



Tax Client Alert

2018 Oklahoma Tax Legislation

Increased Tobacco, Motor Fuel, Gross Production Taxes; Income Tax Itemized Deduction Cap; New Internet Sales and Use Tax Collection and Reporting Requirements

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Oklahoma has recently enacted several new tax laws to increase State taxes and revenues.

A bill levying additional Oklahoma taxes on tobacco products including cigarettes and additional taxes on gasoline and diesel fuel and increasing the rate of gross production tax on oil and gas was enacted (the bill also enacted a new hotel occupancy tax which was then subsequently repealed).

A bill limiting Oklahoma individual income tax itemized deductions was enacted.

And a bill was enacted requiring remote out-of-state sellers involved in Internet sales to purchasers in Oklahoma to elect to collect and pay Oklahoma sales and use tax on sales or deliveries in Oklahoma, or to give notices to purchasers and report such sales to the Oklahoma Tax Commission.

The following is a summary of these new provisions.

Tobacco Tax. An additional tax is levied on the sale, use, possession or consumption of cigarettes at the rate of fifty (50) mills per cigarette (\$1.00 per pack of 20 cigarettes). A tax at the same rate as is levied on cigarettes is levied upon little cigars. HB 1010XX, adding 68 O. S. Supp. 2018, §302-7; and amending 68 O. S. 2011, §402; effective June 28, 2018.

Motor Fuel Tax. A new additional tax of six cents (\$0.06) per gallon is levied on all diesel fuel used or consumed in the state. A new additional tax of three cents (\$0.03) per gallon is levied on all gasoline used or consumed in the state. HB 1010XX, adding 68 O. S. Supp. 2018, §500.4B; effective June 28, 2018.

Gross Production Tax. The gross production tax was amended to levy gross production tax on the production of oil, gas or oil and gas from wells spudded prior to the effective date of the bill, and on or after such date, at a rate of five percent (5%) commencing with the month of first production for a period of thirty-six (36) months; and amending provisions for apportionment of revenue from the tax. Various previously enacted gross production tax incentive provisions were stricken from the law. HB 1010XX, amending 68 O. S. Supp. 2017, §§1001, 1004; effective June 28, 2018.

Oklahoma Income Tax. The Oklahoma Income Tax Act was amended to provide that the net amount of itemized deductions allowable on an Oklahoma income tax return shall not exceed Seventeen Thousand Dollars (\$17,000.00). Charitable contributions and medical expenses deductible for federal

income tax purpose shall be excluded from the amount of the Seventeen Thousand Dollars (\$17,000.00) limit. HB 1011XX, amending 68 O. S. Supp. 2017, §2358; effective January 1, 2018.

Oklahoma Sales and Use Tax. Legislation was enacted providing for new requirements for collection and payment of Oklahoma sales and use tax by remote sellers for sales of tangible personal property through the Internet. Persons that come within definitions in the law of “remote seller,” “marketplace facilitator,” or “referrer” will be required on or before July 1, 2018 (and each June 1 thereafter) to file an election with the Oklahoma Tax Commission (1) to collect and remit sales and use tax on sales and deliveries to purchasers in Oklahoma and obtain a sales tax permit, or (2) to comply with specified notice and reporting requirements to inform purchasers that sales or use tax may be due, and to file a report with the Oklahoma Tax Commission with respect to sales or deliveries of tangible personal property to purchasers in Oklahoma. The requirements apply to a remote seller, marketplace facilitator, or referrer that during the immediately preceding twelve-calendar-month period had aggregate taxable sales of tangible personal property within Oklahoma or delivered tangible personal property to locations within Oklahoma, worth at least \$10,000. The Act provides for penalties to be imposed for failure to comply with an election to collect and remit tax, or failure to follow the notice and reporting requirements if those are elected. HB 1019XX, adding 68 O. S. Supp. 2018, §§1391-1397, effective April 10, 2018.

Income Tax Credit Caps. Legislation was enacted to limit the total amount of Oklahoma income tax credits allowed for coal production to \$5 million per year; and to limit the total amount of income tax credits allowed for railroad reconstruction expenditures to \$2 million per year. HB 1034XX, amending 68 O. S. Supp. 2017, §2357.11; HB 1036XX, amending 68 O. S. Supp. 2017, §2357.104, effective January 1, 2018.

Hotel Occupancy Tax Enactment and Repeal. The Legislature by enactment of HB 1010XX provided for levy of a new Oklahoma Occupancy Tax Act pursuant to which each innkeeper would charge Five Dollars (\$5.00) per night to the customer. These provisions of the bill were then subsequently repealed by the Legislature. HB 1010XX, adding 68 O. S. Supp. 2018, §§5501-5507, approved March 29, 2018; HB 1012XX, repealing sections 9-15 of HB 1010XX, effective April 10, 2018.

If you have questions or would like to discuss the new Oklahoma tax laws, or other tax issues and situations, please contact any attorney of GableGotwals you know or our Tax Law Practice Group.

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