

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 23. CHARITY GAMES TAX**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 23. Charity Games Tax [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing charity games tax rules have been made. All legislative references unless otherwise indicated are to the 55th Legislature, 1st Regular Session (2015).

Sections 710:23-1-4 and 710:23-1-8 have been amended to implement the provisions of Senate Bill 574 which provided for an exemption from charity games tax for 501(c)(3) charitable healthcare organizations. [3A:421]

Sections 710:23-1-2 and 710:23-1-12 have been amended to update statutory references.

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

AUTHORITY:

68 O.S. § 203, Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by **4:30 p.m., March 2, 2016**, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

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 are as follows: **March 4, 2016 at 10:30 a.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. 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 Kali Walker at (405) 521-3133.

In order to facilitate entry into the building, those wishing to appear should contact Kali Walker 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, pursuant to 75 O.S. § 303(B)(6), business entities 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 **February 1, 2016**, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Christy Caesar, Liaison; Phone: 405-521-3133; FAX: 405-522-0063; Email: ccaesar@tax.ok.gov

CHAPTER 23. CHARITY GAMES TAX

710:23-1-2. Definitions

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

"**ABLE**" means the Alcoholic Beverage Laws Enforcement Commission.

"**Act**" means the Oklahoma Charity Games Act, 3A O.S. ~~Supp. 1993~~, § 401 et seq.

"**Commission**" means the Oklahoma Tax Commission.

"**Conforming bingo faces**" means bingo faces with the word "Oklahoma" and outline of the state of Oklahoma printed thereon.

"**Defaulting organization**" means any licensed entity that has failed to pay to the distributor the tax required by the Act.

"**Dual license holder**" means any entity licensed as both a distributor and manufacturer under the Act.

"**Exempt entity**" or "**exempt organization**" means an organization specifically designated as exempt by the terms of Section 405 of the Oklahoma Charity Games Act, 3A O.S. § 401, et seq.

"**Licensed distributor**" means a distributor of charity game equipment as defined under the Act, licensed by the Oklahoma ABLE Commission.

"**Licensed manufacturer**" means a manufacturer of charity game equipment as defined under the Act, licensed by the Oklahoma ABLE Commission.

"**Veterans' organization**" means an organization whose members consist primarily of past or present members of the United States armed forces, where the organization is *exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq.* [See: 3A O.S. ~~2001~~, § 421(D)]

710:23-1-4. Distributor operations and reporting

(a) **Sales of conforming bingo faces.** A licensed distributor must sell bingo faces, imprinted with the word "Oklahoma" and outline of the state of Oklahoma ("conforming bingo faces"), to licensed organizations, exempt organizations, and exempt entities. Except for sales to veterans' organizations, ~~and sales to group homes for mentally disabled individuals, and charitable healthcare organizations,~~ all sales of conforming bingo faces are subject to tax. Conforming bingo faces may not be sold to federally recognized Indian tribes or nations.

(b) **Records and reports required.** The following items apply to records and reports of distributors:

(1) A distributor who sells, leases, or otherwise provides charity game equipment must record the transaction on a sales invoice.

(2) A sales invoice must be on a form approved by the Tax Commission and must contain the following information:

(A) The "ABLE" license number of the distributor;

(B) The name of the licensed organization, entity, or licensed distributor;

(C) The complete business name and address of the organization, entity, or licensed distributor;

(D) The "ABLE" license or "ABLE" exemption permit number of the organization, entity, or licensed distributor;

(E) The invoice number;

(F) The date the equipment was shipped;

(G) A full description of each item of equipment sold;

(H) The serial numbers of the bingo sets, U-Pik-Em game sets, breakopen ticket games, and selection equipment. The invoice for bingo faces must designate whether the bingo faces are

conforming bingo faces;

(I) The identity of the manufacturer from which the distributor purchased the equipment;

(J) The date of the sale of the charity game equipment;

(K) The name of the person who ordered the charity game equipment;

(L) Whether the sale was an exempt sale made to a veterans' organization;

(M) Whether the sale was an exempt sale made to a group home for mentally disabled individuals.

(N) Whether the sale was an exempt sale made to a charitable healthcare organization.

(c) **Monthly reporting.** Each distributor shall submit monthly to the Tax Commission:

(1) **Purchase invoices.** Copies of all purchase invoices from the licensed manufacturer, licensed distributor, or printer (jobber), stating the amount and price of each item obtained and in the case of invoices for bingo faces, whether they are conforming or nonconforming;

(2) **Sales invoices.** Copies of all sales invoices submitted for payment to purchasers of charity game equipment, bingo faces (conforming and nonconforming), U-Pik-Em game sets, and breakopen ticket games, regardless of whether the sale was to a licensed organization, exempt organization or entity, or person or entity excluded from the Act;

(3) **Printing invoices.** Copies of all invoices and work orders for conversion by jobbers, (i.e., the printing of the outline of the state of Oklahoma onto nonconforming paper) and for the printing of U-Pik-Em game sets. The invoice and work order must include the name of the printer, the number of bingo faces, and the series and serial numbers of the bingo faces. If the bingo faces printed are in sets, only the serial number of the top sheet must be included.

(4) **Reconciliation of inventory of charity game equipment.**

(A) The perpetual reconciliation of inventory is reported on the monthly reporting form, Schedule A, pertaining to bingo faces, and shall be detailed as to the number of conforming, nonconforming, and U-Pik-Em bingo games purchased from licensed manufacturers, licensed distributors, and printers (jobbers). It must reflect the total number of faces and U-Pik-Em games purchased and sold by the distributor.

