

Oklahoma Administrative Rules on State Taxes

By Sheppard F. Miers

RULES ARE RULES!! OKAY, BUT DO THEY ALL HAVE THE SAME EFFECT?

The Oklahoma Tax Commission is authorized by the Uniform Tax Procedure Code, Title 68, Chapter 1, Article 2, Oklahoma Statutes, to promulgate and enforce reasonable rules with respect to Oklahoma state taxes.¹

The Tax Commission is also authorized by the Uniform Tax Procedure Code to prescribe, promulgate and enforce necessary rules for the purpose of making and filing reports required under Oklahoma state tax law and such rules as may be necessary to ascertain and compute the tax payable by any taxpayer subject to taxation under state tax law.²

TAX COMMISSION RULES AND ADMINISTRATIVE PROCEDURES ACT BACKGROUND

The Administrative Procedures Act (APA), Title 75, Oklahoma Statutes, Sections 250 and 250.1 and Article I, Sections 250.2 through 308.3, intersects with the Tax Commission rulemaking authority provided under the Uniform Tax Procedure Code. The Tax Commission must comply with rulemaking requirements in Article I of the APA with respect to rules the Tax Commission is authorized to promulgate under the Uniform Tax Procedure Code.³ The Tax Commission generally is not required to comply with the provisions of Article II of the APA, which provides notice and hearing rules for administrative agency individual proceedings.⁴ The notice and hearing requirements for Tax Commission individual proceedings on state taxes

are provided in the Uniform Tax Procedure Code, not the APA.⁵ The result is two sets of statutes governing Tax Commission administrative authority and action.

The APA has evolved since its enactment in 1963 as definitive statutory law that provides uniformity and certainty regarding state administrative agency regulatory authority.⁶ Part of the evolution was the Tax Commission becoming subject to rulemaking requirements in Article I of the APA in 1987, in addition to Tax Commission rulemaking authority provided for in the Uniform Tax Procedure Code.⁷

By way of overview and background as to Tax Commission rulemaking, Article I of the APA relates to state agency filing and publication requirements for agency rules and generally provides that all administrative agencies shall comply with the rulemaking requirements in it, subject to exceptions applicable to certain agencies

and exception of local government authorities.⁸ The APA further states the Oklahoma Legislature has the power under the Oklahoma Constitution to make laws, establish agencies and designate agency functions, budgets and purposes. Further, the executive branch of the state government is responsible for implementing the laws enacted by the Legislature, and the Legislature may delegate rulemaking authority to executive branch agencies to facilitate administration of legislative policy, which is intended to eliminate the necessity of establishing every administrative aspect of general public policy by legislation.⁹ The Tax Commission has been so established, given agency functions and delegated rulemaking authority by the Legislature and has promulgated Tax Commission rules pursuant to the APA.¹⁰

Under the APA, the Legislature retains control of rulemaking by the Tax Commission and other state

administrative agencies. It retains rights to retract rulemaking authority, legislate policy despite promulgation of agency rules, designate methods of rulemaking and approve and disapprove agency rules.¹¹

As a result, the Tax Commission's authority to adopt and promulgate rules interpreting and administering Oklahoma tax law under the Uniform Tax Procedure Code is not absolute and is subject to significant APA rulemaking requirements, as well as authority and oversight retained by the Legislature and the governor. Rules adopted by the Tax Commission are put in place and codified by the Legislature and the governor as well as the Tax Commission.

The APA provisions appear to be intended to assure transparency as to the source, existence and terms of Tax Commission rules. The rulemaking requirements provided under the APA are, in a sense, a test required to be met before any Tax Commission statement of tax policy or procedure constitutes a final adopted rule promulgated and recognized as effective pursuant to the APA. Meeting APA rulemaking requirements is necessary to give a Tax Commission rule effect as to interpretation or implementation of state tax law. The APA rulemaking requirements give the public and taxpayers knowledge of the content of a rule proposed, adopted and promulgated by the Tax Commission before it takes effect. When a Tax Commission rule is adopted and promulgated in accordance with the APA, it is also approved by the Legislature and governor.¹² For taxpayers and the professionals advising them, the interpretation and application of Tax Commission rules can necessitate considering not only the form and terms of rules but also the rulemaking requirements under the APA that must be met for the

rules to be codified and given the effect provided for in the APA.

