TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 85. VARIOUS TAX INCENTIVES

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:
Chapter 85. Various Tax Incentives [AMENDED]

SUMMARY:
Section 710:85-7-3 has been amended to implement the provisions of Senate Bill 200 [2019] which increased the maximum amount of rebates eligible to be paid in any one fiscal year from $4 million to $8 million, and House Bill 2780 [2021] which clarifies that the amount of claims prequalified and approved by the Office of the Oklahoma Film and Music Commission must not exceed $8 million for any fiscal year. [68:3624]

Other sections may be amended to clarify policy, improve readability, correct scrivener’s errors, remove obsolete language, update or correct citations, update contact information, and ensure accurate internal cross-references.

AUTHORITY:
68 O.S. §203; Oklahoma Tax Commission

COMMENT PERIOD:
Persons wishing to present their views in writing may do so by 4:30 p.m., February 22, 2022, 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 1:30 p.m. on Wednesday, February 23, 2022, 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 http://www.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 http://www.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
CHAPTER 85. VARIOUS TAX INCENTIVES

SUBCHAPTER 7. OKLAHOMA FILM ENHANCEMENT REBATE PROGRAM

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 claims prequalified and approved by the Office for any single fiscal year shall not exceed Four Eight 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.
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 85 of Title 710 of the Oklahoma Administrative Code.

**DESCRIPTION:** Section 710:85-7-3 has been amended to implement the provisions of Senate Bill 200 [2019] which increased the maximum amount of rebates eligible to be paid in any one fiscal year from $4 million to $8 million, and House Bill 2780 [2021] which clarifies that the amount of claims prequalified and approved by the Office of the Oklahoma Film and Music Commission must not exceed $8 million for any fiscal year.

**CLASSES AFFECTED:** The Office of the Oklahoma Film and Music Commission and production companies producing films, television productions, or television commercials in Oklahoma may be affected by proposed rule.

**PERSONS BENEFITED:** All classes affected will benefit from increased clarity of Oklahoma tax laws and Tax Commission procedures.

**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 change.

**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 rule 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 change 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 rule 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 this proposed rule. 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 rule 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 rule at this time.

DATE PREPARED: December 15, 2021