - (8) An estate operates a business after the owner's death.
- (d) Consolidated returns of two or more employers representing separate legal entities are not permitted unless written approval has been granted by the Tax Commission even though one employer may own a controlling interest in another.
- (e) An employer whose operation consists of multiple locations or payroll centers may request permission to report separately when centralized reporting causes undue hardship. Approval will result in the assignment of a unique taxpayer identification number consisting of the Federal Employer Identification Number and a three digit control number. Until an employer receives written approval to report as either "consolidated" or "separately," any returns should be filed as otherwise required.

710:90-1-5. Employee's withholding allowance certificate

The marital status and number of withholding allowances an employee may claim in determining Oklahoma Income Tax to be withheld shall be the same as that claimed on a valid employee's withholding allowance certificate (Federal Form W-4) as required by the Internal Revenue Service, provided Federal Form W-4 was executed prior to March 1, 2018. If changes to Oklahoma withholding should be made, or employment begins after February 28, 2018, employees shall submit a completed Oklahoma Form W-4 to their employer.

[Source: Amended at 35 Ok Reg 623, eff 8-18-18 (emergency); Amended at 36 Ok Reg 1247, eff 8-11-19]

710:90-1-6. Supplemental wages

(a) **Treatment of supplemental wages combined with regular wages.** An employer who pays supplemental wages combined with regular wages and does not specify or separate the amount of each should withhold Income Tax as if the total payment were a single payment for a regular payroll period. Supplemental wages include bonuses, commissions, overtime pay, vacation pay, sick leave pay, back pay, retroactive wage increases or payment for nondeductible moving expenses.

(b) **Treatment of supplemental wages paid separately or combined in single payment.** Supplemental wages which are paid separately or combined in a single payment and the amount of each is specified, are subject to withholding according to one of the following methods:

(1) If tax was withheld from an employee's regular wages, use one of these two methods for supplemental wages:

(A) Withhold at the highest applicable rate set out in 68 O.S. Section 2355(B)(1) for Oklahoma Income Taxes for the taxable year, or;

(B) Add the supplemental and regular wages for the most recent payroll period. Calculate the tax as if the total constitutes a single payment. Subtract the tax already withheld from the regular wages. Withhold the remaining tax from the supplemental wages.

(2) If tax was not withheld from an employee's regular wages, the provisions set out in (1)(B) of this subsection should be used. This situation would occur, for example, when the value of the employee's withholding allowances claimed is more than the wages.

(c) **Treatment of overtime, vacation, and sick pay.** Overtime pay, vacation pay, and sick pay are subject to Withholding Tax as if a regular wage payment. If paid in addition to the regular wage, it is considered a supplemental wage.

[Source: Amended at 10 Ok Reg 3873, eff 7-12-93; Amended at 11 Ok Reg 3529, eff 6-26-94; Amended at 16 Ok Reg 2674, eff 6-25-99; Amended at 19 Ok Reg 801, eff 2-19-02 (emergency); Amended at 19 Ok Reg 2445, eff 6-27-02; Amended at 26 Ok Reg 2376, eff 6-25-09; Amended at 35 Ok Reg 623, eff 8-18-18 (emergency); Amended at 36 Ok Reg 1247, eff 8-11-19]

710:90-1-7. Computation of tax to be withheld

(a) Every employer making payment of wages subject to withholding shall deduct and withhold from the wages paid each employee, a tax in an amount determined in accordance with the table fixing graduated rates of tax to be withheld, unless otherwise provided. However, if the computer formula is used, the amounts for the personal exemption and for the Oklahoma standard deduction may be updated as necessary.

(b) Available to all employers filing Withholding Tax Returns are withholding tables:

(1) An optional table for married persons who file joint returns and both spouses work; and,

(2) A general table for all other categories of filing status. The Oklahoma Withholding Tax tables are based on gross wages and the standard deduction.

(c) If an employee determines that his or her Oklahoma Income Tax liability for the year will be more than the amount to be withheld, the employee may authorize an employer, if agreed, to withhold more tax than is required. This must be in writing and may be in any form.

- (d) Married persons with working spouses may elect to have Oklahoma Income Tax withheld based on the optional tables devised for such persons.
- (e) An employer has a duty to inform all employees of the measures and options available to ensure sufficient tax is withheld.
- (f) If an employee fails to provide the employer an Oklahoma Form W-4, the employer must withhold tax as if the employee were a single person who has claimed no withholding allowances.

[Source: Added at 15 Ok Reg 2424, eff 6-11-98; Amended at 35 Ok Reg 623, eff 8-18-18 (emergency); Amended at 36 Ok Reg 1247, eff 8-11-19]

710:90-1-8. Nonresident aliens

Every employer or payer of Oklahoma taxable income to nonresident aliens shall deduct and withhold tax equal to eight percent (8%) of such amounts paid.

[See: 68 O.S. §2355]

[Source: Amended at 37 Ok Reg 2243, eff 9-11-20]

710:90-1-9. Annual reconciliation report [REVOKED]

[Source: Amended at 10 Ok Reg 3873, eff 7-12-93; Revoked at 15 Ok Reg 2424, eff 6-11-98]

710:90-1-10. Reporting to employees

(a) Every employer required to deduct and withhold Oklahoma tax from employee wages shall furnish the employee a written statement, each calendar year, showing:

- (1) The name of the employer;
- (2) The name of the employee;
- (3) The last four digits of the employee's social security number, shown in the format XXX-XX-1234 or ***-**-1234, if any;
- (4) The total amount of wages subject to taxation that were paid during the year;
- (5) The total amount deducted and withheld as tax, and;
- (6) Any other such information as the Commission may require.

(b) The statement shall be furnished with the information in (a) of this Section as relating to the individual employee to whom taxable wages were paid, and each employee to whom taxable wages were paid shall be furnished such a statement containing his individual information. The statement shall be furnished to the employee on or before January 31st of the year following the year for which the information is provided.

(c) If an employee's employment is terminated before the close of a calendar year, said written statement must be furnished within thirty (30) days of the date of which the last payment of wages was made.

(d) Any employer who willfully fails to furnish an employee the required statement shall be guilty of a misdemeanor and upon conviction shall receive a fine not to exceed One Hundred Dollars (\$100.00), or be imprisoned for not more than six (6) months in county jail, or both, for each offense.

[Source: Amended at 38 Ok Reg 1575, eff 9-1-21]

710:90-1-11. Records

(a) Required records described in this Section shall be kept accurately, but no particular form is required for keeping the records. Such forms and systems of accounting shall be used as will enable the Commission to determine whether liability for tax is incurred, and if so, the amount thereof.

(b) An employer must maintain required records for at least four years after the due date of such withholding tax for the return period to which the records relate, or the date the tax is paid, whichever is the later.

(c) The specific records required to be kept are:

- (1) The employer's identification number;
- (2) Copies of all returns, reports, and other documents concerning Oklahoma Withholding Tax to include the business registration, employer's return of tax withheld, annual reconciliation and appropriate wage and tax statements;
- (3) Copies of Internal Revenue Service Forms 940 and 941, Oklahoma Employers Quarterly Contribution Report (OESC) and Oklahoma Quarterly Wage Withholding Tax Return (OTC);
- (4) The dates and amounts of Oklahoma Withholding Tax payments made and copies of cancelled checks;
- (5) Each employee's name, address, occupation, social security number, and periods of employment;
- (6) The total amount of and date of each wage payment and the period of time the payment covers;
- (7) For each wage payment, the amount subject to withholding;
- (8) The amount of Withholding Tax collected on each payment and the date it was collected;
- (9) The employee's withholding allowance certificate (Federal Form W-4 executed prior to March 1, 2018 or Oklahoma Form W-4) filed by each employee;
- (10) Any agreement between the employer and the employee for the voluntary withholding of additional amounts of tax or of amounts which are not required to be withheld;
- (11) A chart of accounts;
- (12) Copies of filed Federal and State Income Tax Returns and supporting schedules; and
- (13) Books of original entry, ledgers, and any other information necessary to substantiate the amount of tax withheld and paid or to support any reason the employer may have for not withholding Income Tax.

[Source: Amended at 35 Ok Reg 2113, eff 9-14-18; Amended at 35 Ok Reg 623, eff 8-18-18 (emergency); Amended at 36 Ok Reg 1247, eff 8-11-19]

710:90-1-12. Protest of proposed assessment

(a) Where a person does not acquiesce in a proposed assessment (described in subsections (a) of 710:90-5-3 and 710:90-7-1), the taxpayer may file a protest within the period specified in the letter of proposed assessment (or within any extensions allowable by Statute that have been granted by the Division). If, after a review of his protest, the Division is unable to reach agreement with taxpayer, the taxpayer's file will be forwarded to the Office of the Administrative Law Judge where the taxpayer will have an opportunity to have a hearing before an Administrative Law Judge. The Administrative Law Judge will notify such person of the date set for the hearing.

(b) If the taxpayer does not desire a hearing, an order will be issued by the Commission within a reasonable time. If a hearing before the Administrative Law Judge is requested and granted, order will not be issued until such time as the Administrative Law Judge has submitted Findings, Conclusions and Recommendations and the Commission has made a final determination.

(c) The issuance of an order by the Commission constitutes a final determination. The person filing the return has thirty (30) days from the date of the order in which to directly appeal to the Oklahoma Supreme Court, if desired.

[Source: Amended at 32 Ok Reg 1411, eff 8-27-15]

710:90-1-13. Pensions, annuities, and certain other deferred income

(a) **Treatment of designated distributions.** Designated distributions, as defined by the Internal Revenue Code (IRC), Section 3405, whether periodic or non-periodic, should be treated as if they were a payment of wages for Oklahoma Income Tax Withholding purposes. The payor of any periodic or non-periodic payment should inform recipients who are or become Oklahoma residents of the need to withhold if:

- (1) The recipient has not chosen the election of "no federal withholding," provided by Section 3405 of the Internal Revenue Code, or
- (2) The recipient elects to have Oklahoma Income Tax withheld irrespective of any election to not withhold federal income tax.

(b) **Treatment of periodic payments.** The amount to be withheld from a periodic payment is determined as if it were a payment of wages. The marital status and number of withholding allowances an employee may claim in determining the tax to be withheld shall be the same as that claimed on Form W-4P, Withholding Certificate for Pension or Annuity Payments, or a similar form provided by the payer.

- (1) If the recipient has not provided a withholding certificate, tax will be withheld as if the recipient were married and claiming three (3) withholding allowances.
- (2) The recipient can choose not to have tax withheld, regardless of how much tax is owed for the previous year, or is expected to be owed in the current year.

(c) **Treatment of non-periodic payments.** Tax will be withheld at a five percent (5%) rate on any non-periodic payments.

- (1) The recipient cannot use Form W-4P to determine the amount to be withheld, since withholding allowances or marital status are not taken into consideration.
- (2) The recipient can use Form W-4P to specify an additional amount to be withheld.
- (3) The recipient can also use Form W-4P to choose not to have tax withheld.

(d) **Employer contributions.** Employer contributions to qualified cash or deferred arrangements are not subject to Oklahoma Withholding Tax.

[Source: Added at 10 Ok Reg 3873, eff 7-12-93; Amended at 11 Ok Reg 3529, eff 6-26-94; Amended at 16 Ok Reg 2674, eff 6-25-99; Amended at 34 Ok Reg 2096, eff 9-11-17; Amended at 37 Ok Reg 2243, eff 9-11-20]

SUBCHAPTER 3. RETURNS AND PAYMENTS

710:90-3-1. Information required on return

Employers are required to file Oklahoma Income Tax Withholding Returns when due, regardless of whether an application for employer's identification number has been made or whether such number has been received. Such return should be a written statement to include the following information:

- (1) Date the FEI number was applied for with "FEI applied for" written on such return.

- (2) The employer name and address as it appears on the Application for Federal Employer Identification Number, Federal Form SS-4;
- (3) The period covered;
- (4) The due date;
- (5) The amount of wages paid;
- (6) Tax withheld;
- (7) Penalty due;
- (8) Interest due;
- (9) Total due;
- (10) Number of employees;
- (11) Signature and title or capacity of person signing the return;
- (12) Date signed.

710:90-3-2. Execution of returns

(a) Any Withholding Tax return or report required under statute or by the provisions of this Subchapter, together with any prescribed copies or supporting data shall be prepared and filed in accordance with the forms, instructions, and rules provided.

The return or report shall include, but not be limited to the following:

- (1) Employers taxpayer identification number;
- (2) Period covered;
- (3) Due date;
- (4) Filing frequency;
- (5) Wages paid;
- (6) Tax withheld;
- (7) Adjustments;
- (8) Penalty Due;
- (9) Interest Due;
- (10) Total Due;
- (11) Number of employees and/or W-2's issued;
- (12) Signature and title of person signing the return;
- (13) Date return is prepared and signed;
- (14) Such other reasonable information as the Commission may require.

(b) Returns which have not been properly prepared may not be accepted as meeting the requirements of the Commission.

(c) Prescribed return forms will, so far as possible, be regularly furnished employers by the Commission. An employer is not relieved from making and filing a return because no return form has been furnished or is otherwise not available.

Employers are required to have returns prepared, verified and filed on or before the date due and it is their responsibility to do so.

(d) In the absence of a prescribed return form, a written statement by an employer furnishing the same information indicated above may be accepted as a return.

710:90-3-3. Signing returns

(a) Each withholding tax return requiring a signature must be signed by the President, Vice President, or other principal officer or employee who has the duty to withhold and remit Oklahoma Income Tax from the wages of employees, if the business is a corporation.

(b) If the business is not a corporation but is individually owned, returns must be signed by the owner of the business or employee who has the duty to withhold and remit Oklahoma Income Tax.

- (c) Returns of a trust or receivership must be signed by the appropriate fiduciary authority or employee who has the duty to withhold and remit Oklahoma Income Tax.
- (d) The official title or capacity of the person signing a return must be shown after their signature.
- (e) The return may be signed by a responsible and duly authorized agent having knowledge of the employer's business affairs, providing an acceptable power of attorney is filed with the Commission.
- (f) Individuals or employees who sign returns shall be deemed the responsible authorized agent in the absence of documentation to the contrary.

710:90-3-4. Payment of tax and filing of tax returns

- (a) Every employer required to deduct and withhold Oklahoma Income Tax from employee wages shall pay over the amount so withheld to the Tax Commission pursuant to the schedule outlined in subsections (b), (c) and (e) of this Section. Employers, regardless of date of remittance schedules, shall file a quarterly return on or before the twentieth (20th) day of the month following the close of each quarter. Quarterly returns shall be filed on a calendar year basis and not a fiscal year basis.
- (b) Every employer owing an average of less than Five Hundred Dollars (\$500.00) per quarter in taxes in the previous fiscal year must remit the amount withheld on or before the twentieth (20th) day of the month following the close of each succeeding quarter.
- (c) Except as specified in subsection (e), if the amount of Oklahoma Income Tax withheld exceeds Five Hundred Dollars (\$500.00) for any quarter, the employer is required to remit the taxes withheld monthly, for each monthly period after the quarter in which taxes withheld exceeded Five Hundred Dollars (\$500.00). Such tax remittances shall be due on or before the twentieth (20th) day of each succeeding month.
- (d) Every employer required to remit federal withholding under the Federal Semiweekly Deposit Schedule shall file returns pursuant to the Tax Commission's electronic data interchange program.
- (e) Every employer required to remit federal withholding under the Federal Semiweekly Deposit Schedule, shall pay over the amount so withheld on the same dates as required under the Federal Semiweekly Deposit Schedule for federal withholding taxes.
 - (1) If a payment is required to be made on a day that is not a banking day, the payment is considered timely if it is made by the close of the next banking day. In addition to Federal and State bank holidays, Saturdays and Sundays are treated as non-banking days.
 - (2) Semiweekly schedule employers have at least three (3) banking days to make a payment. If any of the three (3) weekdays after the end of a semiweekly period is a banking holiday, the employer will have one (1) additional banking day for payment.
- (f) Any returns and remittances not filed or paid on or before the date due shall be considered delinquent.
- (g) Every employer registered with the Commission for purposes of reporting and remitting withheld taxes shall file a return for each reporting period required, whether or not wages subject to Oklahoma Withholding Taxes are paid, unless otherwise provided. On the return for such a reporting period, the employer should indicate that zero wages were paid and that no tax is due. [See: 68 O.S. Section

2385.3]

[Source: Amended at 16 Ok Reg 2674, eff 6-25-99; Amended at 17 Ok Reg 2716, eff 6-25-00; Added at 23 Ok Reg 2870, eff 6-25-06; Amended at 27 Ok Reg 2360, eff 7-11-10; Amended at 30 Ok Reg 1869, eff 7-11-13]

710:90-3-5. Overpayment of withholding tax

In general, any employer who pays the Commission more than the correct amount of tax required may file a claim for refund or may claim credit for such overpayment. However, no refund or credit to the employer shall be allowed for the amount of any overpayment of tax which the employer deducted or withheld from any employee unless such overpayment is repaid or reimbursed to employee(s).

