

OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT SECOND REGULAR SESSION, FIFTY-SEVENTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 10, 2020

BILL NUMBER: HB 3924 STATUS AND DATE OF BILL: Engrossed Bill 3/9/2020

AUTHORS: House Wallace Senate Bice

TAX TYPE (S): Documentary Stamps, Income, Mixed Beverage, Motor Vehicle and Sales Tax

SUBJECT: Administrative, Apportionment and Other

PROPOSAL: Amendatory

Engrossed HB 3924 proposes various amendments to enhance the Oklahoma Tax Commission's (OTC) administration of the various tax codes.

EFFECTIVE DATE: Emergency - July 1, 2020

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 21:

- Estimated decrease of \$318,000 in motor vehicle fees for online motor vehicle registration renewals.
- \$277,000 increase in mixed beverage gross receipts tax revenues
- Unknown loss in coin-operated decal fee revenues with a net increase in state sales tax renewals.

ADMINISTRATIVE IMPACT:

Insert the estimated cost or savings to the Tax Commission due to this proposed legislation.

FY 21:

- Potential minimal savings to the OTC are expected for costs associated with establishing and training new motor license agents.
- Minimal administrative costs to the OTC are expected for enhancements to the OneLink GenTax system.

Mar. 10, 2020
DATE

Rick Miller
DIVISION DIRECTOR

bdf

3/11/2020
DATE

Huan Gong
HUAN GONG, ECONOMIST

3/12/2020
DATE

[Signature]
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

ATTACHMENT TO REVENUE IMPACT: HB 3924 [ENGROSSED] 3/10/2020

Engrossed 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 change¹. 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.² 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 \$318,000³ 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

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

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

³ 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.

payments for such tax. This measure adds personal liability for mixed beverage gross receipts tax.⁴

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:

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

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.

⁴ 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.

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.

Sections 11 through 15 amend 68 O.S. §§2947.1 through 2947.4 and 3204 to convert the County Government Education Enhancement Revolving Fund ("Fund") to an agency special account (ASA) in the State Treasury for the OTC to collect and distribute documentary tax stamp revenues. Monies remaining in the County Government Education-Technical Revolving Fund are transferred to the ASA. The proposed amendments allow the OTC to directly apportion documentary tax stamp revenues to the Oklahoma Cooperative Extension Service and the Oklahoma State University Center for Local Government Technology (Center), effective for fiscal years ending on or after June 30, 2021. Presently, these disbursements are being satisfied through utilization of manual request forms to transfer monies out of the Fund to the two designated recipients as the Fund cannot be utilized by the agency for apportionment disbursements. The request forms must be sent monthly to OMES Accounting who manually keys the required transfers.

Also, the amendatory language clarifies the revenue source for a refund requested by a county that elects not to participate in the Center's computer-assisted mass appraisal software system as that county's annual documentary stamp tax revenue that was apportioned to the Center. Additionally, any amounts not otherwise apportioned pursuant to Section 2947.2 must be deposited and maintained in the ASA. The OTC must distribute unapportioned revenues (if available) in the ASA to the Center or Cooperative Training Program, upon written expenditure approval from the Commission on County Government Personnel Education and Training.

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.

Section 17 removes 85A O.S. §98(2)(e), which requires the OTC to notify the Workers' Compensation Commission of the Self-Insurance Guaranty Fund balance. The report to the Workers' Compensation Commission of the balance of the Self-Insurance Guaranty Fund is no longer necessary as fund balance information is maintained monthly and is available by accessing the website of the State Treasurer.