The APA rulemaking requirements and procedures for the codification and publication of Tax Commission and other state agency rules include the establishment and authority of an Office of Administrative Rules within the office of the Secretary of State. The Office of Administrative Rules has primary responsibility for publishing *The Oklahoma Register* and the Oklahoma Administrative Code and otherwise implementing the provisions of Article I of the APA.¹³ The Tax Commission now has hundreds of pages of rules it has promulgated in accordance with rulemaking requirements in the APA, which along with rules of other state agencies, are codified and published in the Oklahoma Administrative Code.¹⁴ Tax Commission rules that are proposed, published in proposed form for comment, adopted and promulgated pursuant to the APA, including amendments thereof, are published in *The Oklahoma Register*.¹⁵ The Tax Commission rules promulgated and codified in the Oklahoma Administrative Code, and which are published in *The Oklahoma Register*, are also made available on the Oklahoma Tax Commission website or at its offices.¹⁶

TAX COMMISSION RULES AND APA RULEMAKING REQUIREMENTS

An initial focal point of APA rulemaking requirements for a Tax Commission rule to be codified in the Oklahoma Administrative Code is in definitions stated in the APA.

The APA defines "rule" as:

- 1) Any Tax Commission statement or group of related statements of
 - a) general applicability and future effect that

1. implements, interprets or prescribes law or policy, or
 2. describes the procedure or practice requirements of the tax commission and
- 2) includes the amendment or revocation of an effective rule.¹⁷

The APA definition of "rule" provides it does *not* include:

- 1) The Tax Commission's issuance, renewal, denial, suspension or revocation or other sanction of an individual specific license,
- 2) The approval, disapproval or prescription of rates (with the term "rates" not including fees or charges fixed by the Tax Commission for services provided by it, including but not limited to fees charged for licensing, permitting, inspections or publications),
- 3) Statements and memoranda concerning only the internal management of the Tax Commission and not affecting private rights or procedures available to the public,
- 4) Declaratory rulings issued pursuant to the APA,
- 5) Orders by the Tax Commission or
- 6) Press releases or "agency news releases" provided such releases are not for the purpose of interpreting, implementing or prescribing law or Tax Commission policy.¹⁸

As used in the APA, the term "rulemaking" means the process employed by the Tax Commission for the formulation of a rule.¹⁹ The APA rulemaking requirements impact any Tax Commission "rule," as so defined. The interplay of the APA definition of "rule," the

detailed APA rulemaking requirements that must be met for a rule to become a final adopted rule and promulgated and codified in the Oklahoma Administrative Code has a significant effect. Tax Commission policy and procedure statements or interpretations about state law made pursuant to the Uniform Tax Procedure Code are statutorily given full interpretative effect by the APA by meeting the APA rulemaking requirements.

Application of the APA rulemaking requirements generally appears to start with a “statement” of the Tax Commission.²⁰ The term “statement” is not defined by the APA, but it is likely to often be obvious if made by the Tax Commission publishing a written proposal to adopt and promulgate of a rule pursuant to the APA in *The Oklahoma Register*, intending that it is to become a part of Tax Commission codified rules in the Oklahoma Administrative Code. In such a case, the written document or documents prepared, filed and published should indicate a Tax Commission “statement” of policy or on a procedure that is intended to become a Tax Commission rule.

For a Tax Commission “statement” or “rule” that is made or published about tax policy or procedure without meeting APA rulemaking requirements, the

status and interpretative effect are less certain. The effect can depend upon the Tax Commission’s application of it and where and how it is considered and acted upon, including in individual proceedings involving taxpayer protests, Tax Commission orders and appeals in court decided under the Uniform Tax Procedure Code.²¹

For example, if the Legislature enacted a new Oklahoma income tax exemption, a written statement of the Tax Commission published on its website describing the intent and effect of the law and how it was to be interpreted and administered by the Tax Commission would be a “statement” and could even be considered a “rule” as defined in the APA. However, its publication in that way alone would not appear to meet APA rulemaking requirements so as to give it the effect it would have under the APA if it was proposed, adopted and promulgated as a Tax Commission rule and codified in the Oklahoma Administrative Code in accordance with APA rulemaking requirements.²²

