

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

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

710:40-1-6 [AMENDED]

AUTHORITY:

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

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n/a

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Section 710:40-1-6 has been amended due to the expiration of the moratorium on the franchise tax for July 1, 2010 through July 1, 2013, pursuant to the provisions of SJR 61 (2010). [68:1212.1]

CONTACT PERSON:

Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Ok 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:

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

(a) ~~**Due date.** Effective September 1, 1998, and for all subsequent franchise tax years, taxpayers have an option to select their next Income Tax year end as the due date for payment and filing of their Franchise Tax Return. If this optional due date is not selected in writing, at the time the 1998-~~

~~99 Franchise Tax Return is filed, it will be assumed that the option is not being exercised, and the due date for filing the annual Franchise Tax Return will remain July 1, of 1999. An optional due date may be selected for subsequent years if done so in writing at the time of filing of the taxpayer's Franchise Tax Return, due on July 1.~~

~~(b) — **No short period return generally required.** A corporation which has exercised its option to select its Income Tax year end date as the due date for payment and filing of its Franchise Tax Return shall not be required to file a Franchise Tax Return for the first year after the option is exercised on a date earlier than the Franchise Tax Return would have been due, had the option not been exercised.~~

~~(c) — **Examples.**~~

~~(1) A calendar-year taxpayer, Corporation A, uses its Income Tax year end date of December 31, for franchise tax purposes. Corporation A files and pays its franchise tax on July 1, 1998. Taxpayer's next Franchise Tax Return would be due on December 31, 1999.~~

~~(2) Corporation B uses its Income Tax year end date of May 31, for franchise tax purposes. Corporation B files and pays franchise tax on July 1, 1998. Corporation B's next Franchise Tax Return would be due on May 31, 2000.~~

~~(d) — **When short period return is required.** When a corporation has exercised the option to select its income tax year ending date as the due date for the payment and filing of its Franchise Tax Return, and subsequently requests to revert back to the July 1 due date, a Short Period Return will be required. The Short Period Return will be for the period from the ending date of its income tax year through the following June 30.~~

~~(e) — **Examples of use of Short Period Returns.**~~

~~(1) Corporation A used its income tax year ending date of December 31, 2001, for Franchise Tax purposes and filed and paid its Franchise Tax on March 15, 2002. Corporation A later requested reversion to the July 1 due date. Corporation A's **Short Period Return**, for the period January 1, 2003 through June 30, 2003, will be due on March 15, 2003. Beginning July 1, 2003, Corporation A will file its Franchise Tax Returns on July 1.~~

~~(2) Corporation B used its income tax year ending date of March 31, 2002, for Franchise Tax purposes and filed and paid its Franchise Tax on June 15, 2002. Corporation B later requested reversion to the July 1 due date. Corporation B's **Short Period Return**, for the period April 1, 2003 through June 30, 2003, will be due on June 15, 2003. Beginning July 1, 2003, Corporation B will file its Franchise Tax Returns on July 1.~~

Filing. On or before July 1, 2014, each corporation, regardless of its prior filing status, must file either a franchise tax return or an election to use the corporation's income tax return due date as the due date for payment and filing of the corporation's franchise tax return.

(b) **Franchise tax returns due July 1, 2014.** A corporation filing its franchise tax return on July 1, 2014 shall use the corporation's 2013 income tax year balance sheet in preparing the return, regardless of whether the corporation is a calendar year filer or has an income tax year end other than December 31.

(c) **Franchise tax returns due on income tax year end.** A corporation who elects on July 1, 2014 to use its income tax return due date for payment and filing of the corporation's franchise tax return shall use the corporation's 2013 income tax year balance sheet in preparing the return. The franchise tax return is due the fifteenth (15th) day of the third month following the close of the corporation's 2013 tax year; however, if the due date for the filing of the corporation's 2013 income tax return is prior to July 1, 2014, the due date for the filing of its franchise tax return shall be July 1, 2014.

(d) **Franchise tax returns due in subsequent years.** Franchise tax returns due July 1, 2015 or, pursuant to an election to use the corporation's income tax year end in 2015 shall use the

corporation's 2014 income tax year balance sheet in preparing the corporation's franchise tax return.

~~(f)~~ **(e) Good standing certificates.** A corporation shall be issued a good standing certificate (required for filings with the Secretary of State) during the period following the date on which the corporation's ~~Franchise Tax Return~~ franchise tax return is due until the date the corporation's ~~Franchise Tax Return~~ franchise tax return is delinquent.

~~(g)~~ **(f) Delinquency date.** The date on which the annual ~~Franchise Tax Return~~ franchise tax return and payment is considered to be delinquent is:

(1) For franchise tax ~~years beginning before July 1, 1999, the Franchise Tax Return and payment returns due July 1, the return~~ is delinquent if not filed and paid on or before the next ~~August 31~~ September 1.

(2) For franchise tax ~~years beginning on or after July 1, 1999, for those taxpayers who have not elected to file franchise tax returns and pay franchise tax on their corporate income tax due date, the franchise tax return and payment is delinquent if not filed and paid on or before the next August 31.~~

(3) For ~~franchise tax years beginning on or after July 1, 1999, for taxpayers who have elected to file and pay franchise tax on their next corporate income tax year due date, the franchise tax will be delinquent if not paid by~~ Except as provided in (c) of this Section, corporations who have elected to file franchise tax returns and pay franchise tax on their corporate income tax due date, the return is delinquent if not filed and paid on or before the fifteenth (15th) day of the third month following the close of the corporate income tax year. However, if the corporate income tax return due date has been extended, the Franchise Tax Due Date franchise tax due date shall also be extended. This extension of the due date for filing the return will not serve to extend the date on which the payment of the tax is due.

~~(h)~~ **(g) Suspension and reinstatement.** [See: 68 O.S. § 1212] The Order issued by the Tax Commission reinstating or reviving the charter or other instrument of organization of a previously suspended organization shall state the effective date of the reinstatement or revival. The effective date shall be the date on or by which, as determined by the Commission, the corporation, association, or organization met all requirements for reinstatement, including:

(1) Payment of tax;

(2) Filing of returns;

(3) Filing of officer lists, and

(4) Meeting other requirements as determined by the Commission under applicable law.

~~(i)~~ **(h) Parent-subsidiary corporate relationships.** In the case of parent-subsidiary corporate relationships, both the parent corporation and any subsidiary corporations shall use the same accounting method as was employed for the last Oklahoma ~~Income Tax Return~~ income tax return.

~~(j)~~ **(i) Consolidated Oklahoma Income Tax Returns** income tax returns. When a ~~Consolidated~~ consolidated Oklahoma ~~Income Tax Return~~ income tax return has been filed for the parent/subsidiary corporate group, all subsidiary corporations shall file Oklahoma ~~Franchise Tax Returns~~ franchise tax returns based upon the method of accounting used by each subsidiary, provided that any undistributed income which is reported on the subsidiary corporation's Oklahoma ~~Franchise Tax Return~~ franchise tax return may be eliminated from the computation on the parent's Oklahoma ~~Franchise Tax Returns~~ franchise tax returns.