

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 70. TOBACCO, TOBACCO PRODUCTS, AND CIGARETTES**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Subchapter 2. Cigarette Stamp Tax

Part 3. Delivery Sales

710:70-2-50 [AMENDED]

710:70-2-51 [AMENDED]

710:70-2-52 [REVOKED]

Subchapter 5. Excise on Tobacco Products

710:70-5-3 [AMENDED]

Subchapter 7. Cigarette and Tobacco Products Sales by Federally Recognized Indian Tribes and Nations

710:70-7-8 [AMENDED]

710:70-7-9 [AMENDED]

710:70-7-10 [AMENDED]

Subchapter 9. Reporting required by the Prevention of Youth Access to Tobacco Act and the Master Settlement Agreement Complementary Act

710:70-9-4 [AMENDED]

710:70-9-5 [NEW]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to implement recent legislation. All legislative references are to the 54th Legislature, 2nd Regular Session (2014).

Sections **710:70-2-50**, **710:70-2-51** have been amended to reflect the provisions of Section 2 of House Bill 2361 [2014] which enacted a new section of law to be added to the Cigarette Stamp Tax Code regulating the sale and distribution of cigarettes from mailing, shipping or otherwise delivering cigarettes to any person in this state. [68:317.9]

Section **710:70-2-52** has been revoked consistent with Section 4 of House Bill 2361 [2014] which repealed Sections 317.2, 317.3, 317.4, 317.5, 317.6 and 317.7 of Title 68 relating to delivery sales of cigarettes.

Section **710:70-5-3** has been amended to require the electronic payment of tobacco products excise tax in order to facilitate the timely payment, allocation and apportionment of the tobacco tax revenues.

Sections **710:70-7-8** and **710:70-7-9** have been amended to strike obsolete tax rates and provide for the new unity cigarette and tobacco products tax rates applicable to compacts signed after July 1, 2013.

Section **710:70-7-10** has been amended, changing *Rules of Practice and Procedure before the Oklahoma Tax Commission* to *Rules of Practice and Procedure before the Office of the Administrative Law Judges* and also updating the internal cross-references.

Section **710:70-9-4** has been amended to implement the provision of Section 1 of House Bill 2363 [2014] which provides additional conditions upon which a nonparticipating manufacturer and its brands may be removed or excluded from the Oklahoma Directory of Certified Tobacco Manufacturers and Brands by the Attorney General. [68:360.9]

New Section **710:70-9-5** has been adopted in accordance with Section 2 of House Bill 2363 [2014] which requires wholesalers and distributors to report to the Attorney General and Tax

Commission information relating to sales to retailers and wholesalers of cigarettes and roll-your own tobacco. [68:360.10]

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

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. §§ 203 & 403.1

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 Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. 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

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 is as follows: **February 23, 2015 at 1:30 p.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. 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 complete.

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 is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity 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 reviewed 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 Haws, Liaison; Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@tax.ok.gov

CHAPTER 70. TOBACCO, TOBACCO PRODUCTS, AND CIGARETTES

SUBCHAPTER 2. CIGARETTE STAMP TAX

PART 3. DELIVERY SALES

~~710:70-2-50. Filing requirements for persons making "delivery sales of cigarettes"~~

Definitions

~~(a) General.~~ Before delivering any cigarettes to purchasers, every person making delivery sales into Oklahoma, or mailing, shipping, or otherwise delivering cigarettes in connection with any such sales, must provide to the Oklahoma Tax Commission a written statement containing the following information:

- ~~(1) The name of the seller;~~
- ~~(2) The trade name of the seller;~~
- ~~(3) The address of the principal place of business of the seller; and,~~
- ~~(4) The address of any other place of business of the seller. [68 O.S. § 317.5(A)]~~

~~(b) Monthly report of delivery sales required.~~ No later than the twentieth day of each calendar month, each person who has made a delivery sale, or mailed, shipped, or otherwise delivered cigarettes in connection with any such sale during the previous month, must make a memorandum report to the Oklahoma Tax Commission of the following information:

- ~~(1) The name of the purchaser;~~
- ~~(2) The brands of cigarettes sold; and,~~
- ~~(3) The quantity of cigarettes sold. [68 O.S. § 317.5(B)]~~

~~(c) Alternative method of compliance with reporting requirement.~~ Any person who satisfies the requirements set out in 15 U.S.C. 376 shall be deemed to have met the reporting requirements set out in (b) of this Section. [68 O.S. § 317.5(C)]

~~(d) Reports must be filed electronically.~~ All required reports must be filed electronically in the format prescribed by the Compliance Division.

The following words and terms, when used in Part 3 of this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco,

(B) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette, or

(C) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A) of this paragraph.

"Cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette", nine one-hundredths (0.09) of an ounce of "roll-your-own" tobacco shall constitute one individual "cigarette". [See: 37 O.S. § 600.22(4)]

"Distributor" or "Wholesaler" mean and include a person, firm or corporation organized and existing, or doing business, primarily to sell cigarettes to, and render service to retailers in the territory such person, firm or corporation chooses to serve, and that:

(A) purchases cigarettes directly from the manufacturer;

(B) at least seventy-five percent (75%) of whose gross sales are made at wholesale;

(C) handles goods in wholesale quantities and sells through salespersons, advertising and/or sales promotion devices;

(D) carries at all times at its principal place of business a representative stock of cigarettes for sale, and

(E) comes into the possession of cigarettes for the purpose of selling them to retailers or to persons outside or within the state who might resell or retail such cigarettes to consumers.

(F) In addition to the foregoing, and irrespective of the percentage or type of sales, the term "wholesaler" or "distributor" shall also include all purchasers of cigarettes making purchases directly from the manufacturer for distribution at wholesale or retail sale and this shall not affect the requirements relating to retail licenses. [Sec: 68 O.S. § 301(3)]

"Retailer" means:

(A) A person who comes into the possession of cigarettes for the purpose of selling, or who sells them at retail, or

(B) A person, not coming within the classification of wholesaler, distributor and/or jobber as herein defined, having possession of more than one thousand cigarettes. [Sec: 68 O.S. § 301(4)].

710:70-2-51. Requirements placed on vendors making delivery sales of cigarettes

~~(a) No person shall mail, ship or otherwise deliver cigarettes in connection with a delivery sale unless, prior to the first delivery sale to such consumer, the person:~~

~~(1) Obtains from the prospective customer a certification which includes:~~

~~(A) Reliable confirmation that the purchaser is at least the legal minimum purchase age; and,~~

~~(B) A statement signed by the prospective purchaser, in writing and under penalty of perjury, which:~~

~~(i) Certifies the prospective purchaser's address and date of birth; and,~~

~~(ii) Confirms that the prospective purchaser understands:~~

~~(I) That signing another person's name to such certification is illegal;~~

~~(II) That sales of cigarettes to individuals under the legal minimum purchase age are illegal;~~

~~(III) That the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of Oklahoma; and,~~

~~(IV) That the prospective consumer wants to receive mailings from a tobacco company;~~

~~(2) Makes a good faith effort to verify the information contained in the certification provided by the prospective purchaser pursuant to (a)(1) of this Section against a commercially available database or obtains a photocopy or other image of the valid, government issued identification, stating the date of birth or age of the individual placing the order;~~

~~(3) Provides to the prospective purchaser, via e-mail or other means, a notice which meets the requirements of (c) of this Section and requests confirmation that the delivery sale order was~~

- ~~placed by the prospective purchaser; and,~~
- ~~(4) In the case of an order for cigarettes pursuant to an advertisement on the Internet, receives payment for the delivery sale from the prospective purchaser by a credit or debit card that has been issued in such purchaser's name or by check.~~
- ~~(b) Persons taking delivery sale orders may request that prospective purchasers provide their e-mail addresses. [68 O.S. § 317.2]~~
- ~~(c) The notice required under (a)(3) of this Section shall include:~~
- ~~(1) A prominent and clearly legible statement that cigarette sales to individuals below the legal minimum purchase age are illegal;~~
- ~~(2) A prominent and clearly legible statement that consists of one of the warnings set forth in Section 4(a)(1) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. § 1333(a)(1), rotated on a quarterly basis;~~
- ~~(3) A prominent and clearly legible statement that sales of cigarettes are restricted to those individuals who provide verifiable proof of age in accordance with (a)(1) of this Section; and,~~
- ~~(4) A prominent and clearly legible statement that cigarette sales are taxable under Section 301 et seq. of Title 68 of the Oklahoma Statutes, and an explanation of how such tax has been, or is to be, paid with respect to such delivery sale. [68 O.S. § 317.3]~~
- ~~(d) Each person who mails, ships or otherwise delivers cigarettes in connection with a delivery sale:~~
- ~~(1) Shall include as part of the shipping documents a clear and conspicuous statement providing as follows: "CIGARETTES: OKLAHOMA LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER THE AGE OF EIGHTEEN, AND REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES";~~
- ~~(2) Shall use a method of mailing or shipping that obligates the delivery service to require:~~
- ~~(A) The purchaser placing the delivery sale, or another adult of legal minimum purchase age residing at the purchaser's address, to sign to accept delivery of the shipping container; and,~~
- ~~(B) Proof, in the form of a valid, government-issued identification bearing a photograph of the individual who signs to accept delivery of the shipping container, demonstrating that such person is either the addressee or another adult of legal minimum purchase age residing at the purchaser's address, but such proof shall be required only if that individual appears to be under twenty-seven (27) years of age; and~~
- ~~(3) Shall provide to the delivery service retained to deliver such delivery sale evidence of full compliance with 710:70-2-7.~~
- ~~(e) If the person taking a purchase order for a delivery sale delivers the cigarettes without using a delivery service, such person shall comply with all requirements of this act applicable to a delivery service and shall be in violation of this act if it fails to comply with any such requirement. [68 O.S. § 317.4]~~
- (a) No person or entity engaged in the business of selling or distributing cigarettes, that is not a manufacturer, wholesaler, or distributor of cigarettes or other tobacco products licensed by the Oklahoma Tax Commission shall mail, ship or otherwise deliver cigarettes to any person in this state that is not:
- (1) A distributor or wholesaler of cigarettes licensed by the Oklahoma Tax Commission under Section 304 of Title 68 of the Oklahoma Statutes;
- (2) An export warehouse proprietor pursuant to Chapter 52 of the Internal Revenue Code or the operator of a customs bonded warehouse pursuant to 19 U.S.C., Section 1311 or 1555;
- or

