

**CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY**

**Subchapter**

1. Controlled Dangerous Substances Stamp Tax..... 710:95-1

3. Telecommunications for the Hearing-Impaired Surcharge ..... 710:95-3

4. Rental Tax on Motor Vehicle Rentals ..... 710:95-4

5. Used Tire Recycling ..... 710:95-5

6. Oklahoma Safe Playground Surfaces Program [REVOKED] ..... 710:95-6

7. Charity Games [REVOKED]..... 710:95-7

9. Professional Licensing Compliance Review ..... 710:95-9

11. State Employee Licensing Compliance Review ..... 710:95-11

13. Out-of-State Attorney Registration [REVOKED]..... 710:95-13

15. Wire Transmitter Fee ..... 710:95-15

17. Prepaid Wireless Fee..... 710:95-17

19. Business Activity Tax ..... 710:95-19

21. Quality Events ..... 710:95-21

22. Registration Requirements for Resident and Nonresident Contractors.....710:95-22

[**Authority:** 3A O.S.§ 422; 27A O.S.§ 2-11-401.6; 68 O.S. §§ 203, 238.1(G), 238.2(F), 450.4, 1709 and 4309]

[**Source:** Codified 12-30-91]

## CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

<b>SUBCHAPTER 1. CONTROLLED DANGEROUS SUBSTANCES STAMP TAX.....</b>	<b>1</b>
710:95-1-1. Purpose.....	1
710:95-1-2. Definitions [RESERVED] .....	1
710:95-1-3. Unavailability of stamps .....	1
710:95-1-4. Non-disclosure of information .....	1
710:95-1-5. Purchase of stamps .....	1
710:95-1-6. Refunds prohibited .....	1
710:95-1-7. Denominations of stamps .....	1
710:95-1-8. Determination of number and denomination of stamps needed.....	1
710:95-1-9. Assessment of taxes due.....	2
710:95-1-10. Affixing of Controlled Dangerous Substances Tax Stamps; usage limited .....	2
<b>SUBCHAPTER 3. TELECOMMUNICATION FOR THE HEARING-IMPAIRED SURCHARGE 2</b>	<b>2</b>
710:95-3-1. Purpose.....	2
710:95-3-2. Definitions [RESERVED] .....	2
710:95-3-3. Telecommunications for the hearing-impaired surcharge.....	2
<b>SUBCHAPTER 4. RENTAL TAX ON MOTOR VEHICLE RENTALS.....</b>	<b>3</b>
710:95-4-1. Purpose.....	3
710:95-4-2. Definitions .....	3
710:95-4-3. Applicability of the rental tax on motor vehicle rentals .....	3
710:95-4-4. Collection, reporting, remittance of the tax; interest and penalties.....	4
710:95-4-5. Recordkeeping .....	4
710:95-4-6. Examples and applications.....	4
<b>SUBCHAPTER 5. USED TIRE RECYCLING .....</b>	<b>5</b>
710:95-5-1. Purpose.....	5
710:95-5-2. Definitions .....	5
710:95-5-3. Used tire recycling fee .....	6
710:95-5-4. Oklahoma sales by mobile sellers .....	6
710:95-5-5. When fee does not apply [REVOKED] .....	7
710:95-5-6. Farm implement tires [REVOKED].....	7
710:95-5-7. Vendors without Oklahoma locations or inventory.....	7
710:95-5-8. Transactions to which the fee is inapplicable .....	7
710:95-5-9. Examples .....	7
710:95-5-10. Computation .....	8
710:95-5-11. Reporting and remitting.....	8
710:95-5-12. Voluntary payments by persons who desire used tires to be collected and transported .....	8
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] .....	9
710:95-5-14. Procedure to be used by businesses that utilize waste tires to request compensation [REVOKED].....	9