710:90-3-6. Employer overpayment of withholding tax not withheld

(a) Any employer who pays to the Commission more than the correct amount of tax **not deducted or withheld from employees wages**, may adjust the overpayment by entering the amount as a deduction on any future report. The report on which the adjustment is entered shall have attached:

- (1) A written statement setting forth in detail the grounds and facts relied on in support of the adjustment;
- (2) The report period in which the error occurred;
- (3) Sufficient documentary evidence in support of the adjustment.

(b) Alternatively, an employer may submit a claim for refund resulting from either the overpayment of tax not deducted or withheld or the overwithholding of tax repaid or reimbursed to any employee. Such claim for refund should not be made with any quarterly report. Refund claims shall include:

- (1) A written statement setting forth in detail the grounds and facts relied on in support of the
- (2) The report period in which the overpayment occurred;
- (3) Sufficient documentation to substantiate that the overpaid amount was not withheld or deducted from employee's wages; and,
- (4) A written statement from each employee showing Social Security Number, date and amount of repayment or reimbursement, if applicable.

[Source: Amended at 31 Ok Reg 2451, eff 9-12-14]

710:90-3-7. Employer repayment of tax erroneously withheld from any employee

(a) If during any quarterly report period an employer withholds more than the correct amount of tax from an employee, the employer shall not include on any report or pay over to the Commission the amount overwithheld if:

- (1) The employer repays the amount overwithheld before the report for such period is filed and before the end of the calendar year in which the overcollection was made; and
- (2) Obtains and keeps as part of his records the written receipt of the employee showing the date and amount of repayment.

(b) Any amount not repaid to and receipted for by the employee or required in (a) of this Section shall be reported and paid with the report for the period in which overcollection occurred.

(c) An employer may repay or reimburse an employee for tax overwithheld in any subsequent report period in either the same calendar year or in a subsequent calendar year. The employer may reimburse the employee by applying the amount overwithheld against the tax required to be withheld from wages paid the employee in a subsequent period.

- (d) If the employee is repaid, the employer must obtain and keep as part of the records the written receipt of the employee showing the date and amount of repayment.
- (e) If an employer repays or reimburses an employee for the overcollection of tax, the employer may adjust the overcollection by entering the amount as a deduction on the return for the report period in which the employer repays or reimburses the employee. The return on which the adjustment is entered shall have attached the following information:
- (1) A written statement explaining in detail the adjustment and the facts relied on in support of the adjustment; and
 - (2) The return period in which the error occurred,
 - (3) If from a previous calendar year:
 - (A) A written statement from each employee that the amount of overcollection repaid or reimbursed has not been refunded or claimed;
 - (B) A copy of the written receipt of each employee showing the date and amount of repayment or reimbursement;
 - (C) Each employee's social security number; and,
 - (D) The report period in which the error occurred.

[Source: Amended at 31 Ok Reg 2451, eff 9-12-14]

710:90-3-8. Tax Commission may require security

The Commission may require an employer who is or becomes delinquent in the withholding and remitting of Oklahoma Withholding Tax to furnish a surety bond to ensure the withholding and remitting of required taxes.

- (1) The security so required may be in the form of a bond from a corporation, surety bond furnished by a surety licensed to do business in Oklahoma, cash bond, certificate of deposit, certificate of savings or U.S. Treasury bond, or an assignment of negotiable stocks or bonds, as agreed upon by the Commission and the person required to remit the tax.
- (2) The amount of such security shall not be greater than three times the average quarterly liability of such employer after considering the estimated tax liability.
- (3) Any bond secured shall remain in effect until released and discharged by the Commission. Any bond secured is a continuing instrument and constitutes a new obligation for each calendar year or portion thereof while the surety is in force unless specifically released and discharged by the Commission. [See: 68 O.S. §2385.23]

710:90-3-9. [RESERVED]

710:90-3-10. Income tax withholding - oil and gas royalties

(a) Effective for royalty payments made on or after October 1, 2000 and before July 1, 2006, any remitter who distributes revenue to a non-resident royalty interest owner is required to deduct and withhold Oklahoma income tax from each payment being made with respect to production of oil and gas in Oklahoma. The amount of income tax to be withheld is six and three-fourth's percent (6.75%) of the gross royalty amount paid. Effective for royalty payments made on or after July 1, 2006, the rate of withholding for any remitter who distributes revenue to a non-resident royalty interest owner is five percent (5%) with respect to production of oil and gas in Oklahoma

(b) For purposes of this Section, "**remitter**" means any person who distributes revenue to royalty interest owners; "**gross royalty**" means that amount which is reported for federal income tax purposes on IRS Form 1099; "**non-resident royalty interest owner**" means any person who is not a current or permanent resident of Oklahoma who retains a non-working interest in oil or gas production; and "**oil**" and "**gas**" shall have the meaning as the terms are defined in 68 O.S. § 1001.2.

(c) Remitters are required to file an Oklahoma Nonresident Royalty Withholding Tax Return and pay the Oklahoma income tax withheld on a quarterly basis, pursuant to this subsection:

(1) For royalty payments made during January, February, and March, the amount withheld is due no later than April 30;

(2) For royalty payments made during April, May, and June, the amount withheld is due no later than July 30;

(3) For royalty payments made during July, August, and September, the amount withheld is due no later than October 30; and

(4) For royalty payments made during October, November, and December, the amount withheld is due no later than January 30 of the following year.

(d) The remitter is also required to provide non-resident individual royalty owners and the Oklahoma Tax Commission an annual written statement showing the name of the remitter, to whom the royalty was paid, the amount of the royalty payment and the amount of Oklahoma income tax withheld. Further, the statement must also furnish the royalty owner's name, address, and social security number or Federal Employer Identification Number. This annual filing with the Oklahoma Tax Commission may be done separately, or in conjunction with the annual reporting requirement under 68 O.S. § 2369, if applicable to the remitter.

(e) Any non-resident royalty interest owner from whom an amount is withheld pursuant to the provisions of this Section, and who files an Oklahoma income tax return is entitled to a credit for the amount withheld. If the amount withheld is greater than the tax due, the non-resident royalty interest owner will be entitled to a refund of the amount of the overpayment.

(f) If the non-resident royalty interest owner is a pass-through entity, the pass-through entity shall allocate the non-resident royalty withholding to its partners, shareholders or members in the same manner as the royalty income.

[Source: Added at 18 Ok Reg 2850, eff 6-25-01; Amended at 19 Ok Reg 2445, eff 6-27-02; Amended at 26 Ok Reg 2376, eff 6-25-09; Amended at 35 Ok Reg 2113, eff 9-14-18; Amended at 36 Ok Reg 1247, eff 8-11-19]

710:90-3-11. Income tax withholding for pass-through entities

(a) **General provisions.** Generally, any pass-through entity that makes a distribution to a non-resident member is required to deduct and withhold Oklahoma income tax from distributions of taxable income being made with respect to Oklahoma source income.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Member**" means:

(A) A shareholder of a Subchapter S Corporation;

(B) A partner in a general partnership;

(C) A partner in a limited partnership;

(D) A partner in a limited liability partnership;

(E) A member of a limited liability company; or,

(F) A beneficiary of a trust.

(2) **"Non-resident"** means an individual who is not a resident of, or domiciled in, this state; a business entity which does not have a commercial domicile in this state; or a trust which is not organized in this state.

(3) **"Pass-through entity"** means:

- (A) A corporation that is treated as a Subchapter S Corporation under the Internal Revenue Code;
- (B) A general partnership;
- (C) A limited partnership;
- (D) A limited liability partnership;
- (E) A trust; or,
- (F) A limited liability company that is not taxed as a corporation for federal income tax purposes. [68 O.S. § 2385.29]

(4) **"Pass-through entity"** does not include an entity which is disregarded for income tax purposes under the Internal Revenue Code.

(c) **Subchapter S Corporations; general, limited, or limited liability partnerships; limited liability companies.** In the case of Subchapter S Corporations; general, limited, or limited liability partnerships; and limited liability companies, withholding of five percent (5%) is required on the Oklahoma portion of the taxable income distributed to each non-resident member. In the case of Subchapter S Corporations paying the tax on behalf of non-resident shareholders (68 O.S. § 2365) or partnerships filing composite returns on behalf of non-resident partners, the non-resident members withholding can be claimed on the return filed by the Subchapter S Corporations or the partnership.

(d) **Trusts.** For trusts, withholding of five percent (5%) is required on the Oklahoma portion of the taxable income distributed to each beneficiary of the trust.

(e) **Non-resident members not subject to withholding.** The following persons and organizations are not subject to required withholding by a pass-through entity:

- (1) Persons, other than individuals, who are exempt from federal income tax;
- (2) Organizations granted an exemption under Section 501(c)(3) of the Internal Revenue Code;
- (3) Insurance companies subject to the Oklahoma gross premium income tax and therefore exempt from Oklahoma income tax pursuant to 68 O.S. § 2359(c); and
- (4) Non-resident members who have submitted a Nonresident Member Withholding Exemption Affidavit to the pass-through entity and which pass-through entity has submitted the affidavit information on behalf of the member to the Tax Commission. In the affidavit, the non-resident member agrees to be subject to the personal jurisdiction of the Tax Commission in the courts of this state for the purpose of determining and collecting any Oklahoma taxes, including estimated tax payments, together with any related interest and penalties. See (k) of this Section for the procedure to be followed in filing the affidavit.

(A) For non-resident partners included in a composite partnership return under *OAC 710:50-19-1* and filing a Nonresident Member Withholding Exemption Affidavit, the inclusion of the partner's income within the composite partnership return will satisfy the requirements contained in the affidavit.

(B) For non-resident shareholders filing a Nonresident Member Withholding Exemption Affidavit and electing not to file Oklahoma income tax returns under 68 O.S. § 2365, inclusion of the non-

resident shareholder's income in the Subchapter S corporate income tax return will satisfy the requirements contained in the affidavit.

(C) For non-resident beneficiaries included in a trust return and filing a Nonresident Member Withholding Exemption Affidavit, the inclusion of the beneficiary's income within the trust return will satisfy the requirements contained in the affidavit.

(f) When pass-through entities are not required to withhold. Withholding is not required in the following instances:

- (1) When an entity is not required to file a federal income tax return, or properly elects out of such duty;
- (2) When a pass-through entity is making distributions of income not subject to Oklahoma income tax;
- (3) When a pass-through entity has withheld tax on royalty interest income pursuant to 68 O.S. § 2385.25 et seq.;
- (4) When a pass-through entity is making distributions to another pass-through entity. Provided however, the exception set out in this paragraph does not relieve the lower-tiered pass-through entity from the duty to withhold on distributions it makes which are not otherwise exempt;
- (5) When a pass-through entity is a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code, and is treated as a partnership for purposes of the Internal Revenue Code. Provided the publicly traded partnership has agreed to file an annual information return reporting the name, address, taxpayer identification number, and other information requested by the Tax Commission of each unit-holder with an income in the state in excess of Five Hundred Dollars (\$500.00); or,
- (6) When a distribution made by a pass-through entity has been determined to be not subject to the provisions of this Section by the Commission.
- (7) When a pass-through entity that is required to file either an Oklahoma partnership income tax return or an Oklahoma S corporation income tax return makes an election to pay income tax at the entity level pursuant to the Pass-Through Entity Tax Equity Act of 2019. [(68 O.S. § 2355.IP-1 et seq.]

(g) Due dates for payment of pass-through entity withholding. Pass-through entities that withhold income tax on distributions of taxable income to non-resident members are required to remit the amount of tax withheld from each non-resident member on or before the due date of the pass-through entity's income tax return, including extensions. Any pass-through entity that can reasonably expect the total amount of income tax withheld from all non-resident members to exceed Five Hundred Dollars (\$500.00) for the taxable year **must** make quarterly estimated tax payments. The Oklahoma Nonresident Distributed Income Estimated Withholding Tax Report is to be used to remit the quarterly estimated tax payments. The required estimated tax payments are due on or before the last day of the month after the end of the calendar quarter and must be made in equal quarterly installments. The total of the required quarterly estimated tax payments is the lesser of seventy percent (70%) of the withholding tax that must be withheld for the current taxable year, or one hundred percent (100%) of the withholding tax withheld for the previous taxable year. Any pass-through entity that can reasonably expect the total amount of tax withheld from all non-resident members to be less than Five Hundred Dollars (\$500.00) for the taxable year may, *at their option*, make quarterly estimated tax payments.

(h) **Required reports.** The pass-through entity is required to provide non-resident members and the Oklahoma Tax Commission an annual written statement showing the name of the pass-through entity, to whom the distribution was paid, the amount of taxable income distributed, and the amount of Oklahoma income tax withheld. Further, the statement must also furnish the non-resident member's name, address, and social security number or Federal Employer Identification Number. To accomplish this:

(1) Each pass-through entity must provide non-resident members with Oklahoma Tax Commission Form 500-B on or before the due date of the pass-through entity's income tax return, including extensions. Copies of OTC Form 500-B, along with OTC Form 501, must be sent to the Oklahoma Tax Commission by the same date.

(2) Each pass-through entity must file with the Oklahoma Tax Commission the appropriate income tax withholding return on or before the due date of the pass-through entity's income tax return, including extensions.

(3) Each non-resident member must enclose a copy of OTC Form 500-B with the Oklahoma income tax return as verification for this withholding.

(i) **Non-resident members entitled to credit, or refund, from Oklahoma income taxes paid.** Any non-resident member from whom an amount is withheld pursuant to the provisions of this Section, and who files an Oklahoma income tax return is entitled to a credit for the amount withheld. If the amount withheld is greater than the tax due, the non-resident member will be entitled to a refund of the amount of the overpayment.

(j) **Pass-through entities must register.** Pass-through entities that make distributions subject to Oklahoma withholding must register with the Oklahoma Tax Commission.

(k) **Affidavit filing procedures.** Non-resident members who elect to file a Nonresident Member Withholding Exemption Affidavit agreeing to be subject to the personal jurisdiction of the Tax Commission in the courts of this state for the purpose of determining and collecting any Oklahoma taxes, including estimated tax payments, and any related interest and penalties, must remit the affidavit to the appropriate pass-through entity. The pass-through entity is to retain the affidavit and file the following information with the Oklahoma Tax Commission by the due date of the required annual tax return of the pass-through entity.

(1) **Content.** The name, address, and social security number or federal identification number of the non-resident member having signed an affidavit. All pass-through entities are required to file the non-resident member affidavit information on a diskette or CD with the Oklahoma Tax Commission - Audit Services Division.

(2) **Format.** The format for filing the diskette or CD will be in either a spreadsheet format (i.e. Lotus 1-2-3 or Excel) or a database format (i.e. dbf or Access).

