

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

710:40-1-6 [AMENDED]

SUMMARY:

Section 710:40-1-6 has been amended, extending the delinquency date from September 1 to September 15, pursuant to the provisions of SB 341 [2014]. [68:12108]

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and insure accurate internal cross-references.

AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by **4:30 p.m., February 20, 2015**, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, date and place of the hearing are as follows: **February 23, 2015, 10:00 a.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Emmily Hood at (405) 521-3133.

In order to facilitate entry into the building, those wishing to appear should contact Emmily Hood at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action has been determined to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.tax.ok.gov.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after

January 30, 2015, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@tax.ok.gov

CHAPTER 40. FRANCHISE TAX

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

- (a) **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.
- (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 is due until the date the corporation's franchise tax return is delinquent.
- (f) **Delinquency date.** The date on which the annual franchise tax return and payment is considered to be delinquent is:
- (1) For franchise tax returns due July 1, the return is delinquent if not filed and paid on or before the next September 15.
 - (2) 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 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.
- (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.
- (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.

(i) **Consolidated Oklahoma income tax returns.** When a consolidated Oklahoma income tax return has been filed for the parent/subsidiary corporate group, all subsidiary corporations shall file Oklahoma 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 may be eliminated from the computation on the parent's Oklahoma franchise tax returns.

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 40 Franchise Tax

RULE IMPACT STATEMENT: This statement is provided in conjunction with the following rulemaking action(s):

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

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to extend the delinquency date from September 1 to September 15, pursuant to the provisions of SB 341 [2014].
- (b.) **Classes Affected:** All franchise tax filers.
- (c.) **Persons Benefited:** All franchise tax filers.
- (d.) **Probable Economic Impact:**
1. **On Affected Classes:** No economic impact based on this rule change is anticipated
 2. **On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 3. **Fees:** The rulemaking action does not levy, implement, or increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on or need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment—either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Lisa Haws **Phone Number:** 522-3133