(3) A person who is an officer, employee or agent of the United States government, this state or a department, agency, instrumentality or political subdivision of the United States or this state when the person is acting in accordance with the official duties of the person.

(b) It shall be illegal for any common or contract carrier to knowingly transport cigarettes to any person in this state reasonably believed by the carrier to be a person other than described in paragraph 1, 2 or 3 of subsection a of this section. For purposes of this subsection, cigarettes may be transported to a home or residence in this state by persons other than common and contract carriers in quantities that do not exceed one thousand cigarettes at any one time.

(c) Any cigarettes that are shipped or transported into this state in violation of this section shall be forfeited to the state and destroyed.

710:70-2-52. Payment of taxes due on delivery sales of cigarettes [REVOKED]

Any person accepting a purchase order for a delivery sale of cigarettes in Oklahoma shall collect and remit all taxes due on the cigarettes sold, except that cigarette excise tax need not be collected and remitted if proof has been obtained that the cigarette packages sold already bear the correct Oklahoma Cigarette Excise Tax Stamps, showing that the correct tax has previously been paid. [68 O.S. § 317.6]

SUBCHAPTER 5. EXCISE ON TOBACCO PRODUCTS

710:70-5-3. Minimum requirements of monthly tobacco products tax reports of licensed manufacturers, wholesalers or retailers.

(a) Every licensed manufacturer and every wholesaler licensed by the Oklahoma Tax Commission, to possess, use or in any manner deal with tobacco products subject to the excise tax, upon which such tax has not been paid, and every retailer who receives tobacco products upon which excise tax has not been paid shall report, to the Oklahoma Tax Commission, all purchases and invoices of all such tobacco products and merchandise subject to such excise tax monthly, on the Monthly Tobacco Products Tax Report form prescribed by the Commission. Each monthly report shall include the following information:

- (1) Name, business address and Tobacco License Number of the tax reporter;
- (2) All purchases or deliveries, stated separately according to the dates of delivery in the State, of all tobacco products received, possessed, used or in any manner dealt with in the previous calendar month;
- (3) Invoice numbers of all purchases or deliveries of such products for the previous calendar month;
- (4) Name and business address of each consignee and consignor; and
- (5) Copy of each invoice of all purchases or deliveries of such products for the previous month attached to the monthly report form. Copies of invoices submitted shall be subject to destruction upon completion of an office audit of the monthly report and shall not discharge the reporter from the statutory duty to maintain records and files of all such transactions. [See: 68 O.S. §201; 68 O.S. §401 et seq.]

(b) Monthly reports ~~due after October 31, 2011;~~ must be filed electronically in the format prescribed by the Commission and the tax remitted to the Tax Commission by electronic funds transfer.

(c) Copies of each invoice for sales of tobacco products made during the previous calendar month shall be attached to the monthly report form. If the number of invoices is voluminous, reporter may request and obtain authorization to submit a schedule of sales in lieu of copies of

invoices.

SUBCHAPTER 7. CIGARETTE AND TOBACCO PRODUCTS SALES BY FEDERALLY RECOGNIZED INDIAN TRIBES AND NATIONS

710:70-7-8. Cigarette stamp tax rates rate for sales by federally-recognized Indian tribes and nations

(a) ~~Designation of rates.~~ Tax rates The tax rate set out in this Section are is for packages of twenty (20) cigarettes. Rates The rate for packages of twenty-five (25) cigarettes are is Twenty-five percent (25%) greater than the rates rate for the twenty-unit packages.

(b) ~~Rates applicable to sales on Indian country by federally-recognized Indian tribes or nations, or their licensees.~~ Rates The New Unity Rate, applicable to cigarette sales made on the Indian country of a federally-recognized Indian tribes or nations by that tribe or nation or its licensees are: is \$1.03 per pack. The tax rate applies to compacts containing provisions requiring the filing of reports and payment of tax to the compacting tribe when reports and payments are made to the Oklahoma Tax Commission.

(1) ~~State/tribal rate.~~ The state/tribal rate is 51.50 cents per pack. The rate applies to compacts containing provisions requiring the filing of reports and payment of tax to the compacting tribe when reports and payments are made to the Tax Commission.

