

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 35. ESTATES**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 3. Returns; Remittance; Releases

Part 1. Filing and Payment

710:35-3-9 [NEW]

Part 3. Releases

710:35-3-20 [AMENDED]

SUMMARY:

New Section 710:35-3-9 has been added to clarify the effect of the repeal of the Oklahoma estate tax on the ten (10) year Oklahoma estate tax lien.

Section 710:35-3-20 has been amended to reflect internal changes within the Tax Commission. Because there is no longer an Income Tax Division, the duties and responsibilities set out in this rule are now under the direction of the Estate Tax Section.

AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 6, 2008, to the Oklahoma Tax Commission, Tax Policy and Research 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 Pat McDonald at (405) 522-3133.

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 are as follows: February 7, 2008, 9:00 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 Pat McDonald at (405) 522-3133 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's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

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 business entities 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 viewed online at www.oktax.state.ok.us or obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 17, 2008, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-522-5519; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

SUBCHAPTER 3. RETURNS; REMITTANCE; RELEASES

PART 1. FILING AND PAYMENT

710:35-3-9. Estate tax lien

(a) **General rule.** For decedents who die on or before December 31, 2009, Oklahoma estate taxes shall be and remain a lien upon all property which is part of the gross estate of the decedent, as defined in 68 O.S. § 807, immediately upon the death of the decedent.

(b) **Exceptions.** The Oklahoma estate tax lien does not attach to the following categories of property:

(1) Property used for the payment of charges against the estate and expenses of administration, allowed by the court having jurisdiction thereof;

(2) Property reported to the Oklahoma Tax Commission by the responsible party or parties which shall have passed to a bonafide purchaser of value in which case the tax lien shall attach to the consideration received from such purchaser by the heirs, legatees, devisees, distributes, donees or transferees; and

(3) Property passing to the surviving spouse, either through the estate of the decedent, by joint tenancy, or otherwise.

(c) **Duration.** The Oklahoma estate tax lien shall continue as a lien on all property of the decedent's gross estate, except for the categories of property described in subsection (b), for ten years from the death of the decedent, unless an order releasing taxable estate or order exempting the estate from estate tax is obtained from the Tax Commission. The Oklahoma estate tax lien is extinguished upon the expiration of ten (10) years from the date of the death of the decedent unless prior thereto the Tax Commission causes a tax warrant to be filed and appear of record in which case the Oklahoma estate tax lien then shall continue as a lien on all property of the decedent's gross estate, except for the categories of property described in subsection (b), until a release of the tax warrant is obtained and filed of record

PART 3. RELEASES

710:35-3-20. Estate tax releases

(a) For purposes of this Part and administration of the Oklahoma Estate Tax Code, the word "**release**" shall mean and include the words "**acquittance,**" "**waiver,**" "**disclaimer,**" "**order exempting**" or other similar language used in the Estate Tax Code.

(b) The Division Administrator of the Estate Tax Section of the Oklahoma Tax Commission is authorized to issue releases of Oklahoma Estate Tax liability and liens thereby as to all property listed in the Oklahoma Estate Tax Return or other information filed with the Oklahoma Tax Commission in accordance with 710:35-3-21 and 710:35-3-24. Such releases shall be upon forms approved by the Commission, issued under facsimile signature of the Commissioners and the official seal of the Oklahoma Tax Commission, and shall constitute orders of the Commission.

(c) ~~The Director of the Income Tax Division~~ Division Administrator of the Estate Tax Section of the Tax Commission or his designee shall have authority to attest the signatures and affix the official seal of the Oklahoma Tax Commission to releases and liens associated with Estate Taxes. [See: 68 O.S. §806(c)]

OKLAHOMA TAX COMMISSION

Rule Impact Statement
CHAPTER 35 ESTATES

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

710:35-3-9. Estate tax lien [NEW]

- (a.) **Purpose of the Proposed Rule:** This rulemaking action is being undertaken to clarify the effect of the repeal of the Oklahoma estate tax on the ten (10) year Oklahoma estate tax lien.
- (b.) **Classes Affected:** All taxpayers are affected by these rule changes.
- (c.) **Persons Benefited:** All taxpayers may benefit from these rule changes.
- (d.) **Probable Economic Impact:**
 - 1. **On Affected Classes:** The amendment is not expected to have any economic impact on the affected classes separable or distinct from the underlying legislation which it implements.
 - 2. **On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 - 3. **Fees:** The rule set out in this statement does not involve any administrative fees.
- (e.) **Probable Costs to the Agency:** The promulgation of the rule should have no significant revenue impact on the state and would create no cost to the agency.
- (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 Sections 303(A)(4) and 303(B)(6) of the APA, 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 of less intrusive methods for implementing the statutory amendments that necessitated this proposed rule. No formalized compliance cost minimization measures have previously been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rule is not anticipated to have any affect whatsoever on the public health, safety, or the environment either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** No detrimental effect on the public health, safety, or the environment will result if this rule amendment is not implemented.

- (k.) **Date:** October 8, 2007 **Date Modified:**
- (l.) **Prepared By:** Lisa Haws **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION

Rule Impact Statement CHAPTER 35 ESTATES

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

710:35-3-20. Estate tax releases [AMENDED]

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