



Oklahoma Tax Commission 2015 Proposed Administrative Rule Changes

January 29, 2015

The Oklahoma Tax Commission has published proposed changes to the administrative rules with respect to Oklahoma taxes ("OTC Rules") for 2015.

The OTC Rules are formal statements of policy written by the Tax Commission as a state agency which have the effect of law. The Oklahoma Legislature enacts tax laws and responsibility for implementing those laws is with the Tax Commission. The OTC Rules are important for taxpayers because the Tax Commission considers them prima facie evidence of a proper interpretation of the law and presumed to be valid until declared otherwise by a court of competent jurisdiction.

Any interested person may submit written comments on the 2015 OTC Rules to the Tax Commission during the comment period which is through February 20, 2015, 4:30 p.m. Comments may be sent to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194. Fax: 405-522-0063. All comments must be considered by the Tax Commission. A Tax Commission hearing will be held on each proposed OTC Rules change on February 23, 2015. Proposed OTC Rules changes must be approved by the Oklahoma Legislature before being finally adopted by the Tax Commission.

Complete text of the 2015 OTC Rules changes is online at: www.tax.ok.gov/rulesdec.

Some of the 2015 proposed OTC Rules changes are described in this summary. There are other OTC Rules changes in the full text published online by the Tax Commission.

If you have questions, please contact any attorney you know at Gable Gotwals or Sheppard F. Miers, Jr., smiers@gablelaw.com, 918-595-4834.

Administrative Procedure

Title 710, Chapter 1, Oklahoma Administrative Code

- **Appeals to District Court** - OTC Rules on appeals from a final order of the Tax Commission that assesses a tax or denies of claim for refund, would be amended. The proposed rule change

describes a taxpayer's right to file for trial *de novo* in district court after a Tax Commission decision under the Oklahoma tax procedure code amendment enacted in 2013.

- **Rules of Practice and Procedure Designation** - OTC Rules would be amended to provide that the formal Rules of Practice and Procedure, particularly with respect to protests of tax assessments and protests of denials of claims for refunds of taxes paid are to be designated and referred to as the "*Rules of Practice and Procedure before the Office of the Administrative Law Judges.*"
- **Social Security Number Protection** - OTC Rules amendments are proposed providing for the taxpayer identification number of a taxpayer to be used in Tax Commission proceedings rather than the taxpayer's social security number.

Comment Period: Through February 20, 2015, 4:30 p.m.
Public Hearing Date: February 23, 2015, 9:00 a.m.

Income Tax **Title 710, Chapter 50, Oklahoma Administrative Code**

- **Scholarship and Educational Improvement Granting Organization Contribution Credits** - OTC Rules applicable to the Oklahoma income tax credit allowed for contributions to scholarship-granting organizations and educational improvement grant organizations would be amended to reflect recent legislation on the amount of the credit allowed.
- **Aerospace Sector Credits** - OTC Rules on the income tax credit allowed for qualified employers and employees of the aerospace sector are to be amended on extending the sunset date of the credit and for the amended definition of a "qualified employee."
- **Social Security Number Protection** - OTC Rules on payment of income tax would be amended to reflect a change in Tax Commission policy, and that taxpayers would no longer be required to include their social security number on the check or other payment instrument.

Comment Period: Through February 20, 2015, 4:30 p.m.
Public Hearing Date: February 23, 2015, 9:00 a.m.

Withholding Tax **Title 710, Chapter 90, Oklahoma Administrative Code**

- **Withholding Tax Reporting** - OTC Rules on withholding tax are proposed to be amended to reflect a change in the Oklahoma statutes regarding withholding tax remitter reporting requirements.
- **Late Payment Penalty** - OTC Rules on withholding tax are proposed to be amended regarding the 10% late payment penalty for wage, royalty and pass-through entity withholding, to

provide for penalty if a failure to pay is not corrected within fifteen (15) days after the tax becomes delinquent.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 9:00 a.m.

Sales and Use Tax

Title 710, Chapter 65, Oklahoma Administrative Code

- **Personal Liability for Failure to Collect and Remit Business Sales Tax** - The OTC Rules on state sales tax would be amended to reflect the 2014 change in law that can impose personal liability for a company's failure to report and remit sales tax on any person responsible for collection and remittance or who had direct control and responsibility for filing returns and making payments.
- **Sales Tax Reporting Allowed Without Social Security Number and Federal Employer ID Number** - The OTC Rules on sales tax are proposed to be amended to provide that the monthly sales tax report filed with the Tax Commission would require a vendor's social security number or federal employer identification number only when the vendor's Oklahoma sales tax permit number is not provided.
- **Seller's Relief for Relying on Erroneous Data** - The OTC Rules on sales tax would be amended to provide relief from liability for any seller who charged and collected the incorrect amount of sales or use tax resulting from relying on erroneous data provided by the taxability matrix available online at the Tax Commission.
- **Hospital Sales Tax Prescription Drugs Exemption** - The OTC Rules on sales tax would be amended to remove the requirement that hospitals possess a sales tax permit in order to purchase prescription drugs for patient treatment exempt from sales tax.
- **Gold, Silver, Precious Metals Expanded Exemption** - OTC Rules on sales tax would be amended to conform to the 2014 change in the Oklahoma sales tax code exemption for sales of gold, silver and other precious metals that removed a requirement that they be stored within a recognized depository facility.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 11:00 a.m.

