



## Tax Client Alert

### Oklahoma Tax Commission: 2020 Proposed Administrative Rules Changes February 12, 2020

The Oklahoma Tax Commission has published proposed changes to the administrative rules with respect to Oklahoma taxes ("OTC Rules") for 2020.

OTC Rules are formal statements of policy written by the Tax Commission as a state agency which have the effect of law. The Oklahoma Legislature enacts tax laws and the Tax Commission is responsible for implementing them. The Tax Commission considers its OTC Rules to be *prima facie* evidence of a proper interpretation of the law and presumed to be valid until declared otherwise by a court of competent jurisdiction. Proposed changes of the OTC Rules must be submitted to the Oklahoma Legislature before becoming effective.

Any interested person may submit written comments on the proposed changes during the comment period, which is through dates stated in the published proposed rules. Comments may be sent to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194. All comments must be considered by the Tax Commission. Hearings by the Tax Commission will be held on each proposed change to the OTC Rules at times stated in the published proposed rules. Persons wishing to make oral comments at the scheduled public hearing should request placement on the docket in advance of the hearing date by calling (405) 521-3133.

This summary describes some of the proposed changes of the OTC Rules. There are *other* proposed changes stated in the full text published online by the Tax Commission.

The Tax Commission proposed changes of the OTC Rules include the following.

#### Oklahoma Income Tax

##### Title 710, Chapter 50. Income

Comment Period: through February 18, 2020 by 4:30 p.m.

Public Hearing Date: February 18, 2020, at 10 a.m.

Qualified Clean-Burning Motor Vehicle Fuel Property Credit. The OTC Rule which relates to the income tax credit for qualified clean-burning motor vehicle fuel property, has been amended to implement the provisions of HB 2095 which extended the sunset date from tax year 2020 to tax

year 2027 and imposed a state wide cap of \$20,000,000 effective for tax year 2020. [68:2357.22]. OAC §710:50-15-81.

Vehicle and Automotive Parts Manufacturing Credits. The OTC Rule which relates to income tax credits for qualified employers and engineers in the vehicle manufacturing industry, has been amended to implement the provisions of HB 1884; automotive parts manufacturing entities are either eligible for the tax credit or as a qualifying industry for the tax credit, provided that the entity is first placed in service on or after November 1, 2020. Additionally, the definition of "motor vehicle" is expanded to include buses and truck-tractors. [68:2357.404]. OAC §710:50-15-116.

Qualified Software and Cybersecurity Credit. An OTC Rule has been added to implement the provisions of 11B 2759 which enacted a non-refundable income tax credit for individuals employed as qualified software or cybersecurity employees effective for tax years 2020 2029. [68:2357.405]. OAC §710:50-15-117.

Required Electronic Filing of Tax Returns. OTC Rules have been amended to require the electronic filing of Oklahoma corporate income tax returns and partnership income tax returns. [68:203] OAC §§710:50-17-1 and 710:50-19-1.

Small Business Incubators. The OTC Rules have been amended to implement the provisions of SB 485 which eliminates the small business incubator sponsor income tax exemption and amends the small business incubator tenant income tax exemption by eliminating the 75% requirement. [(74:5072, 5075 and 5078)]. OAC §710:50-15-32.

Veterans Benefits. The OTC Rules been amended in accordance with the Veterans Benefits and Transition Act of 2018; a spouse may elect to use the same residence for tax purposes as the servicemember for tax years beginning on or after January 1, 2018, OAC §710:50-15-51.

Foster Care Deduction. A new OTC Rule has been added to implement the provisions of SB 893 which reinstates the income tax deduction for expenses incurred to provide care for a foster child. [68:2358.5-1]. OAC §710:50-15-69.

## **Sales and Use Tax**

### **Title 710, Chapter 65, Sales and Use**

Comment Period: through March 4, 2020, by 4:30 p.m.

Public Hearing Date: March 5, 2020, at 10:00 a. m.

Sales Tax Exemption Certifications. The OTC Rules have been amended to update references to entities which receive certification of a specific statutory sales tax exemption for purposes of documenting a vendor's relief from liability to collect sales tax. OAC §710:65-7-15.

Sales Exemption for Rolling Stock. The OTC Rules have been amended to implement the provisions of SB 18 which expanded the meaning of sales and leases for purposes of the sales tax exemption for rolling stock sales 68:135. OAC §710:65-13-158.

Medical Equipment Exemptions. The OTC Rules have been amended to implement the provisions of HB 1262 which exempted from the sales tax levy, sales of medical equipment including prosthetic devices, durable medical equipment, and mobility enhancing equipment when administered, distributed or prescribed by a practitioner, who is authorized by law to administer distribute or prescribe such items. [68:1357.6]. OAC §§710:65-13-169, 710:65-13-170, 710:65-13-171, 710:65-13-173 and 710:65-19-316.

Fab Lab Network Exemption. A new OTC Rule has been adopted to implement the provisions of HB 2530 which affords a sales tax exemption to organizations which are exempt from taxation pursuant 26 U.S.C., Section 501(c)(3), who are official members of the Fab Lab Network in compliance with the Fab Charter as verified by a letter from the MIT Fab Foundation and whose primary and principal purpose is to provide community access to advanced 21st century manufacturing and digital fabrication tools for science, technology, engineering, art and math ("STEAM") learning skills, developing inventions, creating and sustaining businesses and producing personalized products. OAC §710:65-13-366.

Exemption to American Legion. A new OTC Rule has been adopted to implement the provisions of HB 1003 which granted a sales tax exemption to the American Legion. [68: 1356(79)] OAC §710:65-13-367.

If you have questions about these proposed Oklahoma Tax Commission rules, or other federal, state or local tax law matters, please contact any attorney at GableGotwals you know, or the author of this note.

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