



## Oklahoma Tax Commission 2021 Proposed Administrative Rules Changes

By Sheppard F. Miers, Jr.  
February 4, 2021

The Oklahoma Tax Commission has [published proposed changes](#) to its administrative rules with respect to Oklahoma taxes ("Tax Commission Rules") for 2021.

Tax Commission 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 permanent Tax Commission Rules, interpreting, and applying Oklahoma tax statutes have been codified at Title 710 of the Oklahoma Administrative Code ("OAC"). The OAC is published by the Office of Administrative Rules, a department of the Secretary of State, and contains all official agency rules.

The Tax Commission considers its 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 Tax Commission 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, ending February 16, 2021 at 4:30 p.m., stated along with instructions for presenting comments, in the Tax Commission publication of proposed changes of the Rules. Hearings by the Tax Commission are to be held on the proposed changes at the place and time also stated, with instructions for appearing at hearings, in the Tax Commission publication of the proposed changes

This summary contains brief description of some of the 2021 proposed changes of the Tax Commission Rules. The full text of these proposed changes and others are stated in the publication of them by the Tax Commission and may be viewed at the [Tax Commission's website](#).

### Oklahoma Income Tax

- The proposed rules include provisions to implement the Pass-Through Entity Tax Equity Act of 2019, which permits election by a partnership or S corporation to pay Oklahoma income tax at the entity level.
- The proposed rules include guidance to a taxpayer requesting innocent spouse relief from an Oklahoma income tax liability on a joint Oklahoma income tax return.
- The proposed rules include an amendment to implement the provisions of law relating to the income tax credit for individuals employed as qualified software or cybersecurity employees and modification of the definition of an "accredited program" and amended a related prohibition of employers participating in the Quality Jobs programs.

- A proposed rule identifies the Tax Commission form required for filing an amended corporate income tax return and clarifies what documentation is required when filing an amended return.
- The proposed rules include provisions to implement the amendments of the Oklahoma income tax relating to the Railroad Modernization Credit enacted in 2020.

### **Oklahoma Sales and Use Tax**

- The proposed rules contain an amendment to clarify requirements for collection of sales tax with respect to products sold by a distributor which are no longer in the original form or packaging created by the multi-level vendor, but instead used as an ingredient in or a component to a separate product.

### **Gross Production Tax**

- The proposed rules include an amendment to clarify the documentation required to verify a claim for deduction of marketing costs.

### **Administrative Operations**

- The proposed rules contain an amendment to clarify the Tax Commission's authority to require any person filing a report or return required by the provisions of any state tax law to file the report or return by electronic means.

### **Estate Tax**

- The proposed rules include revocation of certain Tax Commission Rules governing the Oklahoma estate tax which was repealed effective January 1, 2010. The Rules are described as obsolete and no longer necessary, because the Tax Commission had 10 years to discover assets not reported or disclosed on an Oklahoma estate tax return and assess for delinquent taxes, and an Oklahoma estate tax lien remained a lien on all property of the decedent's gross estate for 10 years from the death of the decedent unless determined otherwise by an order of the Tax Commission.

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

[Sheppard F. Miers, Jr.](mailto:smiers@gablelaw.com)  
918-595-4834  
[smiers@gablelaw.com](mailto:smiers@gablelaw.com)

This summary is provided for educational and informational purposes only and does not contain legal advice. The information should in no way be taken as an indication of future legal results. Any tax information stated in this summary is not intended to be used and cannot be used by any taxpayer to avoid penalties under tax laws.