Gross Production Tax

Title 710, Chapter 45, Oklahoma Administrative Code

- **Horizontally Drilled Production Wells Refund Rules** - OTC Rules on gross production tax would be amended to delete detailed reporting and filing requirements for rebates and refund procedures with respect to the horizontally drilled production well incentive.

- **Gross Production Tax Reporting** - OTC Rules on gross production tax would be amended to remove provisions requiring reporting for a zero gross amount, and other changes.

- **Non-Operating Interest Owner Registration** - OTC Rules on gross production tax would be amended to reflect OTC procedures of not requiring non-operating interest owners to register with the OTC.

- **Gross Production Tax Incentives "Sunset Date" Extensions** - OTC Rules on gross production tax would be amended to reflect the extension of the "sunset date" on tax incentives which are extended for deep well, new discovery and three-dimension seismic incentives to July 1, 2015; extended for enhanced recovery, inactive well and production enhancement incentives to July 1, 2020; and extended for economically-at-risk incentive to calendar year 2020; and providing limitation on claims for rebates as to specified periods, and related changes of the gross production tax enacted in 2014.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 9:00 a.m.

Ad Valorem Tax

Title 710, Chapter 10, Oklahoma Administrative Code

- **Valuation Increase Limit for Homestead Property and Agricultural Land** - The OTC Rules are proposed to be amended to conform to the 2012 amendment of the Oklahoma Constitution providing that the fair cash value of any locally assessed real property which is homestead property or agricultural land shall not increase by more than 3% in any taxable year.

- **Definition of "Improvement" for Tornado Damage Restoration** - OTC Rules on ad valorem tax would be amended to implement the 2014 changes in the Ad Valorem Tax Code with respect to the definition of "improvement" to real property as it affects valuation for tax purposes and increases in assessment, in the case of property damaged by a tornado or natural disaster.

- **Disabled Veterans Exemption, Surviving Spouses Exemption** - OTC Rules on ad valorem tax would be amended to carry out the provisions of the 2014 amendment of the Oklahoma Constitution allowing transfer of the property tax exemption afforded to 100% disabled veterans or their surviving spouses under certain circumstances. The OTC Rules also would be amended to provide for requirements for the exemption allowed for un-remarried surviving spouses of persons who died in the line of military duty.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 12:30 p.m.

Franchise Tax

Title 710, Chapter 40, Oklahoma Administrative Code

- **Extension of Delinquency Date** - OTC Rules on Oklahoma franchise tax would be amended, extending the delinquency date for annual franchise tax returns from September 1 to September 15, pursuant to the change in the Franchise Tax Code enacted in 2014.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 10:00 a.m.

Motor Vehicles

Title 710, Chapter 60, Oklahoma Administrative Code

- **Motor Vehicle Tax and Registration Rules** - OTC Rules on motor vehicles would be amended by a number of changes, including implementation of a credit for registration fees and excise tax on replacing a vehicle destroyed by a tornado; rules on an agricultural exemption permit; all-terrain and recreation vehicles; Indian tribal government and special tribal license plates; and other policy and compliance issue amendments.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 2:00 p. m.

Alcohol, Mixed Beverages, Beer

Title 710, Chapter 20, Oklahoma Administrative Code

- **Public Event, Licensing and Compliance Requirements** - OTC Rules on alcohol, mixed beverages and beer would be amended to conform to 2014 legislation applying Tax Commission licensing, bonding and mixed beverage tax reporting and payment requirements of holders of public event licenses issued by the ABLE Commission along with acts prohibited by licensees. A "public event" under the amended law meaning any event that can be attended by the general public.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 12:30 p.m.

Tobacco, Tobacco Products, Cigarettes

Title 710, Chapter 70, Oklahoma Administrative Code

- **Sales Regulation** - OTC Rules on tobacco and cigarettes would be amended to conform to 2014 changes in the Cigarette Stamp Tax Code regulating sale and distribution of cigarettes by persons other than manufacturers, wholesalers or distributors as to mailing, shipping or

otherwise delivering cigarettes in Oklahoma other than to certain authorized purchasers and recipients.

- **Electronic Payment** - OTC Rules on tobacco and cigarettes would be amended to require the electronic payment of tobacco products excise tax.
- **Unity Rates Compact Sales** - OTC Rules with respect to cigarette and tobacco sales by federally recognized Indian tribes would be amended to reflect the new unity rates applicable to compacts signed after July 1, 2013.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 1:30 p.m.

Various Tax Incentives

Title 710, Chapter 85, Oklahoma Administrative Code

- **Oklahoma Film Rebate Program** - OTC Rules with respect to the Oklahoma Film Enhancement Rebate Program would be amended with respect to the verification that a film production company has filed or will file any Oklahoma tax return or tax document which may be required by law.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 1:30 p. m.

Miscellaneous Areas of Regulatory and Administrative Authority

Title 710, Chapter 95, Oklahoma Administrative Code

- **Quality Event Incentive Act** - OTC Rules with respect to sponsors of quality events and related economic impact studies would be amended to modify definitional provisions and application requirements.

Comment Period: Through February 20, 2015, 4:30 p.m.

Public Hearing Date: February 23, 2015, 11:00 a.m.

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