

ENROLLED SENATE
BILL NO. 1122

By: Rabon of the Senate

and

McClain of the House

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 2357.39 and 50013, which relate to tourism and state government; modifying requirement for approval under certain tourism project agreement; modifying the dates by which certain reports and remittances are due and by which certain remittances are considered delinquent; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.39, is amended to read as follows:

Section 2357.39 A. Upon granting final approval, the Director of the Oklahoma Tourism and Recreation Department may enter into an agreement with an approved company with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but shall not be limited to:

1. The amount of approved costs, which shall be determined by negotiations between the Director and the approved company;

2. A date certain by which the approved company shall have completed the tourism attraction project. Within three (3) months of the completion date, the approved company shall document the actual cost of the tourism attraction project through a certification of the costs by an independent certified public accountant acceptable to the Director; and

3. The following provisions:

a. the term of the agreement shall be ten (10) years from the later of:

(1) the date of the final approval of the tourism attraction project, or

(2) the completion date specified in the agreement, if the completion date is within two (2) years of the date of the final approval of the tourism attraction project. However, the term of the

agreement may be extended for up to two (2) additional years by the Director, with the advice and consent of the Oklahoma Tax Commission, if the Director determines that the failure to complete the tourism attraction project within two (2) years resulted from:

- (a) unanticipated and unavoidable delay in the construction of the tourism attraction project,
 - (b) an original completion date for the tourism attraction project, as originally planned, which will be more than two (2) years from the date construction began, or
 - (c) a change in business ownership or business structure resulting from a merger or acquisition,
- b. in any tax year during which an agreement is in effect, if the amount of income tax due from the approved company exceeds the state income tax credit available to the approved company, then the approved company shall pay the excess to this state as income tax, and if in any tax year during which an agreement is in effect, if the amount of sales tax to be remitted by the approved company exceeds the sales tax credit available to the approved company, then the approved company shall pay the excess to this state as sales tax,
- c. within forty-five (45) days after the end of each calendar year, the approved company shall supply the Director with such reports and certifications as the Director may request demonstrating to the satisfaction of the Director that the approved company is in compliance with the provisions of the Oklahoma Tourism Development Act, and
- d. the approved company shall not receive an inducement with respect to any calendar year if:
- (1) in any calendar year following the fourth year of the agreement, the tourism attraction project fails to attract at least ~~twenty-five percent~~ fifteen percent (15%) of its visitors from among persons who are not residents of this state, or
 - (2) in any calendar year following the first year of the agreement, the tourism attraction project is not operating and open to the public on a regular and consistent basis.

B. The agreement shall not be transferable or assignable by the approved company without the written consent of the Director.

C. If the approved company utilizes inducements which are subsequently disallowed, then the approved company will be liable for the payment to the Tax Commission of all taxes resulting from the disallowance of the inducements plus applicable penalties and interest.

D. The Director shall provide a copy of each agreement entered into with an approved company to the Tax Commission.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 50013, is amended to read as follows:

Section 50013. A. The tax levied pursuant to the provisions of the Oklahoma Tourism Promotion Act shall be due and payable by the taxpayer on the first day of each month immediately following the month of receipt, except as provided in this section.

B. For the purpose of ascertaining the amount of the tax payable pursuant to the provisions of the Oklahoma Tourism Promotion Act, it shall be the duty of all taxpayers, on or before the ~~15th~~ 20th day of each month, to deliver to the Oklahoma Tax Commission, upon forms prescribed and furnished by it, tourism promotion gross receipts tax reports signed under oath, which shall include:

1. The name of the taxpayer;
2. The taxpayer's permit number issued pursuant to the Oklahoma Sales Tax Code;
3. Gross receipts from all sales, as specified in Section 50012 of this title, during the preceding calendar month; and
4. Such further information as the ~~Oklahoma~~ Tax Commission may require to enable it to compute correctly and collect the tax levied pursuant to the Oklahoma Tourism Promotion Act.

C. In addition to the information required on reports, the ~~Oklahoma~~ Tax Commission may request and the taxpayer shall furnish any information deemed necessary for a correct computation of the tax levied pursuant to the Oklahoma Tourism Promotion Act.

D. Such taxpayer shall compute and pay to the ~~Oklahoma~~ Tax Commission the required tax due for the preceding calendar month, the payment of the tax to accompany the reports required pursuant to this section. If the payment of such tax is not postmarked or delivered to the ~~Oklahoma~~ Tax Commission on or before the ~~15th~~ 20th of such month, the tax shall be delinquent from such date.

E. It shall be the duty of every taxpayer required to make a tourism promotion gross receipts tax report and pay any tax pursuant to the provisions of the Oklahoma Tourism Promotion Act to keep and preserve suitable records of the gross sales and other pertinent records and documents which may be necessary to determine the amount of tax due as will substantiate and prove the accuracy of such reports. All such records shall be preserved for a period of three (3) years, unless the ~~Oklahoma~~ Tax Commission, in writing, has

authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the ~~Oklahoma~~ Tax Commission or by any of its authorized employees.

F. If the amount of tax due pursuant to the provisions of Section 50012 of this title is Six Hundred Dollars (\$600.00) or less for the preceding calendar year, the taxpayer may file semiannual reports and remit the taxes due thereunder to the Tax Commission on or before January ~~15~~ 20 and July ~~15~~ 20 of each year for the preceding six-month period. If not paid on or before the ~~fifteenth~~ 20th day of such month, the tax shall be delinquent.

SECTION 3. This act shall become effective September 1, 2004.

Passed the Senate the 27th day of May, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 28th day of May, 2004.

Presiding Officer of the House
of Representatives