(3) **Waiver.** Pass-through entities may obtain a waiver from the diskette or CD filing requirement if the pass-through entity can demonstrate that a hardship would result if it were required to file on a diskette or CD. Direct waiver requests to the Oklahoma Tax Commission - Audit Services Division.

[Source: Added at 21 Ok Reg 311, eff 11-21-03 (emergency); Added at 21 Ok Reg 2623, eff 6-25-04; Amended at 22 Ok Reg 172, eff 10-21-04 (emergency); Amended at 22 Ok Reg 1589, eff 6-11-05; Amended at 23 Ok Reg 2870, eff 6-25-06; Amended at 25 Ok Reg 2072, eff 7-1-08; Amended at 29 Ok Reg 565, eff 5-11-12; Amended at 34 Ok Reg 2096, eff 9-11-17; Amended at 35 Ok Reg 2113, eff 9-14-18; Amended at 38 Ok Reg 1575, eff 9-1-21]

710:90-3-12. [RESERVED]

710:90-3-13. [RESERVED]

710:90-3-14. [RESERVED]

710:90-3-15. Payments; due dates

Remittances covering the Oklahoma Withholding Tax liability payable to the Commission shall accompany the monthly or quarterly Withholding Tax Return, on or before the twentieth (20th) day of the month following the close of such monthly or quarterly reporting period. If an employer fails to file a return or to pay the Commission the tax when due, the tax will be considered delinquent and penalty and interest will be collected.

[Source: Amended at 23 Ok Reg 2870, eff 6-25-06]

710:90-3-16. Timely mailing treated as timely filing and paying

(a) Any report, claim, tax return, statement or other document required or authorized to be filed with, or any payment made, to the Commission, which document or payment is transmitted through the United States mail, will be deemed to have been filed with and received by the Commission on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. If mailed but not received by the Commission, or if received but with an illegible, erroneous, or omitted cancellation mark, the document or payment will be deemed to have been filed on the date it was mailed if the sender establishes by competent evidence that the document or payment was deposited in the United States mail on or before the date due for filing.

(b) If the envelope or other wrapper bears a postmark made by a private postage meter in addition to a legible postmark made by the United States Postal Service, the postmark not made by the United States Postal Service shall be disregarded. In the event of the Commission's failure to receive a document or payment, such document or payment will be deemed to have been received by the Commission on time if the sender files with the Commission a duplicate within thirty (30) days after written notification is given to the sender by the Commission of its failure to receive such document or payment, provided proof is furnished that the original of the document was deposited in the United States mail on or before the date due for filing.

(c) If any report, claim, tax return, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certificate or certificates shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed, and the date of registration, certification or certificate shall be considered to be the date of the postmark made by the United States Postal Service.

710:90-3-17. Penalty and interest

(a) If an employer fails to file a return or to pay the Commission the withholding tax when due, there shall be imposed on such employer a penalty of ten percent (10%) of the amount of tax, or ten percent (10%) of the amount of the underpayment of tax, if such failure is not corrected within fifteen (15) days after

the tax becomes delinquent.

(1) There is also imposed upon the employer interest at the rate of one and one-quarter percent (1 1/4%) per month.

(2) If any portion of the deficiency is due to fraud with intent to evade tax, a penalty of fifty percent (50%) shall be assessed.

(b) At the discretion of the Commission, the interest or penalty may be waived, provided the taxpayer's failure to file a report or return or to pay the tax is satisfactorily explained or provided the taxpayer can demonstrate that the failure to pay the tax resulted from a mistake by the taxpayer of either law or fact or inability to pay such interest or penalty resulting from insolvency. Requests for waiver must be made in writing to the Income Tax Accounts Division and must include all pertinent facts to support the request.

[Source: Amended at 23 Ok Reg 2870, eff 6-25-06; Amended at 31 Ok Reg 2451, eff 9-12-14; Amended at 38 Ok Reg 1575, eff 9-1-21]

710:90-3-18. Due date that falls on Saturday, Sunday or holiday

If the due date for any return or other report or payment falls on Saturday, Sunday or a Holiday, the due date shall be considered to be the next business day.

710:90-3-19. Inactivating or closing an account

(a) An employer required to make an Oklahoma Withholding Tax Return pursuant to Oklahoma Statute or the provisions of this Chapter, who in any return period discontinues business or changes ownership, shall file such return as a final return. Each return filed as a final return shall be marked "Final Return".

(b) Accompanying each final return shall be a written statement furnishing the following information:

(1) The date of the last payment of wages;

(2) The address at which the required records will be kept;

(3) The name of the person keeping such records; and,

(4) If the business has been sold or otherwise transferred to another person, the name and address of such person and the date on which such sale or transfer occurred.

(c) An employer who remains in business, but who no longer has employees, or who has temporarily ceased to pay wages subject to withholding tax because of seasonal activities or for other reasons, shall not make a final return, but may make written request for status as that of an inactive employer. Such a request should include a description of the change in the business operation and a statement that no wages subject to withholding are being paid.

(d) It should be clearly understood that inactive status cannot be claimed until official permission from the Commission is received in writing. All returns or reports must be filed when due.

[Source: Amended at 16 Ok Reg 2674, eff 6-25-99]

SUBCHAPTER 5. LIABILITY AND PENALTIES

710:90-5-1. Liability for tax withheld

Any Oklahoma Income Tax withheld in accordance with Oklahoma Statutes or the provisions of this Chapter shall be deemed to be held in trust for the State of Oklahoma and as trustee, the employer is liable for the payment of such trust fund and is subject to the trust laws of this state. [See: 68 O.S. §2385.3]

[Source: Amended at 37 Ok Reg 2243, eff 9-11-20]

710:90-5-2. Failure to withhold

In the event that an employer fails to withhold the tax required and thereafter the tax is paid by the employee, the tax required to have been withheld shall not be collected from the employer. Such payment does not relieve the employer of the liability for penalties or interest otherwise applicable because of such failure to withhold the tax. The employer will not be relieved of his liability for payment of the tax required to be withheld unless the employer can show that the tax of each employee in question has been paid. [See: 68 O.S. §2385.3]

[Source: Amended at 37 Ok Reg 2243, eff 9-11-20]

710:90-5-3. Personal liability and issuance of withholding tax assessments

(a) Withholding tax assessments will be issued against the legal entity as well as against other person(s) who may be liable for the tax pursuant to law. Any person shall be liable for the payment of withholding tax if during the period of time for which the assessment was made the person was responsible for withholding and remittance of taxes or had direct control, supervision or responsibility for filing returns and making payments of the tax due the State of Oklahoma.

(b) Personal liability for withholding tax shall be determined in accordance with the standards for determining liability for payment of federal withholding tax pursuant to the Internal Revenue Code of 1986, as amended, or regulations promulgated pursuant to such section.

[Source: Amended at 32 Ok Reg 1411, eff 8-27-15]

SUBCHAPTER 7. AUDIT

710:90-7-1. Examination of return, adjustments, notices, and demands

(a) If, upon examination of the books of account and records of the person filing the withholding tax return, facts are obtained which, in the opinion of the Commission, warrant an adjustment of the tax liability reported, a proposed assessment report will be prepared and mailed to him. This report will contain an explanation of adjustments together with a recomputation of tax in accordance with such adjustments.

(b) The notice of adjustments and the demand for payment (if additional tax is due) or any other notice or demand upon the person filing the return required by law shall be sent to him at the address given on his return or to his last known address. In the alternative, the Commission may cause to be served upon such person a written statement of the computation of tax due.

(c) In the event the person filing the return acquiesces in the changes reflected on the proposed assessment, or fails to file a protest within the period specified in the letter of proposed assessment (or any extensions allowable by Statute that have been granted by the Division) the proposed assessment becomes final.

(d) If the Commission has reason to believe that the collection of any tax due under the Withholding Tax Act may be in jeopardy, the Commission may immediately terminate the reporting period of the person required to pay such tax. Thereupon, the Commission may assess a tax on the basis of information or knowledge available to him and demand immediate payment. If such payment is not immediately made, the Commission may collect the tax by the use of any of the methods authorized by law.

710:90-7-2. Audits; auditors

(a) Any representative of the Commission holding a certificate of authority may make an examination or investigation of the place of business, tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any taxpayer. [See: 68 O.S. §206]

(b) It shall be the duty of every taxpayer and every director, officer, or employee of every taxpayer to exhibit to the Commission, or to the employees or agents of such Commission, the items mentioned in (a) of this Section.

710:90-7-3. Out-of-state audits [REVOKED]

[Source: Revoked at 21 Ok Reg 2623, eff 6-25-04]

CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[Authority: 3A O.S. § 422; 27A O.S., §§ 2-11-307, 2-11-401.6(A), and 2-11-401.7; 68 O.S., §§ 203, 238.1(G), 238.2(F), 450.4(A), 1515, 1709, and 4309]

[Source: Codified 12-30-91]

SUBCHAPTER 1. CONTROLLED DANGEROUS SUBSTANCES STAMP TAX

710:95-1-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to Controlled Dangerous Substance Tax Stamps.

710:95-1-2. Definitions [RESERVED]

710:95-1-3. Unavailability of stamps

If a person desires to purchase Controlled Dangerous Substance Tax Stamps, but the printed stamps are not available, a numbered receipt for the stamps will be issued and a date certain will be set for the purchaser to return to exchange the receipt for the stamps.

710:95-1-4. Non-disclosure of information

Purchasers of Controlled Dangerous Substances Tax Stamps are not required to disclose identifying information to purchase the stamps. Moreover, no information which is disclosed in purchasing or applying to purchase the stamps can be used against the purchaser or applicant in a criminal proceeding.

710:95-1-5. Purchase of stamps

Payment must be made by cash, certified check, cashier's check or money order. Cash sent through the mail is at the risk of the purchaser. Personal checks will not be accepted as payment for Controlled Dangerous Substances Tax Stamps. All tax stamps ordered by mail will be mailed to the purchaser by first class mail at the risk of the purchaser.

710:95-1-6. Refunds prohibited

There will be no refunds for unused Controlled Dangerous Substances Tax Stamps.

710:95-1-7. Denominations of stamps

Controlled Dangerous Substances Tax Stamps will be sold in denominations determined by package size. All purchases must be in increments of \$10.00. The following minimum purchases apply:

- (1) Marihuana (\$3.50/gram) \$10.00
- (2) Controlled Substance (\$200/gram) \$200.00
- (3) Controlled Substance (\$1,000.00/50 dosage) \$1,000.00.

710:95-1-8. Determination of number and denomination of stamps needed

The following conversion table will be used to determine the number and denomination of Controlled Dangerous Substances Tax Stamps needed:

- (1) 1 Gram = .03527 Ounce
- (2) 1 Ounce = 28.35 Grams
- (3) 1 Pound = .4536 Kilogram = 453.6 Grams
- (4) 1 Kilogram = 2.2046 Pounds = 1,000 Grams

710:95-1-9. Assessment of taxes due

Upon receipt of information from law enforcement agencies concerning the confiscation of drugs which require a Controlled Dangerous Substances Tax Stamp, where the required stamps have not been purchased or displayed, the Oklahoma Tax Commission will cause to be issued a jeopardy assessment for the tax due, based on the weight or quantity of the drugs confiscated. The jeopardy assessment will be made against the person possessing the drugs. At the same time as the jeopardy assessment is issued, a Jeopardy Tax Warrant or Certificate of Indebtedness will be filed

710:95-1-10. Affixing of Controlled Dangerous Substances Tax Stamps; usage limited

- (a) Controlled Dangerous Substances Tax Stamps must be affixed to the outside of the package containing the substance so that when the package is opened, the stamp is destroyed.
- (b) Controlled Dangerous Substances Tax Stamps cannot be used more than once.

SUBCHAPTER 3. TELECOMMUNICATION FOR THE HEARING-IMPAIRED SURCHARGE

710:95-3-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of the levy enacted by the Oklahoma Legislature pursuant to the Telecommunications for the Hearing-Impaired Surcharge Act (63 O.S. §§2416 et seq.).

710:95-3-2. Definitions [RESERVED]

710:95-3-3. Telecommunications for the hearing-impaired surcharge

(a) The Telecommunications for the Hearing-Impaired Act levies a five cent per month surcharge on each access line provided by a local exchange telephone company. The surcharge must be added to the subscriber's telephone bill, unless the subscriber is exempt from sales tax.

(b) The local exchange telephone company shall remit the surcharge to the Oklahoma Tax Commission, on forms prescribed, on or before the 20th day of the month following the end of each quarter.

(c) When the balance of the Hearing Impaired Revolving Fund equals the three-year average of expenditures, collection of the surcharge by the local exchange telephone company will temporarily stop. Collection of the surcharge is to be resumed when the account balance has been reduced to one-half the original surplus.

(d) The Business Tax Services Division will notify, in writing, the local exchange telephone companies on the effective date of the moratorium on collections. Subscribers shall not be billed for the surcharge for any billing cycle that begins on or after the moratorium effective date.

(e) When the Fund balance requires the surcharge to be resumed, the Business Tax Services Division will notify the local exchange telephone companies, in writing, the effective date of resumption of the surcharge. Subscribers shall be billed and the surcharge on the next billing cycle that begins on or after the effective date the charge is to be resumed. [See: 63 O.S. §§2418-2419]

[Source: Amended at 11 Ok Reg 3531, eff 6-26-94; Amended at 28 Ok Reg 971, eff 6-1-11; Amended at 30 Ok Reg 1870, eff 7-11-13; Amended at 38 Ok Reg 1578, eff 9-1-21]

SUBCHAPTER 4. RENTAL TAX ON MOTOR VEHICLE RENTALS

710:95-4-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq. and to facilitate the administration, enforcement, and collection of the levy enacted by the Oklahoma Legislature pursuant to 68 O.S. §2110.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

710:95-4-2. Definitions

The following words and terms, when used in the Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Lease agreement" or **"rental agreement"** will be used synonymously when referencing a single agreement by which an owner gives exclusive use of a vehicle to another for a period of ninety (90) days or less, for a consideration.

"Motor vehicle", as used in this Subchapter means an automobile, bus, or Class A, B, C commercial motor vehicle or Class D motor vehicle as those terms are defined by Title 47 of the Oklahoma Statutes.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

710:95-4-3. Applicability of the rental tax on motor vehicle rentals

(a) **General provisions.** The tax levied on the rental of motor vehicles is assessed on all rental agreements, except those agreements made with agencies of the State of Oklahoma, the United States government and with those federal

instrumentalities upon which the states are prohibited from levying a tax by specific provision of the United States Code, such as federally-chartered credit unions.

(b) Transactions to which the tax is inapplicable. The rental tax on motor vehicles is not applicable to:

(1) An agreement termed a "lease agreement", if in excess of ninety (90) days in duration.

(2) A single agreement termed a "rental agreement", if more than ninety (90) days in duration. However, if a rental business and its customer sign more than one agreement, and the term of each agreement is less than ninety (90) days, the tax applies even though the agreements are to run consecutively and sum of the number of days covered by the agreements exceeds ninety (90) days.

(3) A rental agreement for any truck or truck-tractor registered pursuant to the provisions of 47 O.S. §§ 1120 or 1133, having a laden weight or combined laden weight of eight thousand (8,000) pounds or more.

(c) Rental tax in lieu of motor vehicle excise tax only; other taxes may be applicable. The rental tax on motor vehicle rentals is not in lieu of sales tax, which may be due on the gross receipts of the rental. The rental tax is due on all rental agreements, except those described in (b) of this Section and 68 O.S. Sections 2110(A)(1)-(3), even if the consumer entering into the rental agreement is exempt from sales tax.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

710:95-4-4. Collection, reporting, remittance of the tax; interest and penalties

(a) The tax is to be collected by the rental business at the time of the payment of the rental agreement.

(b) The following filing requirements apply to all taxpayers required to report and remit tax on motor vehicle rentals:

(1) Taxpayers must report the tax on forms prescribed and furnished by the Oklahoma Tax Commission.