The APA has been interpreted as indicating the Legislature defined “rule” broadly to prevent an agency from circumventing the procedural rulemaking requirements of the APA by using labels such as “bulletins” or “guides” for

interpretations of the law that are used by the agency in a way that in effect amounts to the application of an agency rule.²³ Thus, a Tax Commission “statement” being a “rule” as defined in the APA is not conclusive as to its ultimate effect under the APA. Instead, the APA is written and structured so that for a Tax Commission rule to be given the effect indicated by the APA, that is to be *prima facie* evidence of the proper interpretation of the matter to which it refers, the specific statutory rulemaking requirements in the APA must be met.²⁴

APA Rulemaking Requirements for Tax Commission Adopted Rule

The APA rulemaking requirements the Tax Commission must meet for a rule to be considered as *adopted* so it can then go on to be approved pursuant to the APA and codified in the Oklahoma Administrative Code, require the Tax Commission 1) publish a Tax Commission notice of intended rulemaking action in *The Oklahoma Register* in accordance with specific standards and provide the notice to the governor and appropriate cabinet secretary, 2) provide a 30-day comment period for all interested persons to submit comments on the proposed rule that the Tax Commission must consider fully, 3) hold a hearing either at the Tax Commission’s option or if a hearing is requested in writing by a specified number of persons or entities, at which hearing persons may present oral argument, data and views on the proposed rule and 4) issue an impact statement about the proposed rule, subject to specified requirements with certain exceptions. Upon meeting those rulemaking requirements, the Tax Commission may adopt a proposed rule. No rule is valid unless adopted in substantial compliance with the stated requirements.²⁵

The APA rulemaking requirements give the public and taxpayers knowledge of the content of a rule proposed, adopted and promulgated by the Tax Commission before it takes effect.

APA Rulemaking Requirements for Tax Commission Promulgated Rule

A Tax Commission adopted rule does not become final and is not considered as *promulgated* (meaning a final adopted rule that has been filed and published in accordance with the APA) until further rulemaking requirements are met involving actions by the Legislature, governor and Tax Commission.²⁶

The further APA rulemaking requirements for a rule adopted by the Tax Commission to be *promulgated* and finally codified in the Oklahoma Administrative Code are 1) the Tax Commission, after adoption of a rule, must file copies of the rule with the governor, the speaker of the House of Representatives, the president *pro tempore* of the Senate and chairs of the Joint Committee on Administrative Rules, together

Tax Commission determines in an impact statement prepared about the rule that the rule will have an economic impact on any political subdivisions of the state or require their cooperation in implementing or enforcing the rule, 3) the Tax Commission must submit to the Office of Administrative Rules for publication in *The Oklahoma Register* a statement that the adopted rule has been submitted to the governor and the Legislature, 4) the Legislature must review the adopted rule within a prescribed time period, and the rule must be approved by the Legislature by joint resolution or omnibus joint resolution and 5) the adopted rule must be submitted to the governor, and the governor must approve the adopted rule for it to be promulgated and effective. A rule is generally consid-

effective date provided in the permanent rule document.²⁸

The APA provides for the adoption of a Tax Commission “emergency rule” that can be temporarily adopted and administered. The rulemaking requirements for an emergency rule enable adoption by a more simplified and expeditious process. Tax Commission adoption of an emergency rule is authorized if the Tax Commission finds a rule is necessary and submits substantial evidence that promulgation of the rule is necessary as an emergency measure for stated reasons, and it is approved by the governor. An emergency rule must meet specified requirements as to its format, and an impact statement is to be included with it when submitted for approval. An emergency rule is to be approved by the governor within 45 days of its receipt. If an emergency rule is approved by the governor and becomes effective, it can continue in effect until becoming void on the Sept. 15 following the next session of the Legislature unless it is otherwise superseded by the permanent rule in that session or disapproved by the Legislature. The APA contains other procedural and administrative provisions that pertain to the adoption of an emergency rule.²⁹

APA Rulemaking Requirements Finish Line Effect

Although the broadly defined meaning of “rule” under the APA may fit the cliché “rules are rules,” the detailed APA rulemaking requirements described appear to distinctly set apart a Tax Commission final adopted rule that is promulgated, codified and published in the Oklahoma Administrative Code from other Tax Commission “statements” of tax policy or procedure even if they come within the broad APA definition of “rule.”