(B) The breakopen ticket game reconciliation is reported on Schedule B on the monthly reporting form and must reflect the retail sales value of the breakopen ticket games purchased and sold by the distributor.

(C) Distributors who are also licensed as manufacturers must include in the reconciliation, the number of U-Pik-Em bingo game sets printed or purchased and transferred by the manufacturer and the number of U-Pik-Em bingo game sets printed by a jobber for the distributor.

(5) **Physical inventory required.** All licensed distributors shall be required to file a physical inventory of all paper (designated conforming and nonconforming), U-Pik-Ems, Tabs, and Equipment, the month following the ending month of the distributor's fiscal year. Such inventory shall include the number of conforming faces, nonconforming faces, and U-Pik-Ems, and for Tabs and Equipment, the total number of deals and items, as well as the total retail value.

(6) **Remittance of tax.** Remittance of tax is due on charity game equipment sold, rented or leased the previous month, less any discount lawfully retained. With the exception of conforming bingo faces sold to veterans' organizations and group homes for mentally disabled individuals, all conforming bingo faces sold or otherwise transferred during the previous month are subject to tax. Adjustments may be made upon proper showing, as a result of destruction or breakage. [See: 710:23-1-6]

(7) **Remuneration.** A distributor who timely reports and remits monthly may retain the discount provided in the Act. If the tax becomes delinquent, the discount is forfeited by the distributor.

(8) **Interest and penalty.** Interest and penalty as provided in 68 O.S. §217 shall apply to all liability not paid at the time required by the Act.

(d) **Quarterly reporting.** Each distributor, on the last day of the month following the end of the

quarter, shall submit a report and supporting data to the Tax Commission containing the name, address, and license or exemption number, if any, of each purchaser of charity game equipment.

(e) **Magnetic or electronic reporting.** The quarterly report may, if desired, be submitted via magnetic media (tape or diskette) or by modem, directly to the Commission. Reports submitted via the magnetic media or electronic data shall conform to the Magnetic Media Guide prepared by the Oklahoma Tax Commission.

710:23-1-8. Limited exemptions

(a) **Use of conforming bingo faces required.** If an exempt entity or exempt organization chooses to use disposable paper bingo faces in conducting charity games, only bingo faces with the word "Oklahoma" and outline of the state of Oklahoma printed thereon ("conforming bingo faces") purchased from a licensed distributor may be used and the tax levied by the Act must be paid.

(b) **Charity game equipment purchased from licensed distributors.** An exempt entity or exempt organization purchasing charity game equipment from a licensed distributor or licensed organization shall pay the tax levied by the Act in the same manner as prescribed for licensed organizations.

(c) **Exemption if tax levied by the Act is paid.** An exempt entity or exempt organization shall be exempt from sales and use tax on any item of charity game equipment purchased by the exempt entity or organization on which tax levied by the Act has been paid.

(d) **Sales of charity game equipment to ~~veterans'~~ certain organizations.** The sale of charity game equipment to ~~a veterans' organization~~ organizations outlined in (1),(2) & (3) of this Section is exempt from sales tax and charity games taxes levied pursuant to Section 421 of Title 3A.

(1) Veterans' Organizations exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq.,

(2) Group homes for mentally disabled individuals exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and

(3) Charitable healthcare organizations exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

~~(e) Sales of charity game equipment to group homes for mentally disabled individuals. The sale of charity game equipment to a group home for mentally disabled individuals is exempt from sales tax and charity games tax levied pursuant to Section 421 of Title 3A.~~

710:23-1-12. Admissions, concessions and other property subject to sales tax

(a) **Admission charges.** The gross receipts received from the sale of admission tickets or fees for admission to a charity game location are subject to sales tax. If admission tickets are sold or fees charged, the value of all free or complimentary admissions provided by an organization is also subject to sales tax and must be reported on the organization's monthly sales tax report.

(b) **Concessions.** Sales of food or drink at a charity game are subject to sales tax. The person making such sales must comply with the Sales Tax Code and Rules of the Tax Commission promulgated thereto.

(c) **Other property.** Sales of tangible personal property other than items on which charity game tax is levied are subject to sales tax. The person making such sales must comply with the Sales Tax Code and Rules of the Tax Commission promulgated thereto. [See: Chapter 65 of this Title.]

(d) **Failure to collect, report and remit sales tax.** Failure to collect, report and timely remit sales tax on items subject thereto shall be reported to the Alcoholic Beverage Laws Enforcement Commission, pursuant to 3A O.S. ~~Supp. 1993,~~ §407.

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 23. Charity Games Tax

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

710:23-1-2. Definitions [Amended]

710:23-1-12. Admissions, concessions and other property subject to sales tax [Amended]

- (a.) **Purpose of the Proposed Rule:** This rulemaking action has been undertaken to update statutory references
- (b.) **Classes Affected:** Sellers and purchasers of charity games equipment.
- (c.) **Persons Benefited:** Sellers and purchasers of charity games equipment.
- (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:** January 4, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Christy Caesar **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 23. Charity Games Tax

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

710:23-1-4. Distributor operations and reporting [Amended]
710:23-1-8. Limited exemptions [Amended]

- (a.) **Purpose of the Proposed Rule:** This rulemaking action has been undertaken to implement the provisions of Senate Bill 574 [2015] which provided an exemption from charity games tax for 501(c)(3) charitable healthcare organizations.
- (b.) **Classes Affected:** Sellers and purchasers of charity games equipment.
- (c.) **Persons Benefited:** Sellers and purchasers of charity games equipment.
- (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:** January 4, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Christy Caesar **Phone Number:** 521-3133