

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY
AND ADMINISTRATIVE AUTHORITY**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Subchapter 21. Quality Events

710:95-21-2 [AMENDED]

710:95-21-3 [AMENDED]

710:95-21-4 [AMENDED]

710:95-21-7 [AMENDED]

710:95-21-8 [AMENDED]

710:95-21-9 [AMENDED]

710:95-21-10 [AMENDED]

710:95-21-11 [AMENDED]

Subchapter 22. Registration Requirements for Resident and Nonresident Contractors

710:95-22-9 [AMENDED]

SUMMARY:

Subchapter 21 has been amended to reflect the changes made to the Quality Event Incentive Act, 68 O.S. §§ 4301 et seq., pursuant to the adoption by the Oklahoma Legislature of HB 2711 [2014] effective November 1, 2014 which modifies the qualification procedures for quality event recognition along with the determination of incremental sales tax occurring as a result of an event.

Section **710:95-22-9** has been amended, changing *Rules of Practice and Procedure before the Oklahoma Tax Commission* to *Rules of Practice and Procedure before the Office of the Administrative Law Judges* and also updating the internal cross-references.

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

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. §§ 203 & 4309

COMMENT PERIOD:

Persons wishing to make written submissions may do so by **4:30 p.m., February 20, 2015**, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. 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 Emmily Hood at (405) 521-3133

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 is as follows: **February 23, 2015, 11:00 a.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Emmily Hood 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 any business entity 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 January 30, 2015, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa Haws, Liaison; Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@tax.ok.gov

**CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY
AND ADMINISTRATIVE AUTHORITY**

SUBCHAPTER 21. QUALITY EVENTS

710:95-21-2. Definitions

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

"Certified sponsor" means an entity or organization authorized to promote and conduct a quality event, which is incurring expenses for the promotion of such event to be conducted within the corporate limits of an eligible municipality or an unincorporated area within a county.

"Commission" means the Oklahoma Tax Commission.

"Economic impact study" means a study of the geographic area designated by a host community pursuant to Section 710:95-21-4(b), which includes:

- (A) A description of the quality event,
- (B) Information regarding the site selection process for the quality event,
- (C) An estimate of the expenses anticipated to be incurred in connection with hosting the quality event,
- (D) An estimate of the total gross sales made by vendors within the designated area during any period of time during which no quality event activity occurs,
- (E) A detailed estimate of the anticipated increase in sales tax revenue directly attributable to the quality event,
- (F) The general economic impact likely to occur in the designated area as a result of the preparation for, occurrence of and activity occurring in connection with the dissolution of, a quality event, and
- (G) Any additional information the Oklahoma Tax Commission may require.

"Eligible local support amounts" means:

- (A) Any payment made by a local government entity or transfer of monies from the general fund or transfer of tax revenues derived from a locally imposed tax to a certified sponsor for the purpose of attracting, promoting, advertising, organizing, conducting or otherwise supporting a quality event, or
- (B) Any direct payment made by a certified sponsor to a for-profit or nonprofit entity, other than the host community, for the purpose of attracting, promoting, advertising, organizing, conducting or otherwise supporting a quality event.

"Event history" means:

- (A) Historical information on the event including past locations of the event,
- (B) A description of previous attempts by the host community to secure the event,
- (C) Information regarding attempts by other communities to recruit the event, and
- (D) If applicable, the competitive bidding process for securing the event by the host community.

"Host community" means any county, incorporated city or town, or any combination of counties, incorporated cities or towns of the state which are authorized by their respective governing bodies to host or assist in the presentation of a quality event.

"Incremental sales tax revenue" means, with respect to a new event, a comparison of the amount of additional state sales tax revenue, if any, in excess of the amount of state sales tax revenue collected within a quality event area during the same month of the preceding year for purposes of the economic impact study required by Section 710:95-21-4(b); or, with respect to a

~~recurring event, a comparison of the amount of additional sales tax revenue, if any, in excess of the calculated average amount of sales tax revenue collected in the quality event area during the preceding year for purposes of the economic impact study required by Section 710:95-21-4(b). For purposes of computing the calculated average amount of monthly sales tax revenue collected as required by this paragraph with respect to a recurring event, the Oklahoma Tax Commission shall average total sales tax revenue collected by month but shall exclude revenue collected during the same month or months in a prior year during which the recurring event was conducted and if the event does not occur during the months of November or December, shall also exclude revenue collected during the immediately preceding November and December. The calculated average amount of monthly sales tax revenue shall be used to determine whether a recurring event produces incremental sales tax revenues as a result of the quality event, as determined by an economic impact study verified by the Oklahoma Tax Commission.~~

"New event" means a quality event which did not occur within a period of twenty-four (24) months prior to the month during which a quality event is held.