with a Tax Commission “rule report” containing background and descriptive information about the rule, 2) a copy of the rule and rule report must be filed with the Oklahoma Advisory Committee on Intergovernmental Relations for its review and communication about the rule to the governor and leadership of the Legislature if the

ered “finally adopted” when it is approved by the Legislature and governor.²⁷ A finally adopted rule must be submitted in the form of a “permanent rule document” to the Office of Administrative Rules for publication in *The Oklahoma Register*. Upon publication of the rule in *The Oklahoma Register*, it is considered *promulgated*, with the

The APA provides that no Tax Commission rule is valid or effective against any person for any purpose unless it has been promulgated as required by the APA.³⁰ The provisions of this sweeping provision appear to make a major distinction between Tax Commission rules promulgated and codified in the Oklahoma Administrative Code by meeting the APA rulemaking requirements and any other statements of policy or procedure, even ones that can come within the definition of a “rule” under the APA that are not promulgated and codified in the Oklahoma Administrative Code pursuant to the APA.

The APA provides a Tax Commission rule that is valid or effective against any person or party or may be invoked by the Tax Commission if it has been promulgated as required in the APA.³¹ A Tax Commission rule that has not been promulgated as required by the APA is not valid or effective against any person or party and may not be invoked by the Tax Commission for any purpose.³² The APA provides the Tax Commission shall not by internal policy, memorandum or other forms of action not otherwise authorized by the Administrative Procedures Act amend, interpret, implement or repeal a statute or rule or expand upon or limit a statute or rule; any Tax Commission memorandum, internal policy or other forms of action violative of this provision of the APA is null, void and unenforceable.³³ Finally, the APA provides that Tax Commission rules promulgated in accordance with APA requirements shall be *prima facie* evidence of the proper interpretation of the matter to which they refer.³⁴

The impact of a Tax Commission rule, as broadly defined in the APA, meeting or not meeting the rulemaking requirements of the APA, was demonstrated in the case of *Highland Dairy Foods v. Oklahoma*

Tax Commission,³⁵ involving Oklahoma sales tax and the taxpayer’s entitlement to a manufacturing exemption. The court held the Tax Commission’s action changing the statutory requirements for the exemption by an *internal policy* without a rulemaking violated the provisions of the APA that prohibit an agency from expanding upon or limiting statute by internal policy, memorandum or other forms of action not otherwise authorized by the APA. The court held the Tax Commission had erred in ruling that under its interpretation and policy, a manufacturer had to have a separate manufacturer exemption permit for each manufacturing facility location in the state when the statute only required a manufacturer to obtain a single manufacturer exemption permit.

In another case, the Tax Commission itself held in an administrative decision that terms and provisions of the instructions to the state income tax return written and published by the Tax Commission did not constitute a “rule” of the Tax Commission adopted in accordance with the rulemaking requirements of the APA. The decision held an agency rule that has not been promulgated as required by the APA is not valid or effective against any person and may not be invoked by an agency (Tax Commission) for any purpose, per 75 O. S. 1991, §308.2(A).³⁶

The Tax Commission tax return instructions on claims for refund of individual income tax for reasons other than over withholding or overpayment of estimated tax (*e.g.*, a claim for refund for a mistake of law or fact) are presumably intended to be based on a complicated interrelationship of statutes in the Uniform Tax Procedure Code and Oklahoma Income Tax Act, which is not a picture of clarity. The instructions may be a “statement” of the Tax Commission

of general applicability and future effect that implements, interprets or prescribes law or policy or describes the procedure or practice requirements of the Tax Commission that might need to be adopted, promulgated and codified as Tax Commission rule to possibly clarify application and effect of the underlying statutes after meeting APA rulemaking requirements.³⁷

The Tax Commission has published various written statements and guidance on the application of Oklahoma tax law, such as documents and publications titled and in the form of “frequently asked questions,” a “guide” and similar titles.³⁸ To the extent such statements have not been adopted and promulgated as a Tax Commission rule in accordance with APA rulemaking requirements, they would appear to not have the effects described above that Tax Commission rules have if promulgated and codified in the Oklahoma Administrative Code pursuant to the APA.³⁹

