

**BILL SUMMARY**  
2<sup>nd</sup> Session of the 57<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB 3924</b>
<b>Version:</b>	<b>INT</b>
<b>Request Number:</b>	<b>9568</b>
<b>Author:</b>	<b>Rep. Wallace</b>
<b>Date:</b>	<b>2/24/2020</b>
<b>Impact:</b>	<b>Tax Commission:</b>

**Revenue Decrease**  
**FY-21: (\$318,000) in Motor Vehicle Fees**  
**Unknown Loss in Coin-Operated Decal Fees**

**Revenue Increase**  
**\$277,000 in Mixed Beverage Gross Receipts Revenue**

**Administrative:**  
**Minimal Savings for Motor License Agent**  
**Costs for OneLink GenTax System**

**Research Analysis**

HB3924, as introduced, makes numerous changes to tax administration laws. The measure:

- Requires the transferor of a vehicle less than 20 years old to execute an odometer disclosure statement. Currently, vehicles that are 10 years or older are exempt from the requirement;
- Makes it optional for the Oklahoma Tax Commission (OTC) to appoint additional motor vehicle agents in counties with a population greater than 25,000;
- Prohibits motor vehicle agents from levying a \$1.50 processing fee for motor vehicle registration and registration renewal transactions that are completed through an online system;
- Designates an OTC agency special account to replace the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act Incentive Payment Fund;
- Provides that an individual may be held personally liable for unpaid mixed beverage gross receipts taxes when the OTC files a proposed assessment against a business for said unpaid taxes;
- Requires additional documentation to be submitted with any claim for refund of sales taxes erroneously paid when such claims are submitted by a taxpayer claiming the sales tax exemption for disabled veterans. The additional documentation must include a signed notification of the vendor's denial of the exemption;
- Amends the definition of *coin-operated devices* to exclude any device where payment is made solely through the use of a debit card, credit card or other electronic or digital payment process;
- Removes language that prohibited the OTC from providing the full social security number of taxpayers to a contractor that administer the OTC's card-based income tax refund disbursement system;
- Repeals language related to the County Government Education Technical Revolving Fund and transfers all monies in the fund to an agency special account. The OTC

administered agency special account will be used for the collection and distribution of documentary tax stamp revenue;

- Clarifies that the Oklahoma Film Enhancement Rebate Program may prequalify and approve up to \$8 million in rebates each fiscal year and limits the liability of the state for making incentive payments to the balance contained in the Oklahoma Film Enhancement Rebate Program Revolving Fund; and
- Removes the requirement that the OTC make periodic determinations about the balance of the Self-insurance Guaranty Fund.

Prepared By: Quyen Do

### **Fiscal Analysis**

Analysis provided by the Tax Commission:

HB 3924 proposes various amendments to enhance the Oklahoma Tax Commission's (OTC) administration and collection of taxes.

Section 1 amends 47 O.S. §1107.2 to comply with Federal law change<sup>1</sup>. Vehicles that are 20 years or older are not required to execute an odometer disclosure statement. Currently, this exemption applies to vehicles that are 10 years or older.

No change in state revenues is expected due to the proposed amendment.

Section 2 amends 47 O.S. §1140 to remove the requirement for the Oklahoma Tax Commission (OTC) to establish more than one motor license agent in a county with a population over 25,000 people. This measure allows the OTC to determine whether another agent is necessary, based on current conditions.

Potential minimal savings to the OTC are expected for costs associated with establishing and training new agents in new locations.

Sections 3 and 4 amend 47 O.S. §§ 7-602 and 1141.1 which presently authorize motor license agents to charge and retain a \$1.50 fee for each verification of insurance coverage related to a vehicle registration renewal.<sup>2</sup> This measure would disallow the charging of the fee for vehicle registration renewal transactions completed on an online renewal system.

The expected revenue impact is an estimated decrease of \$318,000<sup>3</sup> in motor vehicle fees for FY 21.

Section 5 amends 62 O.S. § 845 to allow the Oklahoma Tax Commission (OTC) to properly remit incentive payments authorized by the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act. This measure converts the existing Oklahoma Local Development and Enterprise Zone Incentive Leverage Act Incentive Payment Fund to an agency special account (ASA) in the State Treasury for the OTC.

No change in state revenues is expected due to this proposed amendment.

Sections 6 and 8 amend 68 O.S. § 227 and § 1361.2 to provide that the exemption afforded qualifying 100% disabled veterans pursuant to 68 O.S. § 1357(34) must be perfected through presentation of their exemption certificate/card issued by the OTC at the time of purchase. The sales tax refund provisions in 68 O.S. § 227 would not be available except under circumstances where the vendor refuses to honor the exemption and the qualifying veteran files a complaint with the OTC by submitting a completed OTC Form 13-37 (Disabled American Veterans Notification of Denial of Exemption). This form allows the OTC to investigate and properly educate the vendor on accepting the exemption card, and also allows the OTC to fine the vendor \$500 for non-acceptance of the card.