(2) Returns are due on the 20th day of each month, for the liability incurred the previous calendar month. However, taxpayers who are permitted to file semiannual sales tax reports pursuant to 68 O.S. §1365(E) may file semiannual Rental Tax Reports and remit taxes due thereunder to the Tax Commission on or before the 20th day of January and July of each year for the preceding six-month period.

(c) If payment of the tax is not postmarked or delivered to the Oklahoma Tax Commission on or before the 20th of the month, the tax shall be delinquent from that date. Reports timely mailed shall be considered timely filed. If a remittance is not timely made, interest at the rate of one and one-fourth percent (1 ¼ %) per month shall be charged from the date the remittance should have been made until the tax is actually paid.

(d) If payment of the tax due is not made within thirty (30) days of the due date, a ten percent (10%) penalty will be applied.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13; Amended at 31 Ok Reg 2453, eff 9-12-14]

710:95-4-5. Recordkeeping

All persons required to collect, report, and remit rental tax on motor vehicle rentals must make and preserve adequate records of sales and other pertinent

information, including copies of rental agreements, to substantiate the amount of tax due. An establishment wherein only a portion of the gross receipts are subject to the rental tax on motor vehicle rentals must maintain records of its sales adequate to differentiate those sales which are not subject to the tax.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

710:95-4-6. Examples and applications

(a) The tax is due on all rental agreements for motor vehicles generally known as automobiles, pickups, "light" trucks and truck tractors (less than 8,000 pounds) or, if greater than 8,000 pounds, trucks and truck tractors which are not registered as commercial vehicles or registered pursuant to the International Registration Plan. The rental tax applies also to the rental of recreational vehicles, as defined by 47 O.S. § 1-152.1, but is inapplicable to the rental of trailers or commercially-registered trailers.

(b) The tax is to be collected on rental agreements where possession of the vehicle is transferred in Oklahoma, to the person who is renting the vehicle, regardless of where the vehicle is to be used, returned, or where or how payment is to be made.

(c) The tax is levied on all proceeds received for the rental of the motor vehicle, including any charges for optional collision damage waivers, cleaning, drop-off charges or any other charges, with the exception of a per-gallon charge for fuel.

(d) If a motor vehicle, as defined in Section 710:95-4-2 is rented, and non-transferrable title was not previously obtained for the vehicle pursuant to 68 O.S. § 2110 and Section 710:60-3-111, the gross receipts of the rental agreement are subject to the vehicle rental tax.

(e) The tax is also due on the use of a motor vehicle, for which the special registration fees have been paid and non-transferrable title obtained pursuant to 68 O.S. § 2110 and Section 710:60-3-111, by a business for a purpose other than the rental of the vehicle. For example, if the non-transferable title has been obtained for a vehicle and the vehicle is allowed to be driven when it is not subject to a rental agreement, or driven for purposes other than to pick up or deliver a prospective customer or facilitate the transfer of vehicles between rental locations, the vehicle rental tax will apply, and must be accrued and remitted based on the lowest rate at which the vehicle would be rented in the normal course of business.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

SUBCHAPTER 5. USED TIRE RECYCLING

***Editor's Note:** Effective 7-1-07, Senate Bill 747 (2007) transferred some of the duties assigned to the Tax Commission under the Oklahoma Waste Tire Recycling Act [27A O.S., §§ 2-11-401 through 2-11-415] to the Department of Environmental Quality. Pursuant to this transfer of authority, the Tax Commission amended, added, or revoked many of the Sections in this Subchapter by emergency action on 9-6-07 and permanent action on 7-1-08. The Department of Environmental Quality also modified numerous rules related to the Waste Tire Recycling Act [see OAC 252:515-21].*

710:95-5-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq., and to facilitate the administration, enforcement, and collection of the levy

enacted by the Oklahoma Legislature pursuant to the Oklahoma Used Tire Recycling Act (27A O.S. § 2-11-401 et seq.).

[Source: Amended at 11 Ok Reg 3533, eff 6-26-94; Amended at 19 Ok Reg 1511, eff 5-25-02; Amended at 29 Ok Reg 1478, eff 6-25-12]

710:95-5-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Automobile" means every motor vehicle of the type constructed and used for the transportation of ten persons or less, including the driver, or used for the transportation of property. Provided, however, that the automobile's gross vehicle weight rating does not exceed sixteen thousand (16,000) pounds.

"Commission" means the Oklahoma Tax Commission.

"DEQ" means the Oklahoma Department of Environmental Quality.

"ODH" means the Oklahoma Department of Health.

"Reusable tire" means a tire that has been previously used on a vehicle, not currently mounted on a vehicle, but can be legally placed into service for vehicle use in Oklahoma.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. [47 O.S. § 1-162]

"Tire" means any solid or air-filled covering for vehicle wheels.

"Tire-derived fuel facility" or **"TDF facility"** means a facility that uses processed tires or whole used tires for energy or fuel recovery.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle, provided however, the definition of trailer herein shall not include implements of husbandry as defined in Section 47-1-125 of Title 47. [47 O.S. § 1-180]

"Used tire" means an unprocessed whole tire or tire part that can no longer be used for its originally intended purpose but can be beneficially reused as approved by the DEQ. Any used tire collected in accordance with the requirements of the Oklahoma Used Tire Recycling Act is not considered to be discarded. A tire that can be used, reused or legally modified to be reused for its original intended purpose shall not be a used tire.

"Used tire facility" means any place which is permitted as a solid waste disposal site, in accordance with the Oklahoma Solid Waste Management Act, at which used tires are processed.

"Used tire processing" means altering the form of whole used tires by shredding, chipping, or other method approved by the department, except baling. [27A O.S. §2-11-401.1]

"Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. [47 O.S. § 1-186]. The term **"vehicle"** does not include:

(A) Implements of husbandry which means every device, whether it is self-propelled, designed and adapted so as to be used exclusively for agricultural, horticultural or livestock-raising operations or for lifting or carrying an implement of husbandry and, in either case,

not subject to registration if operated upon the highways. [47 O.S. § 1-125]. Examples of implements of husbandry are described in 47 O.S. § 1-125(1)-(3).

(B) Electric personal assistive mobility devices, which means a self-balancing, two nontandem-wheeled device, designed to transport only one person, having an electric propulsion system with an average of seven hundred fifty (750) watts (1 h.p.), and a maximum speed of less than twenty (20) miles per hour on a paved level surface when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy (170) pounds. [47 O.S. § 1-114A]

(C) Motorized wheelchairs which means any self-propelled vehicle designed for and used by a person with a disability that is incapable of a speed in excess of eight (8) miles per hour. [47 O.S. § 1-136.3]

[Source: Added at 13 Ok Reg 3147, eff 7-11-96; Amended at 14 Ok Reg 2007, eff 5-26-97; Amended at 19 Ok Reg 1511, eff 5-25-02; Amended at 23 Ok Reg 2874, eff 6-25-06; Amended at 29 Ok Reg 1478, eff 6-25-12; Amended at 34 Ok Reg 2099, eff 9-11-17; Amended at 35 Ok Reg 2116, eff 9-14-18; Amended at 37 Ok Reg 2246, eff 9-11-20]

710:95-5-3. Used tire recycling fee

(a) **Applicability and amount of the fee.** With the exception of tires for automobiles as defined in 710:95-5-2, the amount of the fee levied by the Oklahoma Used Tire Recycling Act is determined based upon the size of the tire rim and/or use of the tire. [See: 27A O.S. § 2-11-401.2]

(b) **Report.** The Commission shall provide a report, on a monthly basis, to the DEQ of the fees remitted by each tire dealer and motor license agent.

(c) **Payments.** Upon receipt of monthly reports from the DEQ, the Commission will issue payments from the Fund to qualified applicants.

[Source: Amended at 13 Ok Reg 3147, eff 7-11-96; Amended at 14 Ok Reg 2007, eff 5-26-97; Amended at 25 Ok Reg 92, eff 9-6-07 (emergency); Amended at 25 Ok Reg 2074, eff 7-1-08; Amended at 28 Ok Reg 971, eff 6-1-11; Amended at 29 Ok Reg 1478, eff 6-25-12; Amended at 30 Ok Reg 1870, eff 7-11-13; Amended at 35 Ok Reg 2116, eff 9-14-18; Amended at 37 Ok Reg 2246, eff 9-11-20]

710:95-5-4. Oklahoma sales by mobile sellers

The fee applies to sales made in Oklahoma by mobile sellers (truck load inventories) to consumers.

710:95-5-5. When fee does not apply [REVOKED]

[Source: Revoked at 13 Ok Reg 3147, eff 7-11-96]

710:95-5-6. Farm implement tires [REVOKED]

[Source: Revoked at 13 Ok Reg 3147, eff 7-11-96]

710:95-5-7. Vendors without Oklahoma locations or inventory

The fee is not collectible on sales by vendors who do not have business locations or inventory inside Oklahoma, where the tires are delivered by common carriers.

710:95-5-8. Transactions to which the fee is inapplicable

(a) The Oklahoma Used Tire Recycling Fee is not applicable to sales for resale to holders of valid Oklahoma Sales Tax Permits who are in the business of selling tires. The sale for resale provision will only be valid if the purchaser holds an

Oklahoma resale permit and actually resells the tires. The fee applies to tires sold to mechanics or others not holding sales tax permits.

(b) Pursuant to 27A O.S. § 2-11-401.2, the Oklahoma Used Tire Recycling Fee is not applicable to the sale of a used tire by a tire dealer on which the used tire fee has previously been paid, provided that the tire dealer can document that the tire carcass was one on which the fee was previously paid when the tire was originally purchased, either as a new tire or as a used tire, or when the vehicle upon which it was mounted was first registered in Oklahoma. This documentation may consist of a copy of the bill of sale, invoice, or other document showing when, where, by whom, and the circumstances under which the fee was collected.

(c) The Oklahoma Used Tire Recycling Fee is not applicable to the transfer of a tire carcass by a tire owner to a tire recapper, who after completion of the recapping, delivers the recapped tire back to the owner of the tire, since no sale of the tire has been made, but rather, a service has been performed.

(d) The Oklahoma Used Tire Recycling Fee is not applicable to the sale of a recapped tire by a tire dealer where the fee has previously been paid and the documentation described in (b) of this Section has been obtained.

(e) No fee shall be assessed by a tire dealer if the customer retains the used agricultural tire for use on a farm or ranch.

[Source: Amended at 10 Ok Reg 3875, eff 7-12-93; Amended at 13 Ok Reg 3147, eff 7-11-96; Amended at 15 Ok Reg 2425, eff 6-11-98; Amended at 20 Ok Reg 2183, eff 6-26-03; Amended at 21 Ok Reg 1147, eff 5-13-04; Amended at 28 Ok Reg 971, eff 6-1-11; Amended at 29 Ok Reg 1478, eff 6-25-12; Amended at 30 Ok Reg 1870, eff 7-11-13; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-5-9. Examples

(a) **Transactions to which fee is applicable.** The used tire recycling fee applies to the transactions and vehicles indicated in (1) through (10) of this subsection:

- (1) Cars and light trucks.
- (2) Motorcycles and mopeds.
- (3) School buses and automobiles owned by schools.
- (4) Tires sold to governmental agencies.
- (5) Tires sold for farm tagged motor vehicles.
- (6) Tires sold for commercial trucks, truck-tractor (semi-trucks), and trailers.
- (7) First registration in Oklahoma of automobiles, motorcycles, mopeds, or trucks, including farm tagged motor vehicles and commercial motor vehicles which are not registered under the International Registration Plan.
- (8) Tires sold for implements of husbandry and agricultural equipment.
- (9) First titling of a semitrailer or trailer including travel trailers.
- (10) First titling of motor vehicles to be registered under the International Registration Plan.

(b) **Transactions to which fee is not applicable.** The used tire recycling fee does not apply to the transactions and vehicles indicated in (1) through (10) of this subsection:

- (1) Airplanes.
- (2) Bicycles.
- (3) Riding lawn mowers.
- (4) Wheelbarrows.
- (5) Push mowers.
- (6) Forklifts.
- (7) Tires sold for backhoe, grader, and other construction machinery.
- (8) All-terrain vehicles.

(9) Off-road motorcycles.

[Source: Amended at 10 Ok Reg 3875, eff 7-12-93; Amended at 13 Ok Reg 3147, eff 7-11-96; Amended at 26 Ok Reg 2378, eff 6-25-09; Amended at 28 Ok Reg 971, eff 6-1-11; Amended at 29 Ok Reg 1478, eff 6-25-12; Amended at 30 Ok Reg 1870, eff 7-11-13; Amended at 33 Ok Reg 1101, eff 8-25-16; Amended at 37 Ok Reg 2246, eff 9-11-20]

710:95-5-10. Computation

The fee is not part of the base price of the tire subject to sales tax, if the fee is shown separately from the price of the tire. Example:

Tire	\$50.00
Sales Tax(6%)	3.00
	\$53.00 (use applicable tax rate for your location)
Used Tire Fee	1.00
Total Due	\$54.00

[Source: Amended at 29 Ok Reg 1478, eff 6-25-12]

710:95-5-11. Reporting and remitting

Tire sales must be reported and the fees remitted to the Oklahoma Tax Commission by the 20th of the month following the month in which the sales are made. If a due date of a used tire recycling report and remittance falls on Saturday, Sunday, a holiday, or a date when the Federal Reserve Banks are closed, such due date shall be considered to be the next business day.

[Source: Amended at 25 Ok Reg 92, eff 9-6-07 (emergency); Amended at 25 Ok Reg 2074, eff 7-1-08; Amended at 29 Ok Reg 1478, eff 6-25-12]

710:95-5-12. Voluntary payments by persons who desire used tires to be collected and transported

(a) The Used Tire Recycling Act, enacted to facilitate the collection, transportation, and processing of used tires, is based upon the presumption that a transaction has occurred which has generated a payment into the Used Tire Indemnity Fund (Fund). In the case of transactions for which such payment did not occur, any person may make a voluntary payment into the Fund in order to allow the processing of used tire carcasses. Examples of situations in which voluntary payments would be appropriate include:

- (1) Persons wishing to have used tire carcasses processed, but who are not engaged in the business of selling tires;
- (2) Tire dealers who have been engaged in selling tires and who have collected and remitted the used tire fees, as needed, on each transaction on which a fee was due, but who have accepted tires from Oklahoma residents for disposal or have otherwise come into possession of tire carcasses generated in Oklahoma, for which no fees have been paid into the Used Tire Indemnity Fund;
- (3) Automotive dismantlers and parts recyclers who have tires on hand from purchases of automobiles made prior to January 1, 1996.

(b) Tires for which such voluntary payment is made shall be deemed fully eligible for collection and transport by any authorized used tire facility.

(c) No payment into the Fund whatsoever is required for:

- (1) Up to five tires for each Oklahoma-titled vehicle purchased since January 1, 1996, by an automotive dismantler and parts recycler, provided

that Department of Environmental Quality (DEQ) Rule 252:515-21-33 has been complied with;

- (2) Tires collected and transported from landfills and tire dumps which have been identified by DEQ as such and which have been placed on a priority enforcement list; or
- (3) Tires collected during community-wide clean-up days authorized by DEQ.