TAX COMMISSION ORDERS ARE NOT RULES UNDER THE APA

As indicated in the APA definition of “rule,” for purposes of the APA, the term does not include an order made or entered by the Tax Commission. The APA then defines “order” to mean all or part of a formal or official decision made by an agency including but not limited to final agency order and in that context defines “individual proceeding” to mean the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties that results in the exercise of discretion of a judicial nature.⁴⁰ The Uniform Tax Procedure Code, as a counterpart to APA applicable to Tax Commission individual proceedings, provides with respect to Tax Commission decisions in individual proceedings that after a

hearing, the Tax Commission shall make and enter an order in writing in which it shall set forth the disposition made of the case (protest). The order shall contain findings of fact and conclusions of law, and after removing the identity of the taxpayer, the Tax Commission shall make the order available for public inspection and shall publish those orders the Tax Commission deems to be of precedential value.⁴¹ Such Tax Commission orders are therefore not rules subject to the APA, although they can have a comparable application and precedential effect in the future.

In this regard, the Tax Commission, as a state administrative agency, is considered to have a “choice” in whether to use general rulemaking under the APA or a case-by-case application of its stated position on administering tax policy or procedure matters in individual proceedings.⁴² The distinction is primarily between a “general” statement by the Tax Commission on tax policy or procedure, as a “rule” subject to APA, and statements and action of the Tax Commission determining legal rights, duties, privileges or immunities of an identified individual or individuals as an “order” not subject to the APA. A “rule” is considered legislative in nature and generally applied to all individuals or entities, while an “order” is adjudicative in nature as to the law applied to the facts of a particular case.

An agency’s authority to make rules has been held distinguishable from that of adjudication. Rulemaking includes the power to adopt rules and regulations of general application, both substantive and procedural, that are legislative in nature, operate prospectively and have general application, while orders of an administrative agency are adjudicative in character, and they apply to named persons or specific



situations and have immediate rather than future operation.⁴³ This indicates the Tax Commission, in some situations, can choose to interpret and administer an Oklahoma tax law by adopting a rule that must be published to the public and approved by the governor and Legislature to become final and effective under the APA. In other situations, the Tax Commission can choose to interpret and administer an Oklahoma tax law by adjudication in individual proceedings involving taxpayers before the Tax Commission and in court under the Uniform Tax Procedure Code.

COURT DEFERENCE TO TAX COMMISSION RULES

The Tax Commission, in deciding taxpayer protests, regularly recites its view as to the effect of its rules promulgated in accordance with the APA and cites certain authorities to support it. This includes rules promulgated pursuant to the APA are presumed to be valid until declared otherwise by a court of competent jurisdiction – they are valid and binding on the persons they affect, have the force of law and are *prima facie* evidence of the proper interpretation of the matter to which they refer.⁴⁴

The Oklahoma Supreme Court has referred to principles that are applied with respect to interpretations of law made by an administrative agency. The court has stated (in a non-tax matter) it will show great deference to an agency’s interpretation of its own rules. When the terms of a regulation (rule) are amenable to more than one meaning, the court will ordinarily defer to the interpretation adopted by those charged with the duty of administration. When choosing between two or more possible meanings of a regulation (rule), controlling weight may be given to long-continued administrative usage unless it is plainly erroneous or inconsistent with the language. Finally, accepting an agency’s interpretation is even more clearly in order when the construction is that of an administrative regulation rather than a statute.⁴⁵

The policy of state courts and taxing agencies holding that agency interpretations should be given deference has been a topic of comment questioning its correctness.⁴⁶ At least one state has enacted statutory provisions to dispel and limit court deference to agency interpretations.⁴⁷

APA RULEMAKING RECORD REQUIREMENT PROVIDES A SOURCE OF INFORMATION

The APA, in addition to rulemaking requirements, provides that the Tax Commission shall maintain and provide information about its rules. The provisions contain requirements that appear beneficial to taxpayers and professionals advising them with respect to the status, rulemaking history, purpose and meaning of a Tax Commission rule. The rulemaking record requirements provide that the Tax Commission will make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, promulgated or used by the Tax Commission in the discharge of its functions. A variety of documents and information are required to be maintained and provided to the public by the Tax Commission.⁴⁸