(2) ~~State/tribal border rate.~~ The state/tribal border rate is 25.75 cents per pack for any retailer located within twenty (20) miles of the state line between Oklahoma and Kansas or Oklahoma and Missouri. This rate applies to compacts containing provisions requiring the filing of reports and payment of tax to the compacting tribe when reports and payments are made to the Tax Commission.

(3) ~~New compact rate.~~ The new compact rate is 85.75 cents per pack. The terms "new compact" and "new compact rate" apply to compacts signed after January 1, 2003, which contain the provision that the rate will increase by an amount equal to any tax increase that becomes effective on or after January 1, 2004, and to sales made thereunder, unless the terms of subsection (b)(5) apply by specific compact provision.

(4) ~~Kansas border rate.~~ The Kansas border rate is 60.75 cents per pack. This rate applies to tribes' or licensees' locations close to the Kansas border, as designated by the terms of their "new" compacts.

(5) ~~Exception rate.~~ The "exception" rate is 5.75 cents per pack. This rate applies to sales made by tribes or their licensees under compacts, the terms of which are not applicable to the circumstances set out in (b)(1) through (b)(4) of this Section.

(6) ~~Noncompact rate for sales to tribal members.~~ The noncompact rate for sales made by tribes or nations without a compact or their licensees to members of their tribe or nation is 0.00 cents per pack. The packs must be stamped with black stamps issued by the Oklahoma Tax Commission.

(7) ~~Noncompact rate for sales to other than tribal members.~~ The noncompact rate for sales made by tribes or nations without a compact or their licensees to other than members of their tribe or nation is \$1.03 per pack.

710:70-7-9. Tobacco products tax rates for sales by federally-recognized Indian tribes and nations

(a) ~~New compact rate.~~ The terms "new compact" and "new compact rate" apply to compacts signed after January 1, 2003, which contain the provision that the rate will increase by an amount

equal to any tax increase that becomes effective on or after January 1, 2004, and to sales made thereunder, unless the terms of subsection (f) apply by specific compact provision:

- (1) For little (Class A) cigars \$0.02925 each.
- (2) For all other (Class C) cigars: \$0.0975 each.
- (3) For smoking tobacco: Fifty percent (50%) of the Factory List Price.
- (4) For chewing tobacco: Thirty-seven and one-half percent (37.5%) of the Factory List Price.

~~(b) State/tribal rate. The state/tribal rate applies to sales made by tribes or their licensees with compacts known as state/tribal which require reporting and payment to the tribe at the same time reporting and payment of tax is made to the Tax Commission.~~

- ~~(1) For little (Class A) cigars \$0.18 each.~~
- ~~(2) For all other (Class C) cigars: \$0.06 each.~~
- ~~(3) For smoking tobacco: Forty percent (40%) of the Factory List Price.~~
- ~~(4) For chewing tobacco: Thirty percent (30%) of the Factory List Price.~~

~~(c) State/tribal border rate. The state/tribal border rate applies to any retailer located within twenty (20) miles of the state line between Oklahoma and Kansas or Oklahoma and Missouri. This rate applies to sales made by tribes or their licensees with compacts known as state/tribal which require reporting and payment to the tribe at the same time reporting and payment of tax is made to the Tax Commission.~~

- ~~(1) For little (Class A) cigars \$0.009 each.~~
- ~~(2) For all other (Class C) cigars: \$0.03 each.~~
- ~~(3) For smoking tobacco: Twenty percent (20%) of the Factory List Price.~~
- ~~(4) For chewing tobacco: Fifteen percent (15%) of the Factory List Price.~~

~~(d) Kansas border rate. The Kansas border rates apply to tribes' or licensees' locations that are close to the Kansas border, as designated by the terms of their "new" compacts:~~

- ~~(1) For little (Class A) cigars: \$0.00225 each.~~
- ~~(2) For all other (Class C) cigars: \$0.0075 each.~~
- ~~(3) For smoking tobacco: Ten percent (10%) of the Factory List Price.~~
- ~~(4) For chewing tobacco: Seven and one-half percent (7.5%) of the Factory List Price.~~

~~(e) Texas border rate. The Texas border rates apply to tribes' or licensees' locations that are close to the Texas border, as designated by the terms of their "new" compacts:~~

- ~~(1) Texas border rate prior to September 1, 2009:
 - ~~(A) For little (Class A) cigars: \$0.00225 each.~~
 - ~~(B) For all other (Class C) cigars: \$0.0075 each.~~
 - ~~(C) For smoking tobacco: Fourteen point seven eight seven percent (14.787%) of the Factory List Price.~~
 - ~~(D) For chewing tobacco: Twelve point two eight seven percent (12.287%) of the Factory List Price.~~~~

~~(2) Texas border rate on or after September 1, 2009 and ending on or before August 31, 2010:~~

- ~~(A) For little (Class A) cigars: \$0.00225 each.~~
- ~~(B) For all other (Class C) cigars: \$0.0075 each.~~
- ~~(C) For smoking tobacco: Twenty-three point five nine percent (23.59%) of the Factory List Price.~~
- ~~(D) For chewing tobacco: Eighteen point five nine percent (18.59%) of the Factory List Price.~~