"Quality event" means:

- (A) A new event or a meeting of a nationally recognized organization or its members,*
- (B) A new or existing event that is a national, international or world championship,*
or
- (C) A new or existing event that is managed or produced by an Oklahoma-based national or international organization.*

~~"Quality event area" means a geographic area designated by a host community pursuant to Section 710:95-21-3(a)(1) determined to realize direct economic benefit from the preparation for, occurrence of and activity occurring in connection with the dissolution of, a quality event; provided, the designated area shall never constitute an area greater than thirteen (13) miles from any property line of the primary property at which the quality event is located. The property line shall be based on the legal description or survey of a single location determined by a host community to be the primary property for a quality event area.~~

~~"Recurring event" means a quality event which occurred at least once within the twenty-four (24) months prior to the month during which a quality event is held.~~

~~"Revenue capture period" means a time period beginning no earlier than two (2) days prior to the quality event date or the first day upon which the quality event occurs and ending no later than two (2) days after the conclusion of the quality event date or the last day upon which quality event activities occur.~~

~~"State sales tax revenue" means the proceeds from the state sales tax levy imposed pursuant to Section 1354 of Title 68 of the Oklahoma Statutes upon taxable transactions occurring within the quality event area during the authorized revenue capture period as a result of the quality event, as determined by an economic impact study verified by the Oklahoma Tax Commission.~~

~~"Vendors" means those persons or business entities making taxable sales of tangible personal property or services within a quality event area as a result of the quality event, as determined by an economic impact study verified by the Oklahoma Tax Commission and, unless the context otherwise requires, shall have the same meaning as defined by Section 1352 of Title 68 of the Oklahoma Statutes.~~

710:95-21-3. Quality event requirements, limitations and eligibility

(a) **Designation of quality event.** For purposes of this Subchapter a host community can designate a quality event pursuant to the adoption by the governing body of the host community an ordinance or resolution which must contain designation of the following:

- (1) A geographic area as a quality event area;
 - (2) A length of time of the revenue capture period The dates during which a quality event will be hosted; and
 - (3) (2) The type of expenses eligible for payment through distribution of captured revenues to the host community including, but not limited to, advertising, facility rental, promotional materials and security.
- (b) **Designation requirements.** The resolution or ordinance must be adopted at least six months prior to the first day of the quality event.
- (c) **Limitations.** A host community may only designate one quality event during a ~~single designated revenue capture period for purposes of the payments authorized by this Subchapter~~ the timeframe in which a designated quality event will occur.
- (d) **Eligible quality events.** Eligibility for quality event status is available for the following:
- (1) New events or meetings of a nationally recognized organization or its members which is being located at a site chosen through a competitive site selection process in which at least one site not located in this state was considered to include;
 - (2) New or existing events that are a national, international or world championship, or
 - (3) New or existing events that are managed or produced by an Oklahoma-based national or international organization.
- (1) ~~New events.~~ ~~Quality events which did not occur within a period of twenty-four (24) months prior to the month during which a quality event is held; and~~
 - (2) ~~Recurring events.~~ ~~Quality events which occurred at least once within the twenty-four (24) months prior to the month during which a quality event is held.~~