PETITIONS FOR PROMULGATION OF TAX COMMISSION RULES

The APA provides any interested person may petition the Tax Commission requesting the

promulgation, amendment or repeal of a Tax Commission rule. The APA provides that the Tax Commission shall prescribe by a Tax Commission rule the form of such a petition and procedure for its submission, consideration and disposition. The APA provides that after submission of a petition, the Tax Commission shall initiate rulemaking proceedings or provide a written response and explanation of its failure to initiate rulemaking proceedings.⁴⁹ The Tax Commission has promulgated rules providing for petitioning for promulgation, amendment or repeal of a Tax Commission rule and for the procedure that is to be followed when the Tax Commission itself initiates the promulgation, amendment or repeal of a rule pursuant to the APA.⁵⁰

DECLARATORY JUDGMENT ACTIONS ON VALIDITY OF TAX COMMISSION RULES

The APA provides the validity or applicability of a Tax Commission rule may be challenged and determined in an action for declaratory judgment. The action must allege the rule, or

its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the person bringing the action.⁵¹ The Tax Commission must be a party to such an action for declaratory judgment as to the validity or application of its rules.⁵² Tax Commission rules that have been promulgated pursuant to the APA are presumed to be valid until declared otherwise by a district court or the Supreme Court.⁵³ In such a declaratory judgment action, the Tax Commission has the burden of proof to show it possessed the authority to promulgate the rule, the rule is consistent with any statute authorizing or controlling its issuance and does not exceed statutory authority, the rule is not violative of any other applicable statute or the Oklahoma Constitution and the laws and administrative rules relating to the adoption, review and promulgation of such rules were faithfully followed.⁵⁴ In any such action, a declaratory judgment may be rendered without the party seeking the declaratory judgment having to exhaust available remedies before the Tax Commission as

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to the validity or applicability of the rule.⁵⁵ An action for declaratory judgment on validity of a Tax Commission rule brought pursuant to the APA cannot be filed to overcome or reverse a final Tax Commission order or final court order involving the application of the rule.⁵⁶

CONCLUSION

The Tax Commission has authority under the Uniform Tax Procedure Code to promulgate and enforce reasonable rules to enforce state tax laws. This authority has been exercised by Tax Commission promulgation of an extensive set of rules pursuant to the APA that is codified in the Oklahoma Administrative Code. Tax Commission adoption and promulgation of rules must meet APA prescribed rulemaking requirements for the rules to be recognized as correct interpretations of the state tax laws to the extent provided in the APA. Taxpayers have the right to propose that the Tax Commission promulgate rules and the right under the APA to challenge the validity and application of rules adopted by the Tax Commission. The APA rulemaking requirements are for legal and practical purposes a test that must be met by the Tax Commission to give effect to its interpretations pursuant to the APA rather than in individual proceedings. The application and effect of the APA is an important part of determining the position of and representing a taxpayer with respect to Tax Commission rules.