710:95-5-15. Review and determination of requests for compensation; protest procedure following denial of compensation request [REVOKED] .....	9
710:95-5-16. Required procedures for monthly certification to the Commission by DEQ [REVOKED].....	9
710:95-5-17. Documentation to be provided to the Commission [REVOKED].....	10
710:95-5-18. Transfers between tire dealers using reimbursement manifest [REVOKED].....	10
710:95-5-19. Compliance.....	10
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] .....	10
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].....	10
710:95-5-22. Apportionment of funds among claimants [REVOKED].....	10
<b>SUBCHAPTER 6. OKLAHOMA SAFE PLAYGROUND SURFACES PROGRAM [REVOKED]</b>	<b>10</b>
710:95-6-1. Purpose [REVOKED] .....	10
710:95-6-2. Definitions [REVOKED].....	10
710:95-6-3. Determination of the availability of matching funds [REVOKED].....	10
710:95-6-4. Procedure to be used by public schools or institutions and state parks or recreation areas to request compensation [REVOKED] .....	11
710:95-6-5. Review and determination of requests for reimbursement or payment [REVOKED].....	11
<b>SUBCHAPTER 7. CHARITY GAMES [REVOKED]</b> .....	<b>11</b>
<b>PART 1. GENERAL PROVISIONS [REVOKED]</b> .....	<b>11</b>
710:95-7-1. Purpose [REVOKED] .....	11
710:95-7-2. Definitions [REVOKED].....	11
710:95-7-3. Advertising of charity games [REVOKED] .....	11
710:95-7-4. Distributor or manufacturer exclusion [REVOKED] .....	11
710:95-7-5. Charity game equipment owned by an organization [REVOKED] .....	11
710:95-7-6. Co-ownership of charity game equipment [REVOKED].....	11
710:95-7-7. Rentals and leases of charity game equipment [REVOKED].....	12
710:95-7-8. Package deals and tying arrangements prohibited [REVOKED] .....	12
710:95-7-9. Use of vending machines prohibited [REVOKED] .....	12
710:95-7-10. Sale of nonconforming bingo faces [REVOKED].....	12
710:95-7-11. Equipment; inspection [REVOKED] .....	12
710:95-7-12. Location [REVOKED] .....	12
710:95-7-13. Admissions, concessions and other property subject to sales tax [REVOKED].....	12
710:95-7-14. Withholding from winnings [REVOKED].....	12
710:95-7-15. Organizations with employees required to withhold, report and remit Oklahoma income taxes [REVOKED].....	12
<b>PART 3. LICENSES [REVOKED]</b> .....	<b>13</b>
710:95-7-20. Organization license required to conduct charity games [REVOKED].....	13
710:95-7-21. Distributor license required [REVOKED].....	13

710:95-7-22. Organization licensees restricted to purchase/lease from licensed distributor [REVOKED] .....	13
710:95-7-23. Manufacturer license required [REVOKED] .....	13
710:95-7-24. Dual license holding restricted [REVOKED] .....	13
<b>PART 5. EXEMPTIONS [REVOKED]</b> .....	<b>13</b>
710:95-7-30. Limited exemption for organization to conduct charity game sessions not more than four (4) times per year [REVOKED] .....	13
710:95-7-31. Limited exemption for hospital, nursing home or convalescent facility to conduct charity games [REVOKED] .....	13
710:95-7-32. Charity games by the federal government and its instrumentalities; employee groups [REVOKED] .....	14
710:95-7-33. Children's games; games where no consideration is required to play; promotional games [REVOKED] .....	14
<b>PART 7. ACCOUNTING, RECORDKEEPING, REPORTING [REVOKED]</b> .....	<b>14</b>
710:95-7-40. Organization operations, accounts, and reports [REVOKED] .....	14
710:95-7-41. Distributor operations and reporting [REVOKED] .....	14
710:95-7-42. Manufacturer operations and reporting [REVOKED] .....	14
<b>PART 9. OPERATIONS OF CHARITY GAMES [REVOKED]</b> .....	<b>14</b>
710:95-7-50. Conduct of a bingo game or U-Pik-Em bingo game [REVOKED] .....	14
710:95-7-51. Conduct of breakopen ticket games [REVOKED] .....	14
<b>PART 11. ADMINISTRATIVE HEARINGS [REVOKED]</b> .....	<b>14</b>
710:95-7-100. Administrative rules and procedures for conducting hearings on protests, denials, suspensions or revocations [REVOKED] .....	15
<b>SUBCHAPTER 9. PROFESSIONAL LICENSING COMPLIANCE REVIEW</b> .....	<b>15</b>
710:95-9-1. Purpose .....	15
710:95-9-2. Definitions .....	15
710:95-9-3. General provisions .....	16
710:95-9-4. Procedure for review of status and notification to licensee .....	16
710:95-9-5. Procedure for notification of status to licensing entity .....	16
<b>SUBCHAPTER 11. STATE EMPLOYEES COMPLIANCE REVIEW</b> .....	<b>17</b>
710:95-11-1. Purpose .....	17
710:95-11-2. Definitions .....	17
710:95-11-3. General provisions .....	17
710:95-11-4. Procedure for review of status and notification to state employee .....	18
710:95-11-5. Procedure for notification of status to appointing authority .....	18
<b>SUBCHAPTER 13. OUT-OF-STATE ATTORNEY REGISTRATION [REVOKED]</b> .....	<b>19</b>
710:95-13-1. Out-of-state attorney registration [REVOKED] .....	19
<b>SUBCHAPTER 15. WIRE TRANSMITTER FEE</b> .....	<b>19</b>
710:95-15-1. Purpose .....	19
710:95-15-2. Definitions .....	19
710:95-15-3. Wire transmitter fee .....	20
710:95-15-4. Transactions to which the fee is not applicable .....	20
710:95-15-5. Compliance .....	21
710:95-15-6. Conflict of law .....	21
<b>SUBCHAPTER 17. PREPAID WIRELESS FEE</b> .....	<b>21</b>