[Source: Added at 13 Ok Reg 3147, eff 7-11-96; Amended at 16 Ok Reg 2678, eff 6-25-99; Amended at 19 Ok Reg 1511, eff 5-25-02; Amended at 29 Ok Reg 1478, eff 6-25-12; Amended at 35 Ok Reg 2116, eff 9-14-18]

710:95-5-13. Procedure to be used by waste tire facilities and "TDF facilities" to request compensation for the collection and transportation of waste tires and either the processing and sale of processed waste tires or the use of the tires as fuel or for the manufacture of new products [REVOKED]

[Source: Added at 13 Ok Reg 3147, eff 7-11-96; Amended at 14 Ok Reg 2007, eff 5-26-97; Amended at 19 Ok Reg 1511, eff 5-25-02; Amended at 23 Ok Reg 2874, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

710:95-5-14. Procedure to be used by businesses that utilize waste tires to request compensation [REVOKED]

[Source: Added at 13 Ok Reg 3147, eff 7-11-96; Amended at 14 Ok Reg 2007, eff 5-26-97; Amended at 17 Ok Reg 2717, eff 6-25-00; Amended at 19 Ok Reg 1511, eff 5-25-02; Amended at 21 Ok Reg 1147, eff 5-13-04; Amended at 23 Ok Reg 2874, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

710:95-5-15. Review and determination of requests for compensation; protest procedure following denial of compensation request [REVOKED]

[Source: Added at 13 Ok Reg 3147, eff 7-11-96; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

710:95-5-16. Required procedures for monthly certification to the Commission by DEQ [REVOKED]

[Source: Added at 13 Ok Reg 3147, eff 7-11-96; Amended at 14 Ok Reg 2007, eff 5-26-97; Amended at 19 Ok Reg 1511, eff 5-25-02; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

710:95-5-17. Documentation to be provided to the Commission [REVOKED]

[Source: Added at 13 Ok Reg 3147, eff 7-11-96; Amended at 14 Ok Reg 2007, eff 5-26-97; Amended at 21 Ok Reg 1147, eff 5-13-04; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

710:95-5-18. Transfers between tire dealers using reimbursement manifest [REVOKED]

[Source: Added at 13 Ok Reg 3147, eff 7-11-96; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

710:95-5-19. Compliance

Upon receipt of a determination from the DEQ that a tire dealer or motor license agent has demonstrated a flagrant or repeated disregard of Section 2-1-401.2 of Title 27A, the Tax Commission will commence proceedings to collect finally established used tire fee liabilities in accordance with the recommendations of the DEQ. The Tax Commission will, in a timely manner, report the results of the proceedings to the DEQ.

[Source: Reserved at 14 Ok Reg 2007, eff 5-26-97; Added at 25 Ok Reg 92, eff 9-6-07 (emergency); Added at 25 Ok Reg 2074, eff 7-1-08; Amended at 29 Ok Reg 1478, eff 6-25-12]

710:95-5-20. Procedures to request compensation for use by entities which process and utilize waste tires in erosion control, bank stabilization or other conservation projects [REVOKED]

[Source: Added at 14 Ok Reg 2007, eff 5-26-97; Amended at 20 Ok Reg 2183, eff 6-26-03; Amended at 23 Ok Reg 2874, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

710:95-5-21. Procedure to be used by units of local or county government to request compensation for tires that are baled and used in approved engineering projects [REVOKED]

[Source: Added at 19 Ok Reg 1511, eff 5-25-02; Amended at 20 Ok Reg 2183, eff 6-26-03; Amended at 23 Ok Reg 2874, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

710:95-5-22. Apportionment of funds among claimants [REVOKED]

[Source: Amended at 23 Ok Reg 2874, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07 (emergency); Revoked at 25 Ok Reg 2074, eff 7-1-08]

SUBCHAPTER 6. OKLAHOMA SAFE PLAYGROUND SURFACES PROGRAM [REVOKED]

710:95-6-1. Purpose [REVOKED]

[Source: Added at 19 Ok Reg 433, eff 11-13-01 (emergency); Added at 19 Ok Reg 1511, eff 5-25-02; Revoked at 24 Ok Reg 1454, eff 5-25-07]

710:95-6-2. Definitions [REVOKED]

[Source: Added at 19 Ok Reg 433, eff 11-13-01 (emergency); Added at 19 Ok Reg 1511, eff 5-25-02; Revoked at 24 Ok Reg 1454, eff 5-25-07]

710:95-6-3. Determination of the availability of matching funds [REVOKED]

[Source: Added at 19 Ok Reg 433, eff 11-13-01 (emergency); Added at 19 Ok Reg 1511, eff 5-25-02; Revoked at 24 Ok Reg 1454, eff 5-25-07]

710:95-6-4. Procedure to be used by public schools or institutions and state parks or recreation areas to request compensation [REVOKED]

[Source: Added at 19 Ok Reg 433, eff 11-13-01 (emergency); Added at 19 Ok Reg 1511, eff 5-25-02; Amended at 20 Ok Reg 2183, eff 6-26-03; Revoked at 24 Ok Reg 1454, eff 5-25-07]

710:95-6-5. Review and determination of requests for reimbursement or payment [REVOKED]

[Source: Added at 19 Ok Reg 433, eff 11-13-01 (emergency); Added at 19 Ok Reg 1511, eff 5-25-02; Amended at 20 Ok Reg 2183, eff 6-26-03; Amended at 21 Ok Reg 1147, eff 5-13-04; Revoked at 24 Ok Reg 1454, eff 5-25-07]

SUBCHAPTER 7. CHARITY GAMES [REVOKED]

Editor's Note: Effective 7-1-93, the Alcoholic Beverage Laws Enforcement Commission (OAC 45) became "responsible for the administration and enforcement of the Oklahoma Charity Games Act" [Laws 1993, c. 305, § 4(B)] and the Tax Commission was directed to promulgate and enforce only such rules as are necessary to provide for the collection, remitting and verification of payment of

taxes by distributors. For additional information on the transfer of authority, see Laws 1993, c. 305. For rules promulgated subsequent to the transfer, see OAC 45:50 and OAC 710:23.

PART 1. GENERAL PROVISIONS [REVOKED]

710:95-7-1. Purpose [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

710:95-7-2. Definitions [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

710:95-7-3. Advertising of charity games [REVOKED]

[Source: Added at 10 Ok Reg 4123, eff 7-26-93¹; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

*EDITOR'S NOTE:*¹*An emergency rule called "Organization license required to conduct charity games" was promulgated at this Section number (710:95-7-3), but was later superseded by a permanent rule numbered as 710:95-7-20.*

710:95-7-4. Distributor or manufacturer exclusion [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

*EDITOR'S NOTE:*¹*This emergency action also added a rule called "Distributor licenses required" at this number (710:95-7-4), which was later superseded by a permanent rule numbered as 710:95-7-21.*

710:95-7-5. Charity game equipment owned by an organization [REVOKED]

[Source: Added at 10 Ok Reg 4123, eff 7-26-93¹; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

*EDITOR'S NOTE:*¹*An emergency rule called "Manufacturer license required" was promulgated at this Section number (710:95-7-5), but was later superseded by a permanent rule numbered as 710:95-7-23.*

710:95-7-6. Co-ownership of charity game equipment [REVOKED]

[Source: Added at 10 Ok Reg 4123, eff 7-26-93¹; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

*EDITOR'S NOTE:*¹*An emergency rule called "Limited exemption for organization to conduct charity game sessions not more than four (4) times per year" was promulgated at this Section number (710:95-7-6), but was later superseded by a permanent rule numbered as 710:95-7-30.*

710:95-7-7. Rentals and leases of charity game equipment [REVOKED]

[Source: Added at 10 Ok Reg 4123, eff 7-26-93¹; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

*EDITOR'S NOTE:*¹*An emergency rule called "Limited exemption for hospital, nursing home or convalescent facility to conduct of charity games" was promulgated at this Section number (710:95-7-7), but was later superseded by a permanent rule numbered as 710:95-7-31.*

710:95-7-8. Package deals and tying arrangements prohibited [REVOKED]

[Source: Added at 10 Ok Reg 4123, eff 7-26-93¹; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹An emergency rule called "Administrative rules and procedures for conducting hearings on protests, denials, suspensions or revocations" was promulgated at this Section number (710:95-7-8), but was later superseded by a permanent rule numbered as 710:95-7-100.

710:95-7-9. Use of vending machines prohibited [REVOKED]

[Source: Added at 10 Ok Reg 4123, eff 7-26-93 ¹; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹An emergency rule called "Subpoenas; action on failure to appear" was promulgated at this Section number (710:95-7-9), but was later superseded by a permanent rule numbered as 710:95-7-100.

710:95-7-10. Sale of nonconforming bingo faces [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Conduct of bingo game or U-Pik-Em bingo game" at this number (710:95-7-10), which was later superseded by a permanent rule numbered as 710:95-7-50.

710:95-7-11. Equipment; inspection [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Conduct of breakopen ticket games" at this number (710:95-7-11), which was later superseded by a permanent rule numbered as 710:95-7-51.

710:95-7-12. Location [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Inventory" at this number (710:95-7-12), which was never superseded by a permanent action.

710:95-7-13. Admissions, concessions and other property subject to sales tax [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Equipment" at this number (710:95-7-13), which was later superseded by a permanent rule numbered as 710:95-7-11.

710:95-7-14. Withholding from winnings [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 1109, eff 2-19-93 (emergency); Added at 10 Ok Reg 1377, eff 3-25-93 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Nonconforming bingo faces" at this number (710:95-7-14), which was later superseded by a permanent rule numbered as 710:95-7-10.

710:95-7-15. Organizations with employees required to withhold, report and remit Oklahoma income taxes [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Location" at this number (710:95-7-15), which was later superseded by a permanent rule numbered as 710:95-7-12.

710:95-7-16. Distributor operations and reporting [EXPIRED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹]

EDITOR'S NOTE: ¹The emergency rulemaking action that added this Section was superseded by a permanent rulemaking action promulgated at 710:95-7-41 [10 Ok Reg 4123, eff 7-26-93].

710:95-7-17. Manufacturer operations and reporting [EXPIRED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹]

EDITOR'S NOTE: ¹The emergency rulemaking action that added this Section was superseded by a permanent rulemaking action promulgated at 710:95-7-42 [10 Ok Reg 4123, eff 7-26-93].

710:95-7-18. Withholding from winnings [EXPIRED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹]

EDITOR'S NOTE: ¹The emergency rulemaking action that added this Section was superseded by a permanent rulemaking action promulgated at 710:95-7-14 [10 Ok Reg 4123, eff 7-26-93].

710:95-7-19. Distributor or manufacturer exclusion [EXPIRED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹]

EDITOR'S NOTE: ¹The emergency rulemaking action that added this Section was superseded by a permanent rulemaking action promulgated at 710:95-7-4 [10 Ok Reg 4123, eff 7-26-93].

PART 3. LICENSES [REVOKED]

710:95-7-20. Organization license required to conduct charity games [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Organizations with employees required to withhold, report and remit Oklahoma income taxes" at this number (710:95-7-20), which was later superseded by a permanent rule numbered as 710:95-7-15.

710:95-7-21. Distributor license required [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Admissions, concessions and other property subject to sales tax" at this number (710:95-7-21), which was later superseded by a permanent rule numbered as 710:95-7-13.

710:95-7-22. Organization licensees restricted to purchase/lease from licensed distributor [REVOKED]

[Source: Added at 10 Ok Reg 4123, eff 7-26-93 ¹; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹An emergency rule called "Organization operations, accounts, and reports" was promulgated at this Section number (710:95-7-22), but was later superseded by a permanent rule numbered as 710:95-7-40.

710:95-7-23. Manufacturer license required [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹Another emergency action [10 Ok Reg 681, eff 12-14-92 through 7-14-93] added a rule called "Dual license holding restricted" at this number (710:95-7-23), which was later superseded by a permanent rule numbered as 710:95-7-24.

710:95-7-24. Dual license holding restricted [REVOKED]

[Source: Added at 10 Ok Reg 681, eff 12-14-92 through 7-14-93 (emergency)¹; Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

EDITOR'S NOTE: ¹This emergency action also added a rule called "Licensed organizations may share location" at this number (710:95-7-24), which was later superseded by a permanent rule numbered as 710:95-7-12.

710:95-7-25. Children's games not subject to the Act unless used in charity games [EXPIRED]

[Source: Added at 10 Ok Reg 681, eff 12-14-92 through 7-14-93 (emergency)¹]

EDITOR'S NOTE: ¹The emergency rulemaking action that added this Section was superseded by a permanent rulemaking action promulgated at 710:95-7-33 [10 Ok Reg 4123, eff 7-26-93].

PART 5. EXEMPTIONS [REVOKED]

710:95-7-30. Limited exemption for organization to conduct charity game sessions not more than four (4) times per year [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

710:95-7-31. Limited exemption for hospital, nursing home or convalescent facility to conduct charity games [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

710:95-7-32. Charity games by the federal government and its instrumentalities; employee groups [REVOKED]

[Source: Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

710:95-7-33. Children's games; games where no consideration is required to play; promotional games [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

PART 7. ACCOUNTING, RECORDKEEPING, REPORTING [REVOKED]

710:95-7-40. Organization operations, accounts, and reports [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

710:95-7-41. Distributor operations and reporting [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

710:95-7-42. Manufacturer operations and reporting [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

PART 9. OPERATIONS OF CHARITY GAMES [REVOKED]

710:95-7-50. Conduct of a bingo game or U-Pik-Em bingo game [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

710:95-7-51. Conduct of breakopen ticket games [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

PART 11. ADMINISTRATIVE HEARINGS [REVOKED]

710:95-7-100. Administrative rules and procedures for conducting hearings on protests, denials, suspensions or revocations [REVOKED]

[Source: Added at 10 Ok Reg 563, eff 12-3-92 through 7-14-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff 7-26-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

SUBCHAPTER 9. PROFESSIONAL LICENSING COMPLIANCE REVIEW

710:95-9-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq, and to facilitate the implementation, administration, and enforcement of Section 238.1 of Title 68 of the Oklahoma Statutes, which specifically requires that the Oklahoma Tax Commission adopt rules implementing a procedure to determine that each person holding a professional license from the State of Oklahoma is in compliance with state income tax laws.

[Source: Added at 18 Ok Reg 895, eff 2-23-01 through 9-1-01 (emergency)¹; Added at 19 Ok Reg 1511, eff 5-25-02 (as corrected at 19 Ok Reg 1883)²]

*EDITOR'S NOTE:*¹The emergency action enacting this new Section was effective from 2-23-01 through 9-1-01, as designated by the issuing agency in the emergency action. The agency later enacted a permanent rule at this number (710:95-9-1) on 5-25-02. Therefore, this Section was not effective from 9-2-01 (after the 9-1-01 expiration of the emergency action) until 5-25-02 (the effective date of the permanent action). For the official text of the emergency rule that was effective from 2-23-01 through 9-1-01, see 18 Ok Reg 895.

*EDITOR'S NOTE:*²The correction published at 19 Ok Reg 1883 incorrectly cited the gap between the emergency and permanent actions at this number (710:95-9-1). Since the agency designated that the emergency rule was effective "through 9-1-01," this Section was not effective from 9-2-01 until 5-25-02, instead of from 9-1-01 until 5-25-02.

710:95-9-2. Definitions

In addition to the terms defined in Section 238.1(H) of Title 68 of the Oklahoma Statute, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Oklahoma Tax Commission.

"In compliance" with state income tax laws means that all income tax filing obligations have been met, and balances due have been paid in full. For purposes of this Section, in the case of a licensee with an outstanding obligation upon initial review, **"in compliance"** includes the following situations:

- (A) The licensee has filed all reports due and entered into a payment program with the Commission for the taxes due;
- (B) The licensee has provided documentation that the licensee is currently participating in a payment plan and is current in all payments; or,
- (C) The licensee has a pending request for relief before the Commission, or has been determined to be an "innocent spouse" with regard to an outstanding obligation, pursuant to 710:50-3-60 through 710:50-3-65. [See: 68 O.S. § 238.1(D)]

"Licensing entity" means a bureau, department, division, board, agency, commission or other entity of this state or of a municipality in this state that issues a state license. [See: 68 O.S. § 238.1(H)(2)]

"State license" means a license, certificate, registration, permit, approval or other similar document issued by a licensing entity granting to an individual or business a right or privilege to engage in a profession, occupation or business in this state. "State license" does not include an inactive license issued by a licensing entity which does not grant an individual the right to engage in a profession, occupation, or business in this state. [See: 68 O.S. § 238.1(H)(1)]

[Source: Added at 18 Ok Reg 895, eff 2-23-01 through 9-1-01 (emergency)¹; Added at 19 Ok Reg 1511, eff 5-25-02 (as corrected at 19 Ok Reg 1883)²; Amended at 28 Ok Reg 971, eff 6-1-11]

EDITOR'S NOTE: ¹The emergency action enacting this new Section was effective from 2-23-01 through 9-1-01, as designated by the issuing agency in the emergency action. The agency later enacted a permanent rule at this number (710:95-9-2) on 5-25-02. Therefore, this Section was not effective from 9-2-01 (after the 9-1-01 expiration of the emergency action) until 5-25-02 (the effective date of the permanent action). For the official text of the emergency rule that was effective from 2-23-01 through 9-1-01, see 18 Ok Reg 895.