710:95-21-4. Quality event approval and application requirements

- (a) **Application for approval.** Within thirty (30) days of the adoption date of the ordinance or resolution designating a quality event, the host community must submit a written request for recognition as a quality event to the Tax Policy Division of the Oklahoma Tax Commission at 2501 Lincoln Blvd., Oklahoma City, Oklahoma 73194. The postmark date of the written request for recognition as a quality event is deemed to be its date of delivery.
- (b) **Application requirements.** The application for recognition must include the following:
- (1) **Ordinance or resolution.** A copy of the ordinance or resolution designating the quality event.
 - (2) **Economic impact study.** The economic study must include the following information:
 - (A) A description of the quality event.
 - (B) Information regarding the site selection process for the quality event ~~including the host community's bid documents submitted to the site selection organization soliciting the quality event, confirmation from the site selection organization that at least one state other than Oklahoma was considered for the quality event and the letter from the site selection organization designating Oklahoma as the quality event location.~~
 - (C) An estimate of the expenses anticipated to be incurred in connection with hosting the quality event which specifically categorizes the type of expenses, such as advertising, anticipated to be incurred along with the estimated costs associated therewith.
 - (D) An estimate of the total gross sales made by vendors ~~within the designated area during any period of time during which no quality event activity occurs. This estimate must designate the month considered to estimate the total gross sales and the vendors and their sales tax permit numbers.~~

(E) A detailed estimate of the anticipated increase in sales tax revenue directly attributable to the quality event. ~~This estimate must include a list of vendors and sales tax permit numbers within the designated quality event area the Tax Commission is to consider for purposes of incremental sales tax revenue payments. To be included on the list by the host community the vendor must have been making sales subject to the Sales Tax Code in the same month or months of the quality event revenue capture period in the preceding year.~~

(F) The general economic impact likely to occur in the designated area as a result of the preparation for, occurrence of and activity occurring in connection with the dissolution of, a quality event, and

(3) **Event history.** The event history must include the following information:

(A) *Historical information on the event including past locations of the event,*

(B) *A description of previous attempts by the host community to secure the event,*

(C) *Information regarding attempts by other communities to recruit the event, and*

(D) *If applicable, the competitive bidding process for securing the event by the host community.*

710:95-21-7. Timeframe for determining the amount of the incremental state sales tax revenue Host community requirement to submit event related information

~~Within ninety (90) days after the conclusion of a quality event, the Commission must determine the amount of incremental state sales tax revenue remitted by vendors located within the designated quality event area. After conclusion of an event, the host community must provide information related to the event, such as attendance figures, financial information or other public information held by the host community that the Tax Commission considers necessary to evaluate the actual economic impact of the event.~~

710:95-21-8. Calculation Verification of incremental state sales tax revenue

~~(a) Calculation of incremental state sales tax revenue for new events. To calculate new event incremental state sales tax revenue the Commission must compare the amount of state sales tax revenue remitted to the Commission by the vendors listed by the host community in the economic impact study within the quality event area during the month or months of the quality event revenue capture period against the amount these vendor remitted during the same month or months of the quality event revenue capture period for the preceding year. Upon receipt, the Tax Commission will review the documentation submitted pursuant to Section 710:95-21-7 to verify additional state sales tax revenue, as determined by the economic impact study, which was collected as a result of the event.~~

~~(b) Calculation of incremental state sales tax revenue for recurring events. To calculate recurring event incremental state sales tax revenue the Commission must do the following:~~

~~(1) Average total sales tax revenue collected by month excluding revenue collected during the same month or months in a prior year during which the recurring event was conducted and if the event does not occur during the months of November and December the revenue collected during the immediately preceding November and December must also be excluded.~~

~~(2) Compare the total sales tax revenue average referenced in paragraph (1) of this subsection with the amount of state sales tax revenue remitted during the month or months of the revenue capture period for the quality event to the Commission by the vendors~~

~~within the quality event area which were listed by the host community in the economic impact study.~~

710:95-21-9. Manner of determining payment

The Commission must compare the total amount of eligible local support amounts with the total amount of incremental state sales tax revenues remitted by vendors ~~located within the designated quality event area which were specified by the host community for purposes of computation of the incremental sales tax revenue,~~ such revenues to be established through the economic impact study. Payments made to the host community are governed by the following determinations:

- (1) If a determination is made that the total amount of incremental state sales tax revenues is zero, no payment shall be made to a host community.
- (2) If a determination is made that the total amount of incremental state sales tax revenues is greater than zero, but less than the total amount of eligible local support amounts, a payment shall be made subject to the limitation of the payment cap provided for in Section 710:95-21-10(b), to the host community of the quality event in an amount equal to the incremental state sales tax revenues.
- (3) If a determination is made that the total amount of incremental state sales tax revenues is at least equal to the amount of eligible local support amounts, a payment shall be made, subject to the limitation of the payment cap provided in Section 710:95-21-10(b), to the host community in which the quality event occurs in an amount equal to, but not greater than, the eligible local support amounts.