710:95-17-1. Purpose.....	21
710:95-17-2. [RESERVED].....	21
710:95-17-3. Definitions .....	21
710:95-17-4. [RESERVED].....	22
710:95-17-5. Fees, reports, payments and penalties .....	22
710:95-17-6. [RESERVED].....	24
710:95-17-7. Due date that falls on Saturday, Sunday or holiday .....	24
710:95-17-8. [RESERVED].....	24
710:95-17-9. Contents of monthly prepaid wireless fee report.....	24
710:95-17-10. Record maintenance for wireless and VoIP service providers.....	24
710:95-17-11. Registrants must file a return for every reporting period.....	25
710:95-17-12. [RESERVED].....	25
710:95-17-13. Records required to document resale transactions.....	25
710:95-17-14. [RESERVED].....	25
710:95-17-15. Sourcing retail purchases of prepaid wireless telecommunications service .....	25
<b>SUBCHAPTER 19. BUSINESS ACTIVITY TAX [REVOKED] .....</b>	<b>26</b>
710:95-19-1. Purpose [REVOKED].....	26
710:95-19-2. Definitions [REVOKED].....	26
710:95-19-3. General provisions [REVOKED].....	26
710:95-19-4. Filing requirements [REVOKED] .....	26
710:95-19-5. Tax rate [REVOKED] .....	26
710:95-19-6. Tax credit [REVOKED] .....	26
710:95-19-7. Special provisions for combined / consolidated filers [REVOKED] .....	26
710:95-19-8. Apportionment [REVOKED].....	26
<b>SUBCHAPTER 21. QUALITY EVENTS .....</b>	<b>26</b>
710:95-21-1. Purpose .....	26
710:95-21-2. Definitions .....	27
710:95-21-3. Quality event requirements, limitations and eligibility.....	28
710:95-21-4. Quality event approval and application requirements .....	28
710:95-21-5. Tax Commission review and approval process.....	29
710:95-21-6. Determination of eligible local support amounts.....	29
710:95-21-7. Host community requirement to submit event related information .....	29
710:95-21-8. Verification of incremental state sales tax revenue .....	29
710:95-21-9. Manner of determining payment .....	29
710:95-21-10. Incentive payment limitations .....	30
710:95-21-11. Incentive payments to host communities.....	30
<b>SUBCHAPTER 22. REGISTRATION REQUIREMENTS FOR RESIDENT AND NONRESIDENT CONTRACTORS .....</b>	<b>30</b>
710:95-22-1. Definitions .....	30
710:95-22-2. Requirement for contractors to possess certain employer identification numbers.....	31
710:95-22-3. Requirement for contractors to provide proof of employer identification numbers.....	31
710:95-22-4. Fines for violating contractor requirements .....	31

**710:95-22-5. Complaints .....32**  
**710:95-22-6. Fine for misclassification of employees.....32**  
**710:95-22-7. Fine referral, imposition and notification .....32**  
**710:95-22-8. Fine review procedures .....33**  
**710:95-22-9. Hearing procedures governing fine protests.....33**

## **CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY**

### **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 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 20<sup>th</sup> 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 Taxpayer Assistance 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 Taxpayer Assistance 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 1871, eff 7-11-13]

#### **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 1871, 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 1871, 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 1871, 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 20<sup>th</sup> 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 20<sup>th</sup> 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 20<sup>th</sup> 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 1871, eff 7-11-13]

#### **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 1871, 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 1871, eff 7-11-13]

## SUBCHAPTER 5. USED TIRE RECYCLING

### 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 1468, 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:

"**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 1468, eff 6-25-12; Amended at 35 Ok Reg 2116, eff 9-14-18]

### **710:95-5-3. Used tire recycling fee**

(a) **Applicability and amount of the fee.** 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 9-6-2007; 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 1468, eff 6-25-12; Amended at 30 Ok Reg 1871, eff 7-11-13; Amended at 35 Ok Reg 2116, eff 9-14-18]

### **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, edd 6-1-11; Amended at 29 Ok Reg 1478, eff 6-25-12; Amended at 30 Ok Reg 1871. eff 7-11-13]

**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 (8) 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.

(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) First registration in Oklahoma of vehicles registered under the International Registration Plan.

(9) All-terrain vehicles.

