

**TITLE 710. OKLAHOMA TAX COMMISSION  
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY  
AND ADMINISTRATIVE AUTHORITY**

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking.

**PROPOSED RULES:**

Subchapter 15. Wire Transmitter Fee [NEW]

**SUMMARY:**

The rule changes reflect the provisions of House Bill 2250, 52nd Legislature, First Regular Session, which levies a fee on each money transmission transaction by any licensee of a money transmission, transmitter or wire transmitter business. The new rules include definitions, the amount of the fee, who must collect the fee, when and on what form the fee must be remitted, and penalty for failure to comply.

**AUTHORITY:**

Oklahoma Tax Commission; 68 O.S § 203

**COMMENT PERIOD:**

Persons wishing to make written submissions may do so by 4:30 p.m., March 4, 2010, to the Oklahoma Tax Commission, Tax Policy 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) 521-3133

**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 is as follows: March 9, 2010 at 3:00 p.m. in the 4<sup>th</sup> 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 Mc Donald at (405) 521-3133 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 4<sup>th</sup> 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 any business entity 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](http://www.oktax.state.ok.us).

**RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared and will be available for review from and after

February 16, 2010 from the same source listed above for obtaining copies of proposed rules.

**CONTACT PERSON:**

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email:  
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**CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND  
ADMINISTRATIVE AUTHORITY**

**SUBCHAPTER 15. WIRE TRANSMITTER FEE**

**710:95-15-1. Purpose**

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to the Drug Money Laundering and Wire Transmitter Act. [63 O.S. §§ 2-503.1a et seq.]

**710:95-15-2. Definitions**

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Bill payment service" means an operator of a payment system acting in a third party capacity, to the extent that it provides processing, clearing, settlement, or other similar services between persons and businesses for a traceable debt of a good or service in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transfers, or other similar funds transfers or transactions.

"Bureau" means Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

"Commission" means the Oklahoma Tax Commission.

"Delegate" means a person a licensee designates to provide money services on behalf of the licensee.

"Licensee" means a person licensed under the Oklahoma Financial Transaction Reporting Act, Title 6 O.S. § 1511. A licensee is a "supplier" or "money transmitter" under section 2 of the Oklahoma Financial Transaction Reporting Act.

"Money transmitter or wire transmitter business" means a licensee or delegate or someone otherwise required to be licensed who engages in this State in the business of:

(A) facilitating money transmissions;

(B) selling or issuing payment instruments for a fee, commission or other benefit;

(C) receiving money for transmission or transmitting money within in the United States or to locations abroad by any and all means, including but not limited to payment instrument, wire, facsimile, electronic transfer, or otherwise for a fee, commission or other benefit; or

(D) receiving money from obligors for the purpose of paying obligors' bills, invoices or accounts for a fee, commission or other benefit paid by the obligor.

**710:95-15-3. Wire transmitter fee**

(a) Applicability of the fee. Beginning July 1, 2009, there is a fee levied against licensees by the Drug Money Laundering and Wire Transmitter Act on each money transmission transaction initiated at a location of any licensee or its delegate of a money transmitter or wire transmitter business. [See: 63 O.S. § 2-503.1j]

(b) Amounts. The fee shall be assessed on the amount of the money transmission, exclusive of fees and costs. The amount of the fee shall be determined as follows:

(1) For each transaction not in excess of Five Hundred Dollars (\$500.00), the fee is Five Dollars (\$5.00).

(2) For each transaction in excess of Five Hundred (\$500.00), the fee is Five Dollars (\$5.00) plus one percent (1%) of the amount in excess of Five Hundred Dollars (\$500.00).

(c) Reports. Every licensee required to collect the wire transmitter fee shall file a quarterly return and remit the fees collected to the Commission electronically on or before the fifteenth (15th) day of the month following the close of each quarter. The licensee may deduct from the fees payable for the quarter the amount of any fees associated with incomplete transfers which are refunded to consumers during that quarter provided proof of refund to customer is attached. Quarterly returns shall be filed on a calendar year basis and not a fiscal year basis.

(d) Notice. Every licensee and their delegates shall post a notice on a form prescribed by the Bureau that notifies customers that upon filing an Oklahoma individual income tax return with either a valid social security number or a taxpayer identification number the customer shall be entitled to an income tax credit equal to the amount of the fee paid by the customer for the transaction.

**710:95-15-4. Transactions to which the fee is not applicable**

(a) Bill payment services. Transactions between individuals and businesses, registered with the Secretary of State of Oklahoma or another State in the contiguous United States, or utility companies licensed by the Oklahoma Corporation Commission, through a bill payment service which the money being transferred is for a good or service not otherwise prohibited by State or Federal statute for a traceable debt are not subject to the wire transaction fee.

(b) Origination of transfers. Only transactions originating from Oklahoma are subject to the wire transaction fee.

(c) Credit or debit card transfers. Internet and telephone transfers conducted through a debit card, credit card or ACH transfer are not subject to the wire transaction fee.

(d) Exempt entities. Entities otherwise exempted from Money Service Business Licensing pursuant to the Oklahoma Financial Transaction Reporting Act are not subject to the wire transaction fee.

(e) Prepaid debit cards and stored value cards. The sale and servicing of prepaid debit cards and stored value cards are not subject to the wire transaction fee.

(f) Money orders. The sale of money orders is not subject to the wire transaction fee.

(g) Check cashing. Check cashing transactions and deferred presentment transactions are not subject to the wire transaction fee.

**710:95-15-5. Compliance**

If a licensee fails to file reports or remit the wire transaction fee, the Commission may suspend the license of the licensee and its delegates. Notification of the suspension shall be sent to the State Banking Commissioner and the Director of the Bureau, and the State Banking Commissioner may make a claim against the surety bond of the licensee. The licensee and its delegates may not reapply for a license until all required reports have been filed and all required fee amounts have been remitted. [See: 63 O.S. § 2-503.1j (E) and (F)]

**710:95-15-6. Conflict of law**

In the event of a conflict in the definitions pursuant to these rules, the intent of the Drug Money Laundering and Wire Transmitter Act and associated language shall prevail, followed by the Financial Transaction Reporting Act.