710:95-21-10. Incentive payment limitations

(a) **Sources other than incremental state sales tax revenues.** No payment shall be made to any host community from a source other than the incremental state sales tax revenues, if any, derived from state sales tax remittances of vendors ~~located within the applicable quality event area as a result of the quality event,~~ as determined by an economic impact study verified by the Oklahoma Tax Commission.

(b) **Payment threshold.** No payment shall be made to any host community in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) for a single quality event regardless of the amount of eligible local support paid by the host community.

(c) **Local sales tax revenues.** No proceeds from the levy of any sales tax imposed by a county or a municipality shall be affected by the provisions of this Subchapter and the proceeds from any such levy shall be collected and remitted as required by the Oklahoma Sales Tax Code. The distribution of the revenues shall be made in accordance with all applicable requirements of law with respect to such sales tax levies.

710:95-21-11. Incentive payments to host communities

After ~~calculation~~ verification of the incremental state sales tax revenue and ~~verification of the~~ eligible local support amounts the Commission shall issue a warrant subject to the limitation set forth in Section 710:95-21-10(b) equal to the amount of the incremental state sales tax revenue not to exceed the eligible local support amounts to the host community.

**SUBCHAPTER 22. REGISTRATION REQUIREMENTS FOR RESIDENT AND
NONRESIDENT CONTRACTORS**

710:95-22-9. Hearing procedures governing fine protests

(a) **Hearing notice.** A notice shall be issued to the contractor requiring him to appear before an Administrative Law Judge to show that the fine was issued in error. At least fifteen (15) days' notice of the hearing shall be given the parties. The notice shall contain a date, time certain and location for the hearing.

(b) **Show cause hearing.** The contractor may represent himself or be represented by an attorney, accountant, enrolled agent, or a representative approved by the Commission. Evidence and testimony of witnesses may be presented at the hearing and a record will be made in accordance with the Rules of Practice and Procedure before the Office of the Administrative Law Judges in 710:1-5-21 through 710:1-5-48 710:1-5-49.

(c) **Findings, conclusions and recommendations.** Following the hearing, the Administrative Law Judge will issue Findings, Conclusions and Recommendations. For options available to the parties after action of the Administrative Law Judge, refer to OAC 710:1-5-40.

(d) **Commission order.** Following the issuance of the Findings by the Administrative Law Judge, the Commissioners may either adopt or modify in whole or in part the Finding of the ALJ.

(e) **Appeal.** Once the Order of the Commission is issued, the contractor has thirty (30) days from mailing of the order within which to file an appeal with the Oklahoma Supreme Court.

OKLAHOMA TAX COMMISSION
Rule Impact Statement

CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

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

SUBCHAPTER 21. QUALITY EVENTS

- 710:95-21-2. Definitions [Amended]
- 710:95-21-3. Quality event requirements, limitations and eligibility [Amended]
- 710:95-21-4. Quality event approval and application requirements [Amended]
- 710:95-21-7. ~~Timeframe for determining the amount of the incremental state sales tax revenue~~ Host community requirement to submit event related information [Amended]
- 710:95-21-8. ~~Calculation~~ Verification of incremental state sales tax revenue [Amended]
- 710:95-21-9. Manner of determining payment [Amended]
- 710:95-21-10. Incentive payment limitations [Amended]
- 710:95-21-11. Incentive payments to host communities [Amended]

(a.) **Purpose of the Proposed Rule:** The purpose of this rulemaking action is to reflect the changes made to the Quality Event Incentive Act, 68 O.S. §§ 4301 et seq., pursuant to the adoption by the Oklahoma Legislature of HB 2711 effective November 1, 2014 which modifies the qualification procedures for quality event recognition along with the determination of incremental sales tax occurring as a result of an event.

(b.) **Classes Affected:** Host communities designating quality events.

(c.) **Persons Benefited:** Host communities designating quality events.

(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 not levy, implement, or 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, nor 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:** November 1, 2014

Date Modified: N/A

(l.) **Prepared By:** Christy Caesar

Phone Number: 521-3133