(10) 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 1871, eff 7-11-13]

#### **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%)	<u>3.00</u>	(use applicable tax rate for your location)
	\$53.00	
Used Tire Fee	<u>1.00</u>	
Total Due	\$54.00	

#### **710:95-5-11. Reporting and remitting**

Tire sales must be reported and the fees remitted to the Oklahoma Tax Commission by the 20<sup>th</sup> 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: Added at 25 Ok Reg 92, eff 9-6-2007; 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]

**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 2875, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07]

**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 2875, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07]

**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]

**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]

**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]

**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]

**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: Added at 25 Ok Reg 92, eff 9-6-2007; 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 2876, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07]

**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 2877, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07]

**710:95-5-22. Apportionment of funds among claimants [REVOKED]**

[Source: Added at 23 Ok Reg 2877, eff 6-25-06; Revoked at 25 Ok Reg 92, eff 9-6-07]

**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]**

**PART 1. GENERAL PROVISIONS [REVOKED]**

**710:95-7-1. Purpose [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-4. Distributor or manufacturer exclusion [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-5. Charity game equipment owned by an organization [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-6. Co-ownership of charity game equipment [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-7. Rentals and leases of charity game equipment [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-8. Package deals and tying arrangements prohibited [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-9. Use of vending machines prohibited [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-10. Sale of nonconforming bingo faces [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-11. Equipment; inspection [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-12. Location [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-14. Withholding from winnings [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 1377, eff 3-25-93 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 8-10-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-21. Distributor license required [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-22. Organization licensees restricted to purchase/lease from licensed distributor [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-23. Manufacturer license required [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**710:95-7-24. Dual license holding restricted [REVOKED]**

[Source: Added at 10 Ok Reg 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (emergency); Revoked at 11 Ok Reg 3535, eff 6-26-94]

**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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency);

Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 563, eff 12-3-92 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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 (emergency); Added at 10 Ok Reg 681, eff 12-14-92 (emergency); Added at 10 Ok Reg 4123, eff 7-26-93; Revoked at 10 Ok Reg 4395, eff. 7-19-93 (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; Added at 19 Ok Reg 1511, eff 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; Added at 19 Ok Reg 1511, eff 5-25-02; Amended at 28 Ok Reg 971, eff 6-1-11]

**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; Added at 19 Ok Reg 1511, eff 5-25-02; Amended at 28 Ok Reg 971, eff 6-1-11]

**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; Added at 19 Ok Reg 1511, eff 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; Added at 19 Ok Reg 1511, eff 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]

### 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]

#### **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]

#### **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: Revoked at 23 Ok Reg 2879, 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]**

#### **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]**

#### **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 20<sup>th</sup> 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](http://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 20<sup>th</sup> day of each month. Remittances covering the 9-1-1 wireless telephone fees must accompany the return. Form 20013-A is available telephonically at (405) 521-3160 or online at [www.tax.ok.gov](http://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]****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]

**710:95-17-8. [RESERVED]****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: 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]****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]

**710:95-17-14. [RESERVED]****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 2501 Lincoln Blvd., Oklahoma City, Oklahoma 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) **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.*

(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]

#### **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]

#### **710:95-21-6. 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 2501 N. Lincoln Blvd, Oklahoma City, Oklahoma 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.

[Source: Added at 29 Ok Reg 1478, eff 6-25-12]

#### **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 1871, 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 1871, 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 1871, 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 lesser of 10% of the contractor's total

bid or \$500.00.

(2) Second violation, a fine in an amount not to exceed the lesser 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 1871, 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 Taxpayer Assistance Division, Oklahoma Tax Commission.

(b) **Complaint review.** Taxpayer Assistance 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 Taxpayer Assistance Division that a contractor is not properly registered with some or all of the required agencies, the Taxpayer Assistance Division will provide a written advisement of the determination to the Compliance Division along with a copy of the Complaint.

(d) **Fine imposition.** Upon receipt of the advisement, the Compliance 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 1871, eff 7-11-13]

#### **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 1871, 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 Compliance Division.

(b) **Fine imposition.** Upon receipt and review of the referral and supporting documentation the Compliance Division shall impose the fine in accordance with 710:95-22-6. The Compliance 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 1871, eff 7-11-13]

#### **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 Compliance Division.

(b) **Contents of request.** The request must be in writing, submitted to the Compliance 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 Compliance Division determines that the fine(s) was issued in error.

(2) The Compliance 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 Compliance Division does not agree that the fine should be withdrawn, the contractor shall be so notified in writing by the Compliance Division. The notification shall prominently state that if the contractor disagrees with the Compliance Division's final determination, the contractor must file, within 30 days of mailing of the notification, a protest with the General Counsel's Office of the Oklahoma Tax Commission at 120 North Robinson, Suite 2000W, Oklahoma City, Oklahoma 73102-7801.

(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 1871, eff 7-11-13]

#### **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 1871, eff 7-11-13]