Section 7 proposes to amend 68 O.S. §253 which relates to personal liability for sales tax, withheld income tax or motor fuel tax. An individual is personally liable for sales tax, withheld income tax or motor fuel tax if the individual is responsible for withholding or collecting and remitting such tax, or if the individual has direct control, supervision or responsibility for filing returns and making payments for such tax. This measure adds personal liability for mixed beverage gross receipts tax.<sup>4</sup>

Currently, mixed beverage establishments organized as sole proprietors may be assessed personally for outstanding mixed beverage gross receipts tax. Individual officers of corporations or members of limited liability companies owing mixed beverage gross receipts tax cannot. Under the measure, as is presently the case with sole proprietors, corporate officers, members of limited liability companies and other persons responsible for the collection of the tax or having direct control, supervision or responsibility for filing returns and making the tax payments would be held individually liable for any outstanding tax amounts. Tax Commission records indicate a significantly lower collection rate for assessments to Corporations and Limited Liability Companies than assessments to sole proprietors who are personally liable for mixed beverage gross receipts tax, as shown in Table 1:

<b>Table 1 - Assessments for Delinquent Mixed Beverage Excise Tax</b>					
<b>Taxpayer Type</b>	<b>Count</b>	<b>Amount Owed</b>	<b>Amount Paid</b>	<b>Amount Outstanding</b>	<b>Collection Rate</b>
<b>Businesses</b>	<b>135</b>	<b>2,139,889.11</b>	<b>368,142.76</b>	<b>1,771,746.35</b>	<b>17.20%</b>
<b>Individuals</b>	<b>38</b>	<b>773,162.92</b>	<b>233,120.69</b>	<b>540,042.23</b>	<b>30.15%</b>
<b>Totals</b>	<b>173</b>	<b>2,913,052.03</b>	<b>601,263.45</b>	<b>2,311,788.58</b>	

Source: Oklahoma Tax Commission records

This measure is expected to encourage voluntary compliance with existing law and provide an additional mechanism in which to collect taxes due the State of Oklahoma. Assuming similar delinquency estimates for FY 21, an estimated \$277,033 increase of mixed beverage gross receipts tax will occur for FY 21.

Section 9 redefines “coin-operated device” under 68 O.S. §1501 to exclude any device dispensing tangible personal property or providing amusement where payment is made solely through the use of a credit or debit card or other electronic or digital payment process. Transactions from such devices would instead be subject to state sales tax.

Certain vending devices now utilize payment technology that incorporates credit/debit card and electronic/digital payment processing applications such as Google Pay and Square that replaces the need for traditional physical currency. In addition, vending devices are now dispensing tangible products that were previously only available in stores or purchased online. Some examples are: DVD rentals, athletic shoes and electronic devices including cell phones, etc. Currently, an annual decal fee of \$75.00 must be paid for the described machines. Payment of the \$75 annual fee is in lieu of sales tax. An equivalent \$75.00 in state sales tax equates to approximately \$1,666 in taxable sales. Removing the imposition of the decal fee on these machines would require the owners/operator thereof to obtain a sales tax permit and collect and remit the state and local sales tax due on the amounts charged for sales made through the device. The state sales tax collected on a particular purchase made through the device would equal that collected by the local retail establishment for a similar transaction. While some operators of this type of device have elected to collect and remit state and local sales tax, the amendatory provisions ensure that operators of similar machines, presently and in the future, will be required to collect and remit sales tax.

OTC records do not specifically identify the number of these machines subject to the \$75 decal which are presently in operation in the state. It is estimated that the change in treatment would result in a loss in coin-operated decal fee revenues with a net increase in state sales tax collections. The extent to which these revenues will be impacted by the enactment of this measure is unknown.

Section 10 amends 68 O.S. §2385.16 by eliminating the OTC's restriction on releasing taxpayers' full social security numbers to entities contracted with implementing a card-based disbursement system for income tax refunds.

No changes in revenue are expected as a result of this proposal; however, a minimal administrative cost to the Tax Commission is anticipated for enhancements to the OneLink GenTax system.

Section 16 amends 68 O.S. § 3624 to clarify that the amount of claims prequalified and approved by the Office of the Oklahoma Film and Music Commission (Film Office) must not exceed \$8,000,000 per fiscal year. When projects cannot complete production, submit covered receipts and be approved by the Film Office for payment in the fiscal year of prequalification, these productions may seek payment in a subsequent fiscal year. As a result, the OTC may make payments in excess of \$8 million in a fiscal year; however, the Film Office can prequalify and approve claims of no more than \$8,000,000 per fiscal year.

No changes in revenue are expected as a result of this proposal.

<sup>1</sup> See <https://www.federalregister.gov/documents/2019/10/02/2019-20360/odometer-disclosure-requirements>.

<sup>2</sup> Oklahoma Tax Commission records indicate 201,405 registration renewals were completed through the online renewal system during FY 19.

<sup>3</sup> Of this amount, \$57,240 in insurance verification fees relate to transactions processed by motor license agents with \$260,760 attributable to Tax Commission transactions.

<sup>4</sup> 37A O.S. § 5-105 levies a tax at the rate of thirteen and one-half percent (13.5%) is hereby levied and imposed on the total gross receipts of a holder of an on-premises beer and wine, mixed beverage, caterer, public event or special event license issued by the ABLE Commission, from:

1. The sale, preparation or service of mixed beverages;
2. The total retail value of complimentary or discounted mixed beverages;
3. Ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages and consumed on the premises where the sale, preparation or service occurs; and
4. Any charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages.

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### **Other Considerations**

None.

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