EDITOR'S NOTE: ²The correction published at 19 Ok Reg 1883 incorrectly cited the gap between the emergency and permanent actions at this number (710:95-9-2). Since the agency designated that the emergency rule was effective "through 9-1-01," this Section was not effective from 9-2-01 until 5-25-02, instead of from 9-1-01 until 5-25-02.

710:95-9-3. General provisions

(a) **Information to be provided.** Each licensing entity shall provide to the Commission a list of all its licensees, along with social security numbers and other identifying information that may be required by the Commission. The list, in the form of a complete renewal file, should be provided to the Commission the month following the license renewal cycle. [See: 68 O.S. § 238.1(B)]

(b) **Requisite lead time and format.** Every licensing entity shall provide the information described in (a) of this Section in a timely manner, so there is a minimum of six months lead time within which to research and resolve any compliance issues with licensees. [See: 68 O.S. § 238.1(B)]

(c) **Contact information.** The Commission's Professional Licensing Compliance Unit can be reached by phone at (405) 522-6800.

[Source: Added at 18 Ok Reg 895, eff 2-23-01 through 9-1-01 (emergency)¹; Added at 19 Ok Reg 1511, eff 5-25-02 (as corrected at 19 Ok Reg 1883)²; Amended at 28 Ok Reg 971, eff 6-1-11; Amended at 34 Ok Reg 2099, eff 9-11-17; Amended at 36 Ok Reg 1249, eff 8-11-19]

EDITOR'S NOTE: ¹The emergency action enacting this new Section was effective from 2-23-01 through 9-1-01, as designated by the issuing agency in the emergency action. The agency later enacted a permanent rule at this number (710:95-9-3) on 5-25-02. Therefore, this Section was not effective from 9-2-01 (after the 9-1-01 expiration of the emergency action) until 5-25-02 (the effective date of the permanent action). For the official text of the emergency rule that was effective from 2-23-01 through 9-1-01, see 18 Ok Reg 895.

EDITOR'S NOTE: ²The correction published at 19 Ok Reg 1883 incorrectly cited the gap between the emergency and permanent actions at this number (710:95-9-3). Since the agency designated that the emergency rule was effective "through 9-1-01," this Section was not effective from 9-2-01 until 5-25-02, instead of from 9-1-01 until 5-25-02.

710:95-9-4. Procedure for review of status and notification to licensee

(a) **Review and notification to licensee.** Information from each licensing entity shall be reviewed to determine those licensees for whom compliance cannot be confirmed. Each licensee shall be notified, by letter mailed to the address provided by the professional licensing entity, that Commission records indicate non-compliance with the Oklahoma Income Tax laws. The licensee will be informed that the professional license will not be renewed until the licensee is determined to be in compliance by the Commission. The Notice shall include a statement of the amount of any tax, penalty, and interest due, or a list of tax years for which income tax returns have not been filed, or both, in applicable cases. The notice shall also provide information regarding the rights of the licensee and what procedures must be followed in order to come into compliance with the income tax laws.

(b) **Compliance assistance.** The Commission shall make every reasonable effort to assist non-compliant licensees to attain compliance status within six (6) months from the date of notification.

[Source: Added at 18 Ok Reg 895, eff 2-23-01 through 9-1-01 (emergency)¹; Added at 19 Ok Reg 1511, eff 5-25-02 (as corrected at 19 Ok Reg 1883)²]

*EDITOR'S NOTE:*¹The emergency action enacting this new Section was effective from 2-23-01 through 9-1-01, as designated by the issuing agency in the emergency action. The agency later enacted a permanent rule at this number (710:95-9-4) on 5-25-02. Therefore, this Section was not effective from 9-2-01 (after the 9-1-01 expiration of the emergency action) until 5-25-02 (the effective date of the permanent action). For the official text of the emergency rule that was effective from 2-23-01 through 9-1-01, see 18 Ok Reg 895.

*EDITOR'S NOTE:*²The correction published at 19 Ok Reg 1883 incorrectly cited the gap between the emergency and permanent actions at this number (710:95-9-4). Since the agency designated that the emergency rule was effective "through 9-1-01," this Section was not effective from 9-2-01 until 5-25-02, instead of from 9-1-01 until 5-25-02.

710:95-9-5. Procedure for notification of status to licensing entity

(a) **Notification of noncompliance to licensing entity.** The Commission shall notify the licensing entity and the licensee's license shall not be renewed if:

- (1) A licensee has been notified of noncompliance pursuant to Section 710:95-9-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the licensee has failed to respond to the notice;
- (2) A licensee has been notified of noncompliance pursuant to Section 710:95-9-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the licensee has failed to come into compliance with the income tax laws of this state after an assessment has become final; or,
- (3) A licensee has been notified of noncompliance pursuant to Section 710:95-9-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the licensee has failed to come into compliance with the income tax laws of this state and the Commission determines that every reasonable effort has been made to assist the licensee to come into compliance.

(b) **Notification of compliance to licensing entity.** If the Commission has previously reported a licensee to be non-compliant to the respective licensing entity, and the licensee comes into compliance, the licensing entity shall be immediately so notified.

(c) **Exception.** The licensing entity shall not be notified pursuant to this Section, if the licensee has timely protested a proposed income tax assessment, unless the protest has been resolved in favor of the Commission and the licensee has been given an opportunity to come into compliance.

[Source: Added at 18 Ok Reg 895, eff 2-23-01 through 9-1-01 (emergency)¹; Added at 19 Ok Reg 1511, eff 5-25-02 (as corrected at 19 Ok Reg 1883)²]

EDITOR'S NOTE: ¹The emergency action enacting this new Section was effective from 2-23-01 through 9-1-01, as designated by the issuing agency in the emergency action. The agency later enacted a permanent rule at this number (710:95-9-5) on 5-25-02. Therefore, this Section was not effective from 9-2-01 (after the 9-1-01 expiration of the emergency action) until 5-25-02 (the effective date of the permanent action). For the official text of the emergency rule that was effective from 2-23-01 through 9-1-01, see 18 Ok Reg 895.

EDITOR'S NOTE: ²The correction published at 19 Ok Reg 1883 incorrectly cited the gap between the emergency and permanent actions at this number (710:95-9-5). Since the agency designated that the emergency rule was effective "through 9-1-01," this Section was not effective from 9-2-01 until 5-25-02, instead of from 9-1-01 until 5-25-02.

SUBCHAPTER 11. STATE EMPLOYEES COMPLIANCE REVIEW

710:95-11-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq, and to facilitate the implementation, administration, and enforcement of Section 238.2 of Title 68 of the Oklahoma Statutes, which specifically requires that the Oklahoma Tax Commission adopt rules implementing provisions to determine that all employees of the State of Oklahoma are in compliance with state income tax laws.

[Source: Added at 21 Ok Reg 1147, eff 5-13-04]

710:95-11-2. Definitions

In addition to terms defined in Section 238.2(G) of Title 68 of the Oklahoma Statutes, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Appointing authority" means the chief administrative officer of a state agency.

"Employee" or **"state employee"** means an appointed officer or employee of a state agency. However, the term **"employee"** or **"state employee"** does not include an elected official, or an employee of a local governmental entity. [68 O.S. § 238.2(G)(2)]

"In compliance" with state income tax laws means that all income tax filing obligations have been met, and balances due have been paid in full. For purposes of this Subchapter, in the case of a state employee with an outstanding obligation upon initial review, **"in compliance"** includes the following situations:

- (A) The state employee has filed all reports due and entered into a payment program with the Commission for the taxes due;
- (B) The state employee has provided documentation that the employee is currently participating in a payment plan and is current in all payments; or,
- (C) The state employee has a pending request for relief before the Commission, or has been determined to be an "innocent spouse" with regard to an outstanding obligation, pursuant to 710:50-3-60 through 710:50-3-65. [See: 68 O.S. § 238.2(D)]

"State agency" means any office, department, board, commission, or institution of the executive, legislative, or judicial branch of state government.

"Tax Commission" means the Oklahoma Tax Commission.

[Source: Added at 21 Ok Reg 1147, eff 5-13-04; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-11-3. General provisions

(a) **Information to be provided.** The Oklahoma Office of Management and Enterprise Services shall provide to the Tax Commission a list of all state employees, along with social security numbers and other identifying information that may be required by the Commission. The list should be provided to the Commission not later than August 1 of each year and shall include all employees of the state as of the preceding July 1. [See: 68 O.S. § 238.2(B)]

(b) **Contact information.** The Commission's State Employee Compliance Unit can be reached by phone at (405) 522-6800.

[Source: Added at 21 Ok Reg 1147, eff 5-13-04; Amended at 34 Ok Reg 2099, eff 9-11-17; Amended at 36 Ok Reg 1249, eff 8-11-19]

710:95-11-4. Procedure for review of status and notification to state employee

(a) **Review and notification to state employee.** Information from the Oklahoma Office of Management and Enterprise Services shall be reviewed to determine those state employees for whom compliance cannot be confirmed. Each state employee for whom compliance cannot be confirmed shall be notified, no later than November 1 of each year, in a letter mailed to the address provided by the Oklahoma Office of Management and Enterprise Services, that Commission records indicate non-compliance with the Oklahoma income tax laws. The state employee will be informed that the employee will be subject to disciplinary action by the appointing authority unless the state employee is determined to be in compliance by the Commission. The notice shall include a statement of the reasons the taxpayer is considered to be out of compliance with the Oklahoma income tax laws, the amount of any tax, penalty, and interest due, or a list of tax years for which income tax returns have not been filed, or both, in applicable cases. The notice shall also provide information regarding the rights of the employee and what procedures must be followed in order to come into compliance with the income tax laws.

(b) **Compliance assistance.** The Commission shall make every reasonable effort to assist non-compliant state employees to attain compliance status within six (6) months from the date of notification.

[Source: Added at 21 Ok Reg 1147, eff 5-13-04; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-11-5. Procedure for notification of status to appointing authority

(a) **Notification of noncompliance to appointing authority.** The Commission shall notify the appointing authority of each state agency of noncompliance of a state employee if:

- (1) An employee has been notified of noncompliance pursuant to Section 710:95-11-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the employee has failed to respond to the notice;
- (2) An employee has been notified of noncompliance pursuant to Section 710:95-11-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the employee has failed to come into compliance with the income tax laws of this state after an assessment has become final; or,
- (3) An employee has been notified of noncompliance pursuant to Section 710:95-11-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the employee has failed to come into compliance with the income tax laws of this state and the Commission determines that every reasonable effort has been made to assist the employee to come into

compliance.

(b) **Content of notice to appointing authority.** The notice of noncompliance to the appointing authority shall include the provisions of Section 238.2(E) of Title 68 of the Oklahoma Statutes.

(c) **Notification of compliance to appointing authority.** If the Commission has previously reported an employee to be non-compliant to the respective appointing authority, and the employee comes into compliance, the appointing authority shall be immediately so notified.

(d) **Exception.** The appointing authority shall not be notified pursuant to this Section if the employee has timely protested a proposed income tax assessment, unless the protest has been resolved in favor of the Commission, all available appeals have been exhausted, and the employee has been given an opportunity to come into compliance.

[Source: Added at 21 Ok Reg 1147, eff 5-13-04]

SUBCHAPTER 13. OUT-OF-STATE ATTORNEY REGISTRATION [REVOKED]

710:95-13-1. Out-of-State Attorney Registration [REVOKED]

[Source: Amended at 22 Ok Reg 295, eff 11-4-04 (emergency); Amended at 22 Ok Reg 1592, eff 6-11-05; Revoked at 23 Ok Reg 2874, eff 6-25-06]

SUBCHAPTER 15. WIRE TRANSMITTER FEE

710:95-15-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to the **Drug Money Laundering and Wire Transmitter Act**. [63 O.S. §§ 2-503.1a et seq.]

[Source: Added at 27 Ok Reg 2361, eff 7-11-10]

710:95-15-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Bill payment service" means an operator of a payment system acting in a third party capacity, to the extent that it provides processing, clearing, settlement, or other similar services between persons and businesses for a traceable debt of a good or service in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transfers, or other similar funds transfers or transactions.

"Bureau" means Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

"Commission" means the Oklahoma Tax Commission.

"Delegate" means a person a licensee designates to provide money services on behalf of the licensee.

"Licensee" means a person licensed under the Oklahoma Financial Transaction Reporting Act, Title 6 O.S. § 1511. A licensee is a "supplier" or "money transmitter" under section 2 of the Oklahoma Financial Transaction Reporting Act.

"Money transmitter or wire transmitter business" means a licensee or delegate or someone otherwise required to be licensed who engages in this State in the business of:

- (A) facilitating money transmissions;
- (B) selling or issuing payment instruments for a fee, commission or other benefit;
- (C) receiving money for transmission or transmitting money within in the United States or to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile, electronic transfer, or otherwise for a fee, commission or other benefit; or
- (D) receiving money from obligors for the purpose of paying obligors' bills, invoices or accounts for a fee, commission or other benefit paid by the obligor.

[Source: Added at 27 Ok Reg 2361, eff 7-11-10]

710:95-15-3. Wire transmitter fee

(a) **Applicability of the fee.** Beginning July 1, 2009, there is a fee levied against licensees by the Drug Money Laundering and Wire Transmitter Act on each money transmission transaction initiated at a location of any licensee or its delegate of a money transmitter or wire transmitter business. [See: 63 O.S. § 2-503.1j]

(b) **Amounts.** The fee shall be assessed on the amount of the money transmission, exclusive of fees and costs. The amount of the fee shall be determined as follows:

- (1) For each transaction not in excess of Five Hundred Dollars (\$500.00), the fee is Five Dollars (\$5.00).
- (2) For each transaction in excess of Five Hundred (\$500.00), the fee is Five Dollars (\$5.00) plus one percent (1%) of the amount in excess of Five Hundred Dollars (\$500.00).

(c) **Reports.** Every licensee required to collect the wire transmitter fee shall file a quarterly return and remit the fees collected to the Commission electronically on or before the fifteenth (15th) day of the month following the close of each quarter. The licensee may deduct from the fees payable for the quarter the amount of any fees associated with incomplete transfers which are refunded to consumers during that quarter provided proof of refund to customer is attached. Quarterly returns shall be filed on a calendar year basis and not a fiscal year basis.

(d) **Notice.** Every licensee and their delegates shall post a notice on a form prescribed by the Bureau that notifies customers that upon filing an Oklahoma individual income tax return with either a valid social security number or a taxpayer identification number the customer shall be entitled to an income tax credit equal to the amount of the fee paid by the customer for the transaction.

[Source: Added at 27 Ok Reg 2361, eff 7-11-10]

710:95-15-4. Transactions to which the fee is not applicable

(a) **Bill payment services.** Transactions between individuals and businesses, registered with the Secretary of State of Oklahoma or another State in the United States, or utility companies licensed by the Oklahoma Corporation Commission, through a bill payment service which the money being transferred is for a good or service not otherwise prohibited by State or Federal statute for a traceable debt are not subject to the wire transaction fee.

(b) **Origination of transfers.** Only transactions originating from Oklahoma are subject to the wire transaction fee.

- (c) **Credit or debit card transfers.** Internet and telephone transfers conducted through a debit card, credit card or ACH transfer are not subject to the wire transaction fee.
- (d) **Exempt entities.** Entities otherwise exempted from Money Service Business Licensing pursuant to the Oklahoma Financial Transaction Reporting Act are not subject to the wire transaction fee.
- (e) **Prepaid debit cards and stored value cards.** The sale and servicing of prepaid debit cards and stored value cards are not subject to the wire transaction fee.
- (f) **Money orders.** The sale of money orders is not subject to the wire transaction fee.
- (g) **Check cashing.** Check cashing transactions and deferred presentment transactions are not subject to the wire transaction fee.

[Source: Added at 27 Ok Reg 2361, eff 7-11-10]

710:95-15-5. Compliance

If a licensee fails to file reports or remit the wire transaction fee, the Commission may suspend the license of the licensee and its delegates. Notification of the suspension shall be sent to the State Banking Commissioner and the Director of the Bureau, and the State Banking Commissioner may make a claim against the surety bond of the licensee. The licensee and its delegates may not reapply for a license until all required reports have been filed and all required fee amounts have been remitted. [See: 63 O.S. § 2-503.1j (E) and (F)]

[Source: Added at 27 Ok Reg 2361, eff 7-11-10]

710:95-15-6. Conflict of law

In the event of a conflict in the definitions pursuant to these rules, the intent of the Drug Money Laundering and Wire Transmitter Act and associated language shall prevail, followed by the Financial Transaction Reporting Act.

[Source: Added at 27 Ok Reg 2361, eff 7-11-10]

SUBCHAPTER 17. PREPAID WIRELESS FEE

710:95-17-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of the prepaid wireless fee under the Oklahoma Statutes.

[Source: Added at 28 Ok Reg 971, eff 6-1-11]

710:95-17-2. [RESERVED]

[Source: Reserved at 28 Ok Reg 971, eff 6-1-11]

710:95-17-3. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

"9-1-1 wireless telephone fee" means the fee imposed in Section 2865 of Title 63 of the Oklahoma Statutes to finance the installation and operation of

emergency 9-1-1 services and any necessary equipment.

"Prepaid wireless telecommunications service", as defined in Section 2862 of Title 63 of the Oklahoma Statutes, means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other telecommunications services, including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount. **"Prepaid wireless telecommunications service"** does not include traditional calling cards.

"Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than for resale.

"Seller" means a person who sells prepaid wireless telecommunications service to another person.

"Traditional calling card" means a calling card which provides access only to long distance telephone service by enabling the user to originate a call using an access number or authorization code and which is not intended for use exclusively on a cellular phone.

"Voice over Internet Protocol (VoIP) provider" means a provider of interconnected Voice over Internet Protocol service to end users in the state, including resellers.

"Wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a provider of wireless two-way communication service, radio-telephone communications related to cellular telephone service, network radio access lines or the equivalent, and personal communication service. The term does not include a provider of:

- (A) a service whose users do not have access to 9-1-1 service,
- (B) a communication channel used only for data transmission, or
- (C) a wireless roaming service or other nonlocal radio access line service.

"Wireless telecommunications connection" means the ten-digit access number assigned to a customer regardless of whether more than one such number is aggregated for the purpose of billing a service user.

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 29 Ok Reg 1478, eff 6-25-12; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-17-4. [RESERVED]

[Source: Reserved at 28 Ok Reg 971, eff 6-1-11]

710:95-17-5. Fees, reports, payments and penalties

(a) **9-1-1 wireless telephone fee imposition.** Beginning January 1, 2017, a seventy-five cent [\$0.75] 9-1-1 wireless telephone fee is imposed:

- (1) Monthly on each wireless telephone connection and other communication device or service connection with the ability to dial 9-1-1 for emergency calls;
- (2) Monthly on each service that is enabled by Voice over Internet Protocol (VoIP) or Internet Protocol (IP) with the ability to dial 9-1-1 for emergency calls; and
- (3) On each prepaid wireless retail transaction occurring in this state.

(b) **Fee invoice.** The 9-1-1 wireless telephone fees imposed pursuant to paragraphs (1) and (2) of subsection (a) which are required to be collected by the wireless service provider or VoIP provider may be added to and must be separately stated in any billing to the service subscriber. [63 O.S. § 2866(D)]. The 9-1-1 wireless telephone fee imposed pursuant to paragraph (3) of subsection (a) and collected by the seller from the consumer shall be separately stated on the invoice, receipt or similar document provided to the consumer, or otherwise disclosed to the consumer. [63 O.S. § 2867(C)].

(c) **Fee incidence:** The 9-1-1 wireless telephone fee is the liability of the consumer or wireless service subscriber. [63 O.S. §§ 2866(C) and 2867(D)]

(d) **Examples of prepaid wireless telecommunications service.** Examples of prepaid wireless telecommunications services include cellular phones preloaded with a set dollar amount, minutes or units of air time, or sold with rebates for airtime; calling cards for cellular phones preloaded with a set dollar amount, minutes or units of air time and the recharging of a reusable cellular phone calling card or the cellular phone itself with additional minutes or units of air time.

(e) **Examples and illustrations.** Examples and illustrations of situations involving 9-1-1 wireless telephone fee calculation and the base determination for purposes of sales tax collection and other applicable taxes, fees and surcharges.

(1) **Multiple transactions.** A \$0.75 fee is imposed for each transaction outlined in subsection (a) of this Section. For example, if a consumer simultaneously buys five (5) preloaded cellular phone cards, \$0.75 is imposed on each card resulting in a total of \$3.75 in 9-1-1 wireless telephone fees. Further if a person's monthly wireless telecommunications subscription includes four (4) service connections or wireless telephone lines a \$0.75 fee would be imposed on each connection for a total monthly fee of \$3.00.

(2) **Fee excluded from base.** When separately stated on the invoice, the 9-1-1 wireless telephone fee should not be included in the base for measuring sales tax or any other applicable tax, fee, surcharge, or other charge that is imposed by the state, any political subdivision of this state, or any intergovernmental agency.

(f) **Monthly electronic reporting.** On the 20th of the month every seller of prepaid wireless telecommunications service, wireless service providers and Voice over Internet Protocol providers, except as noted in (g) of this Section, shall report and make payment of the 9-1-1 wireless telephone fees for the previous calendar month in accordance with the Tax Commission's electronic funds transfer and electronic data interchange program available online at www.ok.tax.gov.

(g) **Exception to electronic reporting and payment.** Any seller of prepaid wireless telecommunications services, wireless service providers and Voice over Internet Protocol providers which has been granted an exception to the electronic filing requirement for sales tax reporting and payment purposes pursuant to *OAC* 710:65-3-4(c) shall automatically receive an electronic filing exception for purposes of reporting and paying prepaid wireless fees. These entities shall file Form 20013-A on or before the 20th day of each month. Remittances covering the 9-1-1 wireless telephone fees must accompany the return. Form 146 20013-A is available telephonically at (405) 521-3160 or online at www.tax.ok.gov.

(h) **Interest.** Interest at the rate of one and one-quarter percent (1 1/4%) per month will be imposed on all liability not paid at the time when required to be paid. Said interest will be imposed and collected on the delinquent fees at one and one-quarter percent (1 1/4%) per month from the date of delinquency until paid. [68 O.S. §

217]

(i) **Penalty for failure to file and remit.** A taxpayer who fails to file a return and remit the full fee amount within fifteen (15) days after the due date shall be subject to a penalty of ten percent (10%) of the fee amount due. [68 O.S. § 217]

(j) **Waiver of penalty; interest.** At the discretion of the Tax Commission, the interest or penalty, or both, may be waived provided the taxpayer can demonstrate that the failure to pay the tax when due is satisfactorily explained, or that the failure resulted from a mistake by the taxpayer of either law or fact, or that the taxpayer is unable to pay the interest or penalty due to insolvency. Requests for waiver or remission must be made in writing and must include all pertinent facts to support the request. [See: 68 O.S. § 220]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-17-6. [RESERVED]

[Source: Reserved at 28 Ok Reg 971, eff 6-1-11]

710:95-17-7. Due date that falls on Saturday, Sunday or holiday

If a due date of a 9-1-1 wireless telephone fee report falls on Saturday, Sunday, holiday, or a date when the Federal Reserve Banks are closed, such due date shall be considered to be the next business day.

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 29 Ok Reg 1478, eff 6-25-12; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-17-8. [RESERVED]

[Source: Reserved at 28 Ok Reg 971, eff 6-1-11]

710:95-17-9. Contents of monthly prepaid wireless fee report

(a) **General provisions.** Every seller of prepaid wireless telecommunications service, wireless service providers and Voice over Internet Protocol providers shall file a monthly report for sales made the preceding month stating the name of the seller, address, telephone number, federal employer identification number (FEIN) or social security number (SSN), account number of the business and the period (month and year) covered by the report. In addition, the report shall disclose the following:

- (1) Total number of retail transactions for prepaid wireless telecommunications.
- (2) Amount of resulting 9-1-1 wireless telephone fees.
- (3) Amount of seller's retention outlined in subsection (b), if applicable.
- (4) Total number of VoIP Connections.
- (5) Total number of Wireless Connections.
- (6) Amount of resulting 9-1-1 telephone fees.
- (7) Amount of seller's retention outlined in subsection (b), if applicable.
- (8) The balance of fees due less any retention amount allowed, as described in (b) of this Section.
 - (A) The return should show the amount of interest (if any) that is due.
 - (B) The return should show the amount of penalty (if any) that is due.
- (9) Such other reasonable information as the Tax Commission may require.

(b) Retention for timely reporting and payment. When the 9-1-1 wireless telephone fee report with all required information included is timely filed, and the total amount of fees reported are timely paid, three percent (3%) of the fees collected pursuant to paragraph (3) of subsection (a) of 710:95-17-5 may be deducted and retained in addition to one percent (1%) of the fees collected pursuant to paragraphs (1) and (2) of subsection (a) of 710:95-17-5. The retention amounts may not be deducted and retained by a taxpayer who files an incomplete report, files his report after the date of delinquency, or fails to make full payment on or before the due date. [63 O.S. § 2867(B)]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-17-10. Record maintenance for wireless and VoIP service providers

The wireless service provider or VoIP provider must maintain records of the amount of 9-1-1 telephone fees collected in accordance with the provisions of this subchapter for a period of three (3) years from the time the fee is collected.

[Source: Reserved at 28 Ok Reg 971, eff 6-1-11; Added at 34 Ok Reg 2099, eff 9-11-17]

710:95-17-11. Registrants must file a return for every reporting period

Sellers making retail sales of prepaid wireless telecommunications services, wireless service providers and Voice over Internet Protocol providers must file a return for each reporting period, notwithstanding the fact that, during one or more of such reporting periods, there is no item sold subject to the 9-1-1 telephone fee. On the return for such a reporting period, the taxpayer should indicate that no transactions subject to the fee were made and that no fees are due.

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-17-12. [RESERVED]

[Source: Reserved at 28 Ok Reg 971, eff 6-1-11]

710:95-17-13. Records required to document resale transactions

Where the nature of the seller's business is such that a portion or all of its sales of prepaid wireless telecommunications services are for resale, the records that must be kept to document the resale nature of the transaction are as follows:

- (1) The name and address of the customer,
- (2) The date of the transaction,
- (3) The number of prepaid wireless services purchased for resale,
- (4) A copy of the purchaser's resale number issued by the Tax Commission along with a written statement signed by a person authorized to bind the business that it is in the business of reselling the items being purchased, and that the items being purchased are for resale. The certification may be made in the manner set forth in *OAC* 710:65-13-200(a)(1), and
- (5) Such other information as may be necessary to establish the nontaxable character of such transactions.

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 34 Ok Reg 2099, eff 9-11-17]

710:95-17-14. [RESERVED]

[Source: Reserved at 28 Ok Reg 971, eff 6-1-11]

710:95-17-15. Sourcing retail purchases of prepaid wireless telecommunications service

Retail purchases of prepaid wireless telecommunications services shall be sourced as follows:

- (1) A retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state.
- (2) *When the retail transaction does not occur at a business location of the seller, the retail transaction is sourced to the location where receipt by the consumer, or the consumer's donee, designated as such by the consumer, occurs, including the location indicated by instructions for delivery to the consumer or donee, known to the seller;*
- (3) *When the provisions of paragraph 2 of this subsection do not apply, the sale is sourced to the location indicated by an address for the consumer that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;*
- (4) *When the provisions of paragraphs (2) and 3 of this subsection do not apply, the sale is sourced to the location indicated by an address for consumer obtained during the consummation of the sale, including the address of a consumer's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and*
- (5) *When none of the previous rules of paragraphs (1), (2), (3), and (4) of this subsection apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold. If the seller knows the mobile telephone number, the location will be that which is associated with the mobile telephone number. [63 O.S. § 2865(B)]*

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 34 Ok Reg 2099, eff 9-11-17]

SUBCHAPTER 19. BUSINESS ACTIVITY TAX [REVOKED]

710:95-19-1. Purpose [REVOKED]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Revoked at 35 Ok Reg 2116, eff 9-14-18]

710:95-19-2. Definitions [REVOKED]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Revoked at 35 Ok Reg 2116, eff 9-14-18]

710:95-19-3. General provisions [REVOKED]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Revoked at 35 Ok Reg 2116, eff 9-14-18]

710:95-19-4. Filing requirements [REVOKED]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Revoked at 35 Ok Reg 2116, eff 9-14-18]

710:95-19-5. Tax rate [REVOKED]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 31 Ok Reg 2453, eff 9-12-14; Revoked at 35 Ok Reg 2116, eff 9-14-18]

710:95-19-6. Tax credit [REVOKED]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 29 Ok Reg 1478, eff 6-25-12; Revoked at 35 Ok Reg 2116, eff 9-14-18]

710:95-19-7. Special provisions for combined / consolidated filers [REVOKED]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Amended at 29 Ok Reg 1478, eff 6-25-12; Revoked at 35 Ok Reg 2116, eff 9-14-18]

710:95-19-8. Apportionment [REVOKED]

[Source: Added at 28 Ok Reg 971, eff 6-1-11; Revoked at 35 Ok Reg 2116, eff 9-14-18]

SUBCHAPTER 21. QUALITY EVENTS

710:95-21-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedure Act, 75 O.S. §§ 250.1 et seq. and to facilitate the administration, allocation and payment of tax incentives pursuant to the Oklahoma Quality Event Incentives Act.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12]

710:95-21-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Certified sponsor" means an entity or organization authorized to promote and conduct a quality event, which is incurring expenses for the promotion of such event to be conducted within the corporate limits of an eligible municipality or an unincorporated area within a county.

"Commission" means the Oklahoma Tax Commission.

"Eligible local support amounts" means:

(A) Any payment made by a local government entity or transfer of monies from the general fund or transfer of tax revenues derived from a locally imposed tax to a certified sponsor for the purpose of attracting, promoting, advertising, organizing, conducting or otherwise supporting a quality event, or

(B) Any direct payment made by a certified sponsor to a for-profit or nonprofit entity, other than the host community, for the purpose of attracting, promoting, advertising, organizing, conducting or otherwise supporting a quality event.

"Event history" means:

(A) Historical information on the event including past locations of the event,

(B) A description of previous attempts by the host community to secure the event,

(C) Information regarding attempts by other communities to recruit the event, and

(D) If applicable, the competitive bidding process for securing the event by the host community.

"Host community" means any county, incorporated city or town, or any combination of counties, incorporated cities or towns of the state which are authorized by their respective governing bodies to host or assist in the presentation of a quality event.

"Incremental sales tax revenue" means, the amount of additional state sales tax revenue as a result of the quality event, as determined by the Oklahoma Tax Commission based on actual documentation of taxable transactions occurring as a result of the quality event.

"New event" means a quality event which did not occur within a period of twenty-four (24) months prior to the month during which a quality event is held.

"Quality event" means:

(A) *A new event or a meeting of a nationally recognized organization or its members,*

(B) *A new or existing event that is a national, international or world championship, or*

(C) *A new or existing event that is managed or produced by an Oklahoma-based national or international organization.*

"Recurring event" means a quality event which occurred at least once within the twenty-four (24) months prior to the month during which a quality event is held.

"State sales tax revenue" means the proceeds from the state sales tax levy imposed pursuant to Section 1354 of Title 68 of the Oklahoma Statutes upon taxable transactions occurring as a result of the quality event, as determined by the Oklahoma Tax Commission based on actual documentation.

"Vendors" means those persons or business entities making taxable sales of tangible personal property or services as a result of the quality event, as determined by the Oklahoma Tax Commission based on actual documentation and, unless the context otherwise requires, shall have the same meaning as defined by Section 1352 of Title 68 of the Oklahoma Statutes.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 31 Ok Reg 2453, eff 9-12-14; Amended at 32 Ok Reg 1411, eff 8-27-15; Amended at 36 Ok Reg 1249, eff 8-11-19]

710:95-21-3. Quality event requirements, limitations and eligibility

(a) **Designation of quality event.** For purposes of this Subchapter a host community can designate a quality event pursuant to the adoption by the governing body of the host community an ordinance or resolution which must contain designation of the following:

- (1) The dates during which a quality event will be hosted; and
- (2) The type of expenses eligible for payment through distribution of captured revenues to the host community including, but not limited to, advertising, facility rental, promotional materials and security.

(b) **Designation requirements.** The resolution or ordinance must be adopted at least six months prior to the first day of the quality event.

(c) **Limitations.** A host community may only designate one quality event during the timeframe in which a designated quality event will occur.

(d) **Eligible quality events.** Eligibility for qualify event status is available for the following:

- (1) New events or meetings of a nationally recognized organization or its members,

- (2) New or existing events that are a national, international or world championship, or
- (3) New or existing events that are managed or produced by an Oklahoma-based national or international organization.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 31 Ok Reg 2453, eff 9-12-14; Amended at 32 Ok Reg 1411, eff 8-27-15]

710:95-21-4. Quality event approval and application requirements

(a) **Application for approval.** Within thirty (30) days of the adoption date of the ordinance or resolution designating a quality event, which must be adopted not later than six (6) months prior to the initial date of the designated quality event, the host community must submit a written request for recognition as a quality event to the Tax Policy Division of the Oklahoma Tax Commission at 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102. The postmark date of the written request for recognition as a quality event is deemed to be its date of delivery.

(b) **Application requirements.** The application for recognition must include the following:

(1) **Ordinance or resolution.** A copy of the ordinance or resolution designating the quality event; and

(2) **Event history.** The event history must include the following information:

(A) *Historical information on the event including past locations of the event,*

(B) *A description of previous attempts by the host community to secure the event,*

(C) *Information regarding attempts by other communities to recruit the event, and*

(D) *If applicable, the competitive bidding process for securing the event by the host community.* [68 O.S. § 4303]

(c) **Ineligibility for quality event recognition.** The Tax Commission shall not consider any application for quality event recognition which is not submitted within the statutory timeframe outlined in this Section.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 31 Ok Reg 2453, eff 9-12-14; Amended at 32 Ok Reg 1411, eff 8-27-15; Amended at 36 Ok Reg 1249, eff 8-11-19; Amended at 38 Ok Reg 1578, eff 9-1-21]

710:95-21-5. Tax Commission review and approval process

(a) **Approval process.** Within sixty (60) days from receipt of the host community's request for quality event recognition, the Commission must approve or disapprove, in whole or in part, the submission and analysis of the required information.

(b) **Order disapproving request.** An order of the Commission disapproving a host community's submission is not an appealable order under Section 225 of Title 68 of the Oklahoma Statutes.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 31 Ok Reg 2453, eff 9-12-14; Amended at 36 Ok Reg 1249, eff 8-11-19]

710:95-21-5. Tax Commission review and approval process

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(b) **Order disapproving request.** An order of the Commission disapproving a host community's submission is not an appealable order under Section 225 of Title 68 of

the Oklahoma Statutes.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 31 Ok Reg 2453, eff 9-12-14; Amended at 36 Ok Reg 1249, eff 8-11-19]

710:95-21-6. Determination of eligible local support amounts

(a) **Outline and required documentation.** Within thirty (30) days from the conclusion of the quality event the host community must submit to the Tax Policy Division of the Commission at 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102, an outline with supporting billing and payment information detailing the total amount of eligible local support amounts for purposes of determining the amount of incremental state sales tax revenue that may be paid to the host community in which a quality event occurred.

(b) **Payment verification.** The Commission must verify the amount of eligible local support amounts prior to making any payment to the host community.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 36 Ok Reg 1249, eff 8-11-19; Amended at 38 Ok Reg 1578, eff 9-1-21]

710:95-21-7. Host community requirement to submit event related information

After conclusion of an event, the host community must provide information related to the event, such as attendance figures, financial information or other public information held by the host community that the Tax Commission considers necessary to evaluate the actual economic impact of the event.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 32 Ok Reg 1411, eff 8-27-15]

710:95-21-8. Verification of incremental state sales tax revenue

Upon receipt, the Tax Commission will review the documentation submitted pursuant to Section 710:95-21-7 to verify additional state sales tax revenue, as determined by the actual documentation, which was collected as a result of the event.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 32 Ok Reg 1411, eff 8-27-15; Amended at 36 Ok Reg 1249, eff 8-11-19]

710:95-21-9. Manner of determining payment

The Commission must compare the total amount of eligible local support amounts with the total amount of incremental state sales tax revenues remitted by vendors, such revenues to be established based on actual documentation. Payments made to the host community are governed by the following determinations:

- (1) If a determination is made that the total amount of incremental state sales tax revenues is zero, no payment shall be made to a host community.
- (2) If a determination is made that the total amount of incremental state sales tax revenues is greater than zero, but less than the total amount of eligible local support amounts, a payment shall be made subject to the limitation of the payment cap provided for in Section 710:95-21-10(b), to the host community of the quality event in an amount equal to the incremental state sales tax revenues.
- (3) If a determination is made that the total amount of incremental state sales tax revenues is at least equal to the amount of eligible local support amounts, a payment shall be made, subject to the limitation of the payment cap provided in Section 710:95-21-10(b), to the host community in which the quality event occurs in an amount equal to, but not greater than, the eligible local support amounts.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 32 Ok Reg 1411, eff 8-27-15; Amended at 36 Ok Reg 1249, eff 8-11-19]

710:95-21-10. Incentive payment limitations

(a) **Sources other than incremental state sales tax revenues.** No payment shall be made to any host community from a source other than the incremental state sales tax revenues, if any, derived from state sales tax remittances of vendors as a result of the quality event, as determined by the Oklahoma Tax Commission.

(b) **Payment threshold.** No payment shall be made to any host community in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) for a single quality event regardless of the amount of eligible local support paid by the host community.

(c) **Local sales tax revenues.** No proceeds from the levy of any sales tax imposed by a county or a municipality shall be affected by the provisions of this Subchapter and the proceeds from any such levy shall be collected and remitted as required by the Oklahoma Sales Tax Code. The distribution of the revenues shall be made in accordance with all applicable requirements of law with respect to such sales tax levies.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 32 Ok Reg 1411, eff 8-27-15; Amended at 36 Ok Reg 1249, eff 8-11-19]

710:95-21-11. Incentive payments to host communities

After verification of the incremental state sales tax revenue and eligible local support amounts the Commission shall issue a warrant subject to the limitation set forth in Section 710:95-21-10(b) equal to the amount of the incremental state sales tax revenue not to exceed the eligible local support amounts to the host community.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12; Amended at 32 Ok Reg 1411, eff 8-27-15]

SUBCHAPTER 22. REGISTRATION REQUIREMENTS FOR RESIDENT AND NONRESIDENT CONTRACTORS

710:95-22-1. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Awarding public agency" means the public agency which solicits and receives sealed bids on a particular public construction project.

"Contractor" shall have the same meaning as provided in Section 1701(1) of Title 68 of the Oklahoma Statutes, and includes **"Resident Contractor"** and **"Non-Resident Contractor"** as defined in paragraphs (2) and (3) of Section 1701 of Title 68.

"Public agency" means the State of Oklahoma, and any county, city, town, school district or other political subdivision of the state, any public trust and any department, agency, board, bureau, commission, committee or authority of any of the foregoing public entities.

"Public construction project" means any project awarded by a public agency for the purpose of making any public improvements or constructing any public building or making repairs to or performing maintenance on the same.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

710:95-22-2. Requirement for contractors to possess certain employer identification numbers

(a) **Requirement for employer identification numbers.** Resident and nonresident contractors must have in their possession employer identifications numbers issued to them by the Oklahoma Tax Commission, Oklahoma Employment Security Commission, Internal Revenue Service and Social Security Administration. [See: 68 O.S. § 1701.1]

(b) **Exceptions.** The requirement set forth in subsection (a) of this Section does not apply under the following circumstances:

- (1) A contract for an entire project requiring services of less than three (3) employees.
- (2) A resident contractor constructing a single family dwelling when the total cost of the project is less than the average sales price of a single family dwelling in this state as set each year by the National Association of Home Builders.
- (3) An out-of-state business that conducts operations within the state for purposes of performing work or services related to a declared state disaster or emergency during the disaster response period. [See: 68 O.S. § 55005]

[Source: Added at 30 Ok Reg 1870, eff 7-11-13; Amended at 33 Ok Reg 1101, eff 8-25-16]

710:95-22-3. Requirement for contractors to provide proof of employer identification numbers

A contractor bidding on a public construction project shall, upon written request by an awarding public agency, provide proof of the employer identification numbers issued to the contractor by the Oklahoma Tax Commission, Oklahoma Employment Security Commission, the Internal Revenue Service and the Social Security Administration.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

710:95-22-4. Fines for violating contractor requirements

A contractor who fails to provide proof of employer identification numbers, upon written request, as provided in Section 710:95-22-3 or who performs work in this state as a resident or nonresident contractor without registering for employer identification numbers with the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Internal Revenue Service and the Social Security Administration, as required by Section 1701.1 of Title 68 of the Oklahoma Statutes, shall be subject to the following:

- (1) First violation, a fine in an amount not to exceed the lessor of 10% of the contractor's total bid or \$500.00.
- (2) Second violation, a fine in an amount not to exceed the lessor of 10% of the contractor's total bid or \$1,000.00.
- (3) Third and subsequent violations, a fine in an amount not to exceed ten percent (10%) of the contractor's total bid.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

710:95-22-5. Complaints

(a) **Complaints.** Complaints of awarding public agencies that a contractor, upon written request, failed to provide the information as required by *OAC* 710:95-22-3 along with complaints that contractors are performing work in this state without

properly registering for employer identification numbers with the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Internal Revenue Service and the Social Security Administration should be forwarded to the Business Tax Services Division, Oklahoma Tax Commission.

(b) **Complaint review.** Business Tax Services Division will review the complaint and investigate whether the contractor, about which the complaint was made, is properly registered with the agencies referenced in subsection (a) of this Section.

(c) **Determination of improper registration.** Upon a determination by the Business Tax Services Division that a contractor is not properly registered with some or all of the required agencies, the Business Tax Services Division will provide a written advisement of the determination to the Audit Services Division along with a copy of the Complaint.

(d) **Fine imposition.** Upon receipt of the advisement, the Audit Services Division shall impose a fine in writing in accordance with *OAC 710:95-22-4*. The Fine Notification will be sent by the U.S. Postal Service to the contractor's address provided on the awarding agency's complaint or to the address of the contractor available to the Tax Commission.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13; Amended at 38 Ok Reg 1578, eff 9-1-21]

710:95-22-6. Fine for misclassification of employees

A contractor who intentionally misclassifies employees as independent contractors with intent to affect procedures and payments related to withholding and social security, unemployment tax or worker's compensation shall be fined in an amount not to exceed 10% of the contractor's total bid.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13]

710:95-22-7. Fine referral, imposition and notification

(a) **Fine referrals.** Referrals for imposition of the fine provided in *OAC 710:95-22-6* may be made by the Oklahoma Employment Security Commission, Labor Department, or Compsource after an investigation and determination by the referring agency that a contractor has intentionally misclassified its employees. The referral along with all documentation supporting the referring agency's determination should be submitted to the Audit Services Division.

(b) **Fine imposition.** Upon receipt and review of the referral and supporting documentation the Audit Services Division shall impose the fine in accordance with *710:95-22-6*. The Audit Services Division shall also impose the fine provided in *710:95-22-6* when determining upon its audit or investigation that a contractor has intentionally misclassified employees with intent to affect procedures and tax payments.

(c) **Fine Notification.** Fine Notifications will be sent by the U.S. Postal Service to the contractor's address provided on the agency's referrals or to the address of the contractor available to the Tax Commission.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13; Amended at 38 Ok Reg 1578, eff 9-1-21]

710:95-22-8. Fine review procedures

(a) **Review request.** A contractor who disagrees with a fine imposed pursuant to *710:95-22-4* and *710:95-22-6* may request within thirty (30) days of mailing of the Fine Notification that the fine be reviewed by the Audit Services Division.

(b) **Contents of request.** The request must be in writing, submitted to the Audit Services Division at P.O. Box 269062, Oklahoma City, OK 73126-9062, and state

the basis for the contractor's belief that the fine is issued in error. Documentation supporting the contractor's statement must accompany the request.

(c) **Conditions of fine withdrawal.** The fine(s) will be withdrawn under the stated circumstances:

(1) The Audit Services Division determines that the fine(s) was issued in error.

(2) The Audit Services Division finds that the contractor subsequent to the imposition of the fine provided for in 710:95-22-4 obtained the required employer identification numbers.

(d) **Contents of notification when fine not withdrawn.** If the Audit Services Division does not agree that the fine should be withdrawn, the contractor shall be so notified in writing by the Audit Services Division. The notification shall prominently state that if the contractor disagrees with the Audit Services Division's final determination, the contractor must file, within thirty (30) days of mailing of the notification, a protest with the General Counsel's Office of the Oklahoma Tax Commission at 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma 73102-.

(e) **Protests.** Upon receipt, the General Counsel's Office shall forward the protest to the Office of the Administrative Law Judge to be set for hearing.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13; Amended at 38 Ok Reg 1578, eff 9-1-21]

710:95-22-9. Hearing procedures governing fine protests

(a) **Hearing notice.** A notice shall be issued to the contractor requiring him to appear before an Administrative Law Judge to show that the fine was issued in error. At least fifteen (15) days' notice of the hearing shall be given the parties. The notice shall contain a date, time certain and location for the hearing.

(b) **Show cause hearing.** The contractor may represent himself or be represented by an attorney, accountant, enrolled agent, or a representative approved by the Commission. Evidence and testimony of witnesses may be presented at the hearing and a record will be made in accordance with the Rules of Practice and Procedure before the Office of the Administrative Law Judges in 710:1-5-21 through 710:1-5-49.

(c) **Findings, conclusions and recommendations.** Following the hearing, the Administrative Law Judge will issue Findings, Conclusions and Recommendations. For options available to the parties after action of the Administrative Law Judge, refer to OAC 710:1-5-40.

(d) **Commission order.** Following the issuance of the Findings by the Administrative Law Judge, the Commissioners may either adopt or modify in whole or in part the Finding of the ALJ.

(e) **Appeal.** Once the Order of the Commission is issued, the contractor has thirty (30) days from mailing of the order within which to file an appeal with the Oklahoma Supreme Court.

[Source: Added at 30 Ok Reg 1870, eff 7-11-13; Amended at 32 Ok Reg 1411, eff 8-27-15]