ABOUT THE AUTHOR

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ENDNOTES

1. 68 O. S. §203 (OSCN 2021).
2. *Id.*
3. 75 O. S. §250.4 (OSCN 2021).
4. *Id.*
5. 68 O.S. §§201-295 (OSCN 2021).
6. Maurice Merrill, "Oklahoma's New Administrative Procedure Act," 17 *Okla. L. Rev.* 1 (1964); Michael P. Cox, "The Oklahoma Administrative Procedures Act: Fifteen Years of Interpretation," 31 *Okla. L. Rev.* 886 (1978); Phyllis E. Bernarda, "From 'Good Ol' Boys' to 'Good Young Law': The Significance of the Oklahoma Administrative Code," 18 *Okla. City U. L. Rev.* 267 (1993); Gary E. Payne, "A Primer on Administrative Law in Oklahoma," 79 *OBJ*, No. 1, 39 (2008).
7. Laws 1987, HB 1493, c. 207, §12.
8. 75 O. S. §250.4 (OSCN 2021). Local government exception is provided in 75 O. S. §250.5 (OSCN 2021).
9. 75 O. S. §250.2 (OSCN 2021).
10. 68 O. S. §§102, 203 (OSCN 2021); Title 710, Oklahoma Administrative Code (OAC) www.oar.state.ok.us, www.oklahoma.gov/tax.html.
11. 75 O. S. §250.2 (OSCN 2021).
12. 75 O. S. §§251-256, 302-304, 308 (OSCN 2021).
13. 75 O. S. §§250.9-251 (OSCN 2021).
14. Title 710, Oklahoma Administrative Code (OAC) www.oar.state.ok.us, www.oklahoma.gov/tax.html.
15. *The Oklahoma Register*, www.oar.state.ok.us.
16. OAC §710:1-3-71.
17. 75 O. S. §250.3(19) (OSCN 2021).
18. *Id.*
19. 75 O. S. §250.3(20) (OSCN 2021).
20. 75 O. S. §250.3(19) (OSCN 2021).
21. 68 O. S. §§201-295. (OSCN 2021).
22. 75 O. S. §308.2. (A). (OSCN 2021).
23. *OSU-AJ Homestead Medical Clinic v. The Oklahoma Health Authority*, 2018 OK CIV APP 30, 416 P.3d 1082.
24. 75 O. S. §308.2(C) (OSCN 2021).
25. 75 O. S. §303 (OSCN 2021).
26. 75 O. S. §303.1 (OSCN 2021).
27. 75 O. S. §§303.1, 304, 308, 308.1 (OSCN 2021), Oklahoma Constitution, Article VI, Section 11; Executive Order 2019-11, OAC §175-1-5-13.
28. 75 O. S. §§308(E), 308.1, 308.2(A), 308.3, 304, 251(A)(2) (OSCN 2021).
29. 75 O. S. §253(OSCN 2021).
30. 75 O. S. §308.2(A) (OSCN 2021).
31. *Id.*
32. *Id.*
33. 75 O. S. §302 (E)(OSCN 2021).
34. 75 O. S. §308.2(C) (OSCN 2021).
35. 2006 OK CIV APP 68, 136 P. 3d 1072.
36. Oklahoma Tax Commission Order No. 2002-10-01-033/PRECEDENTIAL.
37. Oklahoma Tax Commission 2020 Form 511, Oklahoma Resident Individual Tax Return and Instructions; 68 O. S. §§227(f), 2373, 2385.10, 2385.16 (OSCN 2021) OAC §§710:50-9-1-710:50-9-10.
38. See, for examples: Oklahoma Tax Commission published document/statements examples: Field Audit Guide for Taxpayers, Voluntary Disclosure Agreement, Frequently Asked Questions re U. S. Supreme Court Decision in *South Dakota v. Wayfair?*, published online. www.oklahoma.gov/tax.html
39. 75 O. S. §308.2(A),(C) (OSCN 2021).
40. 75 O. S. §250.3 (10), (13), (19). (OSCN 2021).
41. 68 O. S. 221 (G) (OSCN 2021).
42. *El Paso Natural Gas Co. v. Oklahoma Tax Com'n*, 1996 OK CIV APP 69, 929 P.2d 1002.
43. *Harry R. Carlile Trust v. Cotton Petroleum Corp.*, 1986 OK 16, 732 P.2d 438.
44. See, for example, Oklahoma Tax Commission Decision 1992-09-29-048/PRECEDENTIAL; Oklahoma Tax Commission Decision, 2012-02-02-09, 02/02/2012.
45. *Cox Oklahoma Telecom, LLC v. Oklahoma Corporation Commission*, 2007 OK 55, 164 P. 3d 150; *In the Matter of the Sales Tax Protest of Betts Telecom Oklahoma, Inc.*, 2008 OK CIV APP 19, 178 P. 3d 197.
46. Margaret C. Wilson, "'Because I Said So' May Not Be Enough: Just How Far Does a Taxing Agency's Discretion and Presumption of Correctness Go," *Journal of Multistate Taxation and Incentives*, Aug. 2013; Maria M. Todorova, Erich S. Tresh, Justin T. Brown, "It's Time to Balance the Scales: Chevron Deference," *State Tax Notes*, July 8, 2019.
47. Frank Shepherd, Roberto Martinez, Ben Reaveley, Savannah Padgett, "The Demise of Agency Deference: Florida Takes the Lead," *Florida Bar Journal*, January/February 2020, describing Fla. Const. art. V, §21, which provides a state court or officer hearing an administrative action may not defer to an administrative agency's interpretation of a statute or rule and must instead interpret the rule *de novo*.
48. 75 O. S. §302(B) (OSCN 2021).
49. 75 O. S. §305 (OSCN 2021).
50. OAC §§710:1-5-15,710:1-5-16.
51. 75 O. S. §306 (OSCN 2021).
52. *Id.*
53. *Id.*
54. *Id.*
55. *Waste Connections, Inc. v. Oklahoma Department of Environmental Quality*, 2002 OK 94, 61 P. 3d 219.
56. *Id.*