~~(3) Texas border rate on or after September 1, 2010 and ending on or before August 31, 2011:~~

~~(A) For little (Class A) cigars: \$0.00225 each.~~

~~(B) For all other (Class C) cigars: \$0.0075 each.~~

~~(C) For smoking tobacco: Twenty seven point three nine four percent (27.394%) of the Factory List Price.~~

~~(D) For chewing tobacco: Twenty four point eight nine four percent (24.894%) of the Factory List Price.~~

~~(4) Texas border rate on or after September 1, 2011 and ending on or before August 31, 2012:~~

~~(A) For little (Class A) cigars: \$0.00225 each.~~

~~(B) For all other (Class C) cigars: \$0.0075 each.~~

~~(C) For smoking tobacco: Forty one point one nine seven percent (41.197%) of the Factory List Price.~~

~~(D) For chewing tobacco: Thirty one point one nine seven percent (31.197%) of the Factory List Price.~~

~~(5) Texas border rate on or after September 1, 2012:~~

~~(A) For little (Class A) cigars: \$0.00225 each.~~

~~(B) For all other (Class C) cigars: \$0.0075 each.~~

~~(C) For smoking tobacco: Fifty percent (50%) of the Factory List Price.~~

~~(D) For chewing tobacco: Thirty seven point five percent (37.5%) of the Factory List Price.~~

~~(f) **Exception rate.** The "exception" rates apply to sales made by tribes' and licensees' locations specified by the terms of the tribes' new compact.~~

~~(1) For little (Class A) cigars: \$0.00225 each.~~

~~(2) For all other (Class C) cigars: \$0.0075 each.~~

~~(3) For smoking tobacco: Ten percent (10%) of the Factory List Price.~~

~~(4) For chewing tobacco: Seven and one-half percent (7.5%) of the Factory List Price.~~

~~(g) **Noncompact rate for sales to tribal members.** The noncompact rates for sales made by tribes or nations without a compact or their licensees to members of their tribe or nation are:~~

~~(1) For little (Class A) cigars: \$0.00 each.~~

~~(2) For all other (Class C) cigars: \$0.00 each.~~

~~(3) For smoking tobacco: Zero percent (0%) of the Factory List Price.~~

~~(4) For chewing tobacco: Zero percent (0%) of the Factory List Price.~~

~~(h) **Noncompact rate for sales to other than tribal members.** The noncompact rate for sales made by tribes or nations without a compact or their licensees to other than members of their tribe or nation are:~~

~~(1) For little (Class A) cigars: \$0.036 each.~~

~~(2) For all other (Class C) cigars: \$0.12 each.~~

~~(3) For smoking tobacco: Eighty percent (80%) of the Factory List Price.~~

~~(4) For chewing tobacco: Sixty percent (60%) of the Factory List Price.~~

The terms "New Unity Compact" and "New Unity Rate" apply to compacts signed after July 1, 2013, which contain the provision that the rate will increase by an amount equal to any tax increase that becomes effective on or after January 1, 2004, and to sales made thereunder:

(1) For little (class A) cigars: \$0.036 each

(2) For all other (class C) cigars: \$0.12 each

(3) For smoking tobacco: Eighty percent (80%) of the Factory List Price

(4) For chewing tobacco: Sixty percent (60%) of the Factory List Price

710:70-7-10. Calculation of probable demand for noncompacting federally recognized Indian tribes or nations

(a) **Purpose of rule:** The purpose of this rule is to provide the procedure necessary for the implementation of calculation of probable demand for Native American tax free stamps for each noncompacting tribe or nation resident in Oklahoma for cigarettes and other tobacco products, pursuant to 68 O.S. § 349.1., effective January 1, 2010.

(b) **Calculation of probable demand:** Probable demand shall be calculated in conformity with the requirements of 68 O.S. § 349.1.

(c) **Service of preliminary calculation of probable demand upon affected noncompacting tribes and nations:** Not less than seventy-five (75) calendar days prior to the first calendar day of each calendar year, the preliminary calculation of probable demand for cigarette and other tobacco products shall be served upon the governing authorities or other designated agent of each and every noncompacting tribe and nation, together with a copy of this Section. Service shall be deemed complete upon the date of placing said preliminary calculation in the first class mail, postage prepaid, addressed to the governing authorities or other designated agent of each and every noncompacting tribe or nation.

(d) **Service of objections/dispute of preliminary calculation of probable demand by affected noncompacting tribes and nations:** Within thirty (30) calendar days from the date of service of the preliminary calculation of probable demand, affected noncompacting tribes and nations may serve upon the Office of the General Counsel, Oklahoma Tax Commission, 120 North Robinson, Suite 2000 W, Oklahoma City, OK 73102-7801, any objections/dispute of the preliminary calculation of probable demand, together with any verifiable information in its possession regarding such probable demand, including, but not limited to, a verifiable record of previous sales to tribal members or other statistical evidence. Service shall be deemed complete upon placing of objections/dispute of the preliminary calculation of probable demand, together with supporting verifiable evidence in the first class mail, postage prepaid, addressed to the Office of the General Counsel, Oklahoma Tax Commission at the above address.

