

OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT FIRST REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: February 13, 2021

BILL NUMBER: SB 597 **STATUS AND DATE OF BILL:** Engrossed 2/11/21

AUTHORS: House Pfeiffer Senate Rader

TAX TYPE (S): Mixed Beverage **SUBJECT:** Administrative

PROPOSAL: Amendatory

Engrossed SB 597 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.

EFFECTIVE DATE: November 1, 2021

REVENUE IMPACT:

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

FY 22: Expected increase of \$277,000 in mixed beverage gross receipts tax revenues.

February 15, 2021

DATE

Rick Miller

DIVISION DIRECTOR

bdf

2/15/2021

DATE

Huan Gong

HUAN GONG, ECONOMIST

2/17/21

DATE

Jay Doyle

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 - SB 597 [Engrossed] Prepared 2/13/2021

Engrossed SB 597 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.¹

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 for FY 20 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 22, an estimated \$277,000 increase of mixed beverage gross receipts tax will occur for FY 22.

¹ 37A O.S. § 5-105 levies a tax at the rate of thirteen and one-half percent (13.5%) 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.