

# CHAPTER 23. CHARITY GAMES TAX

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[**Authority:** 3A O.S.   422, and 68 O.S.   203]

[**Source:** Codified 6-26-94]

## CHAPTER 23. CHARITY GAMES TAX

[Authority: 3A O.S. Supp. 1993, §422]

### 710:23-1-1. Purpose

The provisions of this Chapter 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 the levies enacted by the Oklahoma Legislature with respect to the Oklahoma Charity Games Act.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

### 710:23-1-2. Definitions

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

"**ABLE**" means the Alcoholic Beverage Laws Enforcement Commission.

"**Act**" means the Oklahoma Charity Games Act, 3A O.S. Supp. 1993, § 401 et seq.

"**Commission**" means the Oklahoma Tax Commission.

"**Conforming bingo faces**" means bingo faces with the word "Oklahoma" and outline of the state of Oklahoma printed thereon.

"**Defaulting organization**" means any licensed entity that has failed to pay to the distributor the tax required by the Act.

"**Dual license holder**" means any entity licensed as both a distributor and manufacturer under the Act.

"**Exempt entity**" or "**exempt organization**" means an organization specifically designated as exempt by the terms of Section 405 of the Oklahoma Charity Games Act, 3A O.S. § 401, et seq.

"**Licensed distributor**" means a distributor of charity game equipment as defined under the Act, licensed by the Oklahoma ABLE Commission.

"**Licensed manufacturer**" means a manufacturer of charity game equipment as defined under the Act, licensed by the Oklahoma ABLE Commission.

"**Veterans' organization**" means an organization whose members consist primarily of past or present members of the United States armed forces, where the organization is *exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq.*

[See: 3A O.S. 2001, § 421(D)]

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 16 Ok Reg 2643, eff 6-25-99; Amended at 22 Ok Reg 1529, eff 6-11-05]

### 710:23-1-3. Manufacturer records and reporting

(a) **Records.** The licensed manufacturer shall maintain copies of sales invoices to licensed distributors in Oklahoma for a minimum of three (3) years. Invoices must include:

- (1) Name of manufacturer;
- (2) "ABLE" License number of manufacturer;

- (3) Name of distributor sold to;
  - (4) "ABLE" License number of distributor;
  - (5) Invoice number;
  - (6) Full description of charity game equipment shipped. The invoice for shipments of bingo faces with the word "Oklahoma" and outline of the state of Oklahoma printed thereon, ("conforming bingo faces") must be designated in such a manner so the Tax Commission can identify the number of conforming bingo faces included in the invoice;
  - (7) Serial number of equipment. Invoices for bingo sets must contain the serial number of the top sheet; and
  - (8) Date equipment shipped.
- (b) **Quarterly reporting.** Each licensed manufacturer shall submit to the Tax Commission on or before the last day of the month following the end of each calendar year quarter, a report and supporting data as set out in this subsection:
- (1) Total amount of charity game equipment sold in Oklahoma;
  - (2) Total number and the serial and series numbers of bingo faces, U-Pik-Em bingo sets, and breakopen ticket deals. The number of conforming bingo faces must be separately reported from bingo faces not imprinted with the word Oklahoma and outline of the state of Oklahoma;
  - (3) Copies of each invoice for charity game equipment, bingo faces (both conforming and nonconforming), U-Pik-Em game sets and breakopen ticket games sold in this state; and
  - (4) Copies of all invoices and work orders for conversion by jobbers, (i.e., the printing of the outline of the state of Oklahoma onto nonconforming paper) and for the printing of U-Pik-Em game sets.
- (c) **Magnetic or electronic reporting.** The quarterly report and supporting data may, if desired, be submitted via magnetic media (tape or diskette) or electronic data transfer via modem, directly to the Commission. Reports submitted via the magnetic media or electronic data shall conform to the Magnetic Media Guide prepared by the Oklahoma Tax Commission.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 14 Ok Reg 2693, eff 6-26-97; Amended at 16 Ok Reg 2643, eff 6-25-99; Amended at 17 Ok Reg 2666, eff 6-25-00]

#### **710:23-1-4. Distributor operations and reporting**

- (a) **Sales of conforming bingo faces.** A licensed distributor must sell bingo faces, imprinted with the word "Oklahoma" and outline of the state of Oklahoma ("conforming bingo faces"), to licensed organizations, exempt organizations, and exempt entities. Except for sales to veterans' organizations, all sales of conforming bingo faces are subