

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 40. FRANCHISE TAX**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 40. Franchise Tax [AMENDED]

SUMMARY:

Section 710:40-1-6 has been amended to implement the provisions of House Bill 1039X (2023) which eliminates the Oklahoma franchise tax levied under 68 O.S. §§ 1203 and 1204, effective for tax year 2024 and subsequent tax years.

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and ensure accurate internal cross-references.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203

COMMENT PERIOD:

Persons wishing to present their views in writing may do so by 4:30 p.m., January 17, 2024, at the following address: Oklahoma Tax Commission, Tax Policy and Research Division, Oklahoma City, Oklahoma 73194, Attention: Lisa Haws, or by email to lhaws@tax.ok.gov.

PUBLIC HEARING:

A public hearing is scheduled for 1:00 p.m., on Wednesday, January 17, 2024, at the Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date by calling Lakesha Mackie at (405) 521-3133. Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

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

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Lisa R. Haws, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194: Telephone number: 405-521-3133; Email: lhaws@tax.ok.gov

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 40. FRANCHISE TAX**

710:40-1-6. Accounting and reporting; suspension and reinstatement

(a) **General provisions.** For tax year 2023 and previous tax years, a franchise tax is levied upon every corporation, association, joint-stock company and business trust organized under the laws of Oklahoma, or organized and existing by virtue of the laws of some other state, territory or country, doing business in Oklahoma,

(b) **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)~~ (c) **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)~~ (d) **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)~~ (e) **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)~~ (f) **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) (g) **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) (h) **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)~~ (i) **Parent-subsidary corporate relationships.** In the case of parent-subsidary 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)~~ (j) **Consolidated Oklahoma income tax returns.** When a consolidated Oklahoma income tax return has been filed for the parent/subsidary 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.

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 40. FRANCHISE TAX**

RULE IMPACT STATEMENT

Pursuant to 75 O.S. §303(D), the Oklahoma Tax Commission provides the following rule impact statement with regard to proposed rule changes to Chapter 40 of Title 710 of the Oklahoma Administrative Code.

DESCRIPTION: Section 710:40-1-6 has been amended to implement the provisions of House Bill 1039X (2023) which eliminates the Oklahoma franchise tax levied under 68 O.S. §§ 1203 and 1204, effective for tax year 2024 and subsequent tax years.

CLASSES AFFECTED: Every corporation, association, joint-stock company and business trust organized under the laws of Oklahoma, or organized and existing by virtue of the laws of some other state, territory or country, doing business in Oklahoma, may be affected by this rulemaking action.

CLASSES BENEFITED: All taxpayers affected by this rulemaking action may benefit from this rulemaking action; it updates the Tax Commission's rules consistent with recent legislation.

PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS: There are no anticipated increase to costs associated with the proposed rule changes.

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

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

ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule changes at this time.

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

ALTERNATIVE METHODS AND COSTS OF COMPLIANCE: There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rules. No formalized compliance cost minimization measures have been pursued.

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

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

DATE PREPARED: November 27, 2023