

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND
ADMINISTRATIVE AUTHORITY**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 95. Miscellaneous Areas of Regulatory and Administrative Authority
[AMENDED]

SUMMARY:

Sections 710:95-4-2, 710:95-4-3 and 710:95-4-4 have been amended to implement the provisions of SB 355 [2021], effective November 1, 2021, relating to the application of the 6% vehicle rental tax [68 O.S. § 2110] to certain peer-to-peer car sharing agreements. [47:1050 et seq]

Sections 710:95-21-2, 710:95-21-4, 710:95-21-6, 710:95-21-8 and 710:95-21-9 have been amended consistent with the revisions to the Quality Events Incentive Act regarding certain filing deadlines and documentation requirements enacted pursuant to HB 1121 [2021], effective April 19, 2021. [68:4303, 4304, 4305]

The proposed amendment to Section 710:95-22-8, along with other sections may be amended, is 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, 2110, and 4309; 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 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

SUBCHAPTER 4. RENTAL TAX ON MOTOR VEHICLE RENTALS

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.

"Applicable taxes" means, with respect to shared vehicles purchased in Oklahoma, motor vehicle excise taxes levied under Section 2103 of this title and sales taxes levied under Sections 1354 and 1355 of this title. With respect to vehicles not purchased in Oklahoma, applicable taxes refers to the sales, use, excise or other tax generally due upon the purchase of a motor vehicle in the jurisdiction in which the shared vehicle was purchased.

"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.

"Peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. A peer-to-peer car sharing program is not engaged in "renting motor vehicles without a driver" in Oklahoma within the meaning of Section 2110 of Title 68 of the Oklahoma Statutes, except as specifically provided in that section. A peer-to-peer car sharing program is not "engaged in the business of renting motor vehicles without drivers" under the provisions of Section 8-101 of Title 47 of the Oklahoma Statutes. A peer-to-peer car sharing program is not a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for the use of a shared vehicle. A peer-to-peer car sharing program shall not be considered a transportation network company as defined in Section 1011 of Title 47 of the Oklahoma Statutes.

"Peer-to-peer car sharing program agreement" means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. A peer-to-peer car sharing program agreement is not a rental agreement within the meaning of Section 2110 of Title 68 of the Oklahoma Statutes, except as specifically provided in that section. A peer-to-peer car sharing program agreement is not an agreement to rent a motor vehicle without a driver under the provisions of Section 8-101 of Title 47 of the Oklahoma Statutes.

"Rental agreement" means an agreement of ninety (90) days or less duration on any motor vehicle that is rented to a person by a business engaged in renting motor vehicles without drivers in this state and includes those peer-to-peer car sharing agreements only involving shared vehicles for which the shared vehicle owner has not paid the applicable taxes upon

purchase of the shared vehicle.

"Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program. A shared vehicle is not a "motor vehicle that is rented" within the meaning of Section 2110 of Title 68 of the Oklahoma Statutes, except as specifically provided in that section. A shared vehicle is not a "motor vehicle engaged in the business of renting a motor vehicle without a driver" as described pursuant to Section 8-101 of Title 47 of the Oklahoma Statutes.

"Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

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.

(4) Any shared vehicle upon the purchase of which applicable taxes were paid.

(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.

710:95-4-4. Collection, reporting, remittance of the tax; interest and penalties

(a) The tax is to be collected by the rental business or peer-to-peer car sharing program 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.

SUBCHAPTER 21. QUALITY EVENTS

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.

"Economic impact study" means a study, which includes:

(A) A description and, if applicable, history of the quality event.

(B) Information regarding the site selection process for the quality event.

(C) An estimate of the expenses anticipated to be incurred in connection with hosting the quality event.

(D) An estimate of the total gross sales made by vendors during any period of time during which no quality event activity occurs.

(E) A detailed estimate of the anticipated increase in sales tax revenue directly attributable to the quality event.

(F) The general economic impact likely to occur as a result of the preparation for, occurrence of and activity occurring in connection with the dissolution of, a quality event.

"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 an economic impact study verified 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 an economic impact study verified 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 an economic impact study 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.

710:95-21-4. Quality event approval and application requirements

(a) **Application for approval.** Within ~~thirty (30)~~ sixty (60) days of the adoption date of the ordinance or resolution designating a quality event, which must

be adopted not later than ~~six (6) months~~ thirty (30) days 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~~ 73194. 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) **Economic impact study.** The economic study must include the following information:

(A) A description and, if applicable, history of the quality event.

(B) Information regarding the site selection process for the quality event.

(C) An estimate of the expenses anticipated to be incurred in connection with hosting the quality event which specifically categorizes the type of expenses, such as advertising, anticipated to be incurred along with the estimated costs associated therewith.

(D) An estimate of the total gross sales made by vendors during any period of time during which no quality event activity occurs.

(E) A detailed estimate of the anticipated increase in sales tax revenue directly attributable to the quality event.

(F) The general economic impact likely to occur as a result of the preparation for, occurrence of and activity occurring in connection with the dissolution of, a quality event.

(3) **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.

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 at Oklahoma Tax Commission, at 123 Robert S. Kerr Ave,~~ Oklahoma City, Oklahoma ~~73102~~ 73194, 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.

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~~ economic impact study, which was collected as a result of the event.

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~~ through the economic impact study. 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.

SUBCHAPTER 22. REGISTRATION REQUIREMENTS FOR RESIDENT AND NONRESIDENT CONTRACTORS

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~~ 73194, 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~~ at Oklahoma Tax Commission ~~at 123 Robert S. Kerr Ave,~~ Oklahoma City, Oklahoma ~~73102-7801~~ 73194.

(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.

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND
ADMINISTRATIVE AUTHORITY**

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 95 of Title 710 of the Oklahoma Administrative Code.

DESCRIPTION: Sections 710:95-4-2, 710:95-4-3 and 710:95-4-4 have been amended to implement the provisions of SB 355 [2021], effective November 1, 2021, relating to the application of the 6% vehicle rental tax [68 O.S. § 2110] to certain peer-to-peer car sharing agreements.

Sections 710:95-21-2, 710:95-21-4, 710:95-21-6, 710:95-21-8 and 710:95-21-9 have been amended consistent with the revisions to the Quality Events Incentive Act regarding certain filing deadlines and documentation requirements enacted pursuant to HB 1121 [2021], effective April 19, 2021.

The proposed amendment to Section 710:95-22-8 is to update contact information.

CLASSES AFFECTED: All taxpayers may be affected by the proposed changes.

PERSONS BENEFITED: All taxpayers will benefit from increased clarity of Oklahoma tax laws and accurate contact information.

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: December 15, 2021