(e) **Failure to file objection/dispute of preliminary calculation of probable demand.** If, within thirty (30) calendar days from the date of service of the preliminary calculation of probable demand upon an affected tribe or nation, that tribe or nation has failed to file its objection/dispute to the preliminary calculation served upon it, that preliminary calculation shall become the final calculation, final and nonappealable.

(f) **Final calculation of probable demand.** If an affected tribe or nation timely files its objection/dispute to the preliminary calculation of probable demand for that affected tribe or nation and furnishes supporting verifiable information pursuant to (d) of this Section, said objection/dispute, together with supporting verifiable evidence shall be considered, and a final calculation of probable demand issued and served within fifteen (15) calendar days from the date of service of said objection/dispute. Service shall be deemed complete upon the date of placing said preliminary calculation in the first class mail, postage prepaid, addressed to the governing authorities or other designated agent of each and every noncompacting tribe or nation.

(g) **Timely filing of objections/dispute of final calculation of probable demand.** If, within fifteen (15) calendar days from the date of service of the final calculation of probable demand upon an affected tribe or nation, that tribe or nation has timely filed its objection/dispute to the final calculation served upon it, the matter of the final calculation of probable demand shall proceed as a protested matter, pursuant to the provisions of the *OAC 710:1-5-21* through *OAC*

710:1-5-48 710:1-5-49.

(h) **Final calculation of probable demand to be used while any timely protest and appeal of the final calculation of probable demand is pending.** If an affected tribe or nation files a timely objection/dispute to the final calculation served on it, cigarettes and other tobacco products may be obtained, on a monthly basis, with entitlement based upon 1/12th of the final calculated probable demand for cigarettes and other tobacco products. Provided, however, at the option of the affected tribe or nation, it may obtain cigarettes and other tobacco products each month, based upon 1/12th of the final calculated probable demand, plus not more than an additional twenty five percent (25%) of 1/12th of the final calculated probable demand for cigarettes and other tobacco products. In the event an affected tribe or nation elects to obtain such an additional amount of untaxed cigarettes and other tobacco products, entitlement to request those additional amounts shall cease when the total of cigarettes and other tobacco products obtained in a calendar year equals the final calculation of probable demand for that calendar year.

(i) **Final determinations of the final calculated probable demand appealable pursuant to 68 O.S. § 225.** Final orders of the Oklahoma Tax Commission pursuant to 68 O.S. § 349.1 and this Section shall be appealable to the Oklahoma Supreme Court, as a matter of right, pursuant to 68 O.S. § 225.A.

**SUBCHAPTER 9. REPORTING REQUIRED BY THE PREVENTION OF
YOUTH ACCESS TO TOBACCO ACT AND THE MASTER SETTLEMENT
AGREEMENT COMPLEMENTARY ACT**

710:70-9-4. Quarterly escrow installments required from certain nonparticipating manufacturers pursuant to the Master Settlement Agreement Complementary Act

(a) **Quarterly escrow payments for certain nonparticipating manufacturers required.** The Oklahoma Tax Commission shall require a tobacco product manufacturer subject to the escrow requirements of 37 O.S. § 600.23, to make quarterly installments during the year in which the sales covered by the deposits are made when the Attorney General notifies the Tax Commission that:

- (1) A nonparticipating manufacturer has not previously established and funded a qualified escrow fund in Oklahoma; or,
- (2) A nonparticipating manufacturer has not made any escrow deposits for more than one year; or,
- (3) A nonparticipating manufacturer has failed to pay any judgment awarded to the state, including any civil penalty; or,
- (4) A nonparticipating manufacturer sells more than 2,000,000 sticks or 180,000 ounces of roll-your-own product during a quarter.

(b) **Quarterly escrow payments for all nonparticipating manufacturers may be required.** All nonparticipating manufacturers shall be required to make quarterly payments if, thirty (30) days prior to the beginning of any quarter, the Attorney General serves a written request upon the Tax Commission, requesting that quarterly payments be required. Such quarterly payments under this subsection shall be required for every quarter after such notice until such time as the Attorney General notifies the Tax Commission that quarterly payments, in his judgment, are no longer necessary to provide compliance with the escrow requirements of a nonparticipating manufacturer.

(c) **Deadlines.** Nonparticipating manufacturers required to make quarterly payments must do so as follows:

- (1) Payments for sales occurring in the first quarter, January 1 through March 31, are due

April 30 of the same year. The Attorney General's office must receive official notification of the payments no later than May 15 of the same year.

(2) Payments for sales occurring in the second quarter, April 1 through June 30, are due July 31 of the same year. The Attorney General's office must receive official notification of the payments no later than August 15 of the same year.

(3) Payments for sales occurring in the third quarter, July 1 through September 30, are due October 31 of the same year. The Attorney General's office must receive official notification of the payments no later than November 15 of the same year.

(4) Payments for sales occurring in the fourth quarter, October 1 through December 31, are due January 31 of the next year. The Attorney General's office must receive official notification of the payments no later than February 15 of the next year.

(d) **Penalties, Grounds for removal of nonparticipating manufacturer from Oklahoma Directory of Certified Tobacco Manufacturers and Brands.** The nonparticipating manufacturer and its brands may be removed from the Oklahoma Directory of Certified Tobacco Manufacturers and Brands by the Attorney General if:

(1) Required quarterly escrow payments are not timely made in full; or,

(2) An outstanding final judgment, and interest thereon, for a violation of 37 O.S. §§600.21 through 600.23 has not been fully satisfied; or,

(3) The Attorney General is not timely notified that the quarterly escrow payments have been made in full; or,

(4) The Attorney General determines that the nonparticipating manufacturer has otherwise failed to comply with any requirement of the Master Settlement Agreement Complementary Act.

(e) **Additional grounds for removal or exclusion from the Directory.** In addition to the grounds contained in subsection (d) of this Section, a nonparticipating manufacturer and its brands may be removed or not included in the Oklahoma Directory of Certified Tobacco Manufacturers and Brands by the Attorney General if the manufacturer:

(1) Does not certify it is subject to, without immunity, the Master Settlement Agreement Complementary Act and the Prevention of Youth Access to Tobacco Act; or

(2) Fails to disclose that a state or federal government has brought an action in compliance with any state or federal law, regulating the sale and or distribution of tobacco products, including the escrow statute of another state; or

(3) Fails to sell only through an Oklahoma-licensed wholesaler any tobacco product sold into the state or fails to provide monthly PACT Act reports to the Oklahoma Tax Commission and the Oklahoma Attorney General for sales into the state.

710:70-9-5. Electronic tobacco sales report

(a) Each wholesaler or distributor shall report information relating to sales of cigarettes and roll-your-own tobacco to each retailer and wholesaler. The required information shall be reported to the Attorney General and the Oklahoma Tax Commission, electronically, no later than the twentieth day of each calendar month for the preceding calendar month's activity. The report is to contain the following information:

(1) The name and address of the outlet location of each retailer and wholesaler to which the wholesaler or distributor delivered cigarettes, including the city and zip code;

(2) Monthly sales, including the number of individual cigarettes, by brand name, made to:

(A) Wholesalers and retailers in packages bearing the excise tax stamp of the State of Oklahoma;

(B) Tribal retailers of compacting Tribes, in packages bearing the joint "unity rate" tax

stamp purchased from the Oklahoma Tax Commission;

(C) Wholesalers, retailers or consumers located outside the State of Oklahoma in packages not bearing the excise tax stamp of the State of Oklahoma;

(D) Noncompacting Tribes located in the State of Oklahoma that bear the black tax-free stamp for sales to tribal members of a noncompacting Tribe;

(3) Monthly sales of individual containers of roll-your-own tobacco products, by brand name and by weight, upon which the state excise or "unity" tax has been paid; and

(4) Monthly sales of individual containers of roll-your-own tobacco products, by brand name and by weight, made to:

(A) Wholesalers, retailers or consumers located outside the State of Oklahoma on which the state excise tax has not been paid;

(B) Noncompacting Tribes located within the State of Oklahoma.

(b) All monthly net sales reports provided for in subsection (a) of this Section shall include the invoice number and invoice date of cigarettes sold, distributed or shipped into Oklahoma. The reports shall also include the beginning and ending inventory for each type of stamp held during the reporting period.

(c) The report required by this Section if timely filed shall be considered as meeting the reporting requirements of Section 360.6 of Title 68 of the Oklahoma Statutes.

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 70. Tobacco, Tobacco Products, and Cigarettes

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

710:70-2-50 Definitions [AMENDED]

710:70-2-51 Requirements placed on vendors making delivery sales of cigarettes [AMENDED]

- (a.) **Purpose of the Proposed Rule:** The purpose of this rulemaking action is to reflect the provisions of Section 2 of House Bill 2361 [2014] which enacted a new section of law to be added to the Cigarette Stamp Tax Code regulating the sale and distribution of cigarettes from mailing, shipping or otherwise delivering cigarettes to any person in this state.
- (b.) **Classes Affected:** Persons making delivery sales of cigarettes in this state.
- (c.) **Persons Benefited:** Persons making delivery sales of cigarettes in this state.
- (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 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 10, 2014 **Date Modified:** N/A
- (l.) **Prepared by:** Christy Caesar **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 70. Tobacco, Tobacco Products, and Cigarettes

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

710:70-2-52 Payment of taxes due on delivery sales of cigarettes [REPEALED]

- (a.) **Purpose of the Proposed Rule:** The purpose of this rulemaking action is to repeal the above-referenced rule consistent with Section 4 of House Bill 2361 [2014] which repealed Sections 317.2, 317.3, 317.4, 317.5, 317.6 and 317.7 of Title 68 relating to delivery sales of cigarettes.
- (b.) **Classes Affected:** Persons making delivery sales of cigarettes in this state.
- (c.) **Persons Benefited:** Persons making delivery sales of cigarettes in this state.
- (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 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 10, 2014 **Date Modified:** N/A
- (l.) **Prepared by:** Christy Caesar **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 70. Tobacco, Tobacco Products, and Cigarettes

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

710:70-5-3 Minimum requirements of monthly tobacco products tax reports of licensed manufacturers, wholesalers or retailers. [AMENDED]

- (a.) **Purpose of the Proposed Rule:** The purpose of this rulemaking is to require the electronic payment of tobacco products excise tax in order to facilitate the timely payment, allocation and apportionment of the tobacco tax revenues.
- (b.) **Classes Affected:** Licensed tobacco products manufacturers, wholesalers and retailers.
- (c.) **Persons Benefited:** Licensed tobacco products manufacturers, wholesalers and retailers.
- (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 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 10, 2014 **Date Modified:** N/A
- (l.) **Prepared by:** Christy Caesar **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 70. Tobacco, Tobacco Products, and Cigarettes

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

710:70-7-8 Cigarette stamp tax rates for sales by federally-recognized Indian tribes and nations [AMENDED]

710:70-7-9. Tobacco products tax rates for sales by federally-recognized Indian tribes and nations [AMENDED]

- (a.) **Purpose of the Proposed Rule:** The purpose of this rulemaking is to amend Sections 710:70-7-8 and 710:70-7-9 by striking obsolete tax rates and providing for the new unity cigarette and tobacco products tax rates applicable to compacts signed after July 1, 2013.
- (b.) **Classes Affected:** Tribal governments executing cigarette and tobacco products compacts with the State of Oklahoma.
- (c.) **Persons Benefited:** Tribal governments executing cigarette and tobacco products compacts with the State of Oklahoma.
- (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 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 10, 2014 **Date Modified:** N/A
- (l.) **Prepared by:** Christy Caesar **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 70 Tobacco, Tobacco Products, and Cigarettes

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

710:70-7-10. Calculation of probable demand for noncompacting federally recognized Indian tribes or nations [AMENDED]

- (a.) **Purpose of the Proposed Rule:** This rulemaking action is to update the internal cross-references.
- (b.) **Classes Affected:** All taxpayers.
- (c.) **Persons Benefited:** All taxpayers.
- (d.) **Probable Economic Impact:**
1. **On Affected Classes:** There is no economic impact anticipated due to the proposed rule change.
 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:** Administrative in nature only. No additional personnel or budget expenses are 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 apparent alternative methods for compliance. The division does not foresee any additional costs of administration due to the implementation of the rule change.
- (i.) **Public Health/Safety/Environmental Concerns:** There will be no impact or concerns with public safety or the environment.
- (j.) **Effect of Non-Implementation on Environment:** There are no environmental concerns due to non-implementation.
- (k.) **Date:** December 9, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Lisa Haws **Phone Number:** (405) 521 3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 70. Tobacco, Tobacco Products, and Cigarettes

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

710:70-9-4. Quarterly escrow installments required from certain nonparticipating manufacturers pursuant to the Master Settlement Agreement Complementary Act [AMENDED]

- (a.) **Purpose of the Proposed Rule:** The purpose of this rulemaking is to implement the provisions of Section 1 of House Bill 2363 [2014] which provides additional conditions upon which a nonparticipating manufacturer and its brands may be removed or excluded from the Oklahoma Directory of Certified Tobacco Manufacturers and Brands by the Attorney General.
- (b.) **Classes Affected:** Nonparticipating manufacturers for purposes of the Master Settlement Agreement Complementary Act.
- (c.) **Persons Benefited:** Nonparticipating manufacturers for purposes of the Master Settlement Agreement Complementary Act.
- (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 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 10, 2014 **Date Modified:** N/A
- (l.) **Prepared by:** Christy Caesar **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 70. Tobacco, Tobacco Products, and Cigarettes

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

710:70-9-5. Electronic tobacco sales report. [NEW]

- (a.) **Purpose of the Proposed Rule:** The purpose of this rulemaking is to adopt a new section 710:70-9-5 in accordance with Section 2 of House Bill 2363 [2014] which requires wholesalers and distributors to report to the Oklahoma Attorney General and Tax Commission information relating to sales to retailers and wholesalers of cigarettes and roll-your own tobacco.
- (b.) **Classes Affected:** Wholesalers and distributors making sales to retailers and wholesalers of cigarettes and roll-your tobacco.
- (c.) **Persons Benefited:** Wholesalers and distributors making sales to retailers and wholesalers of cigarettes and roll-your tobacco.
- (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 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 10, 2014 **Date Modified:** N/A
- (l.) **Prepared by:** Christy Caesar **Phone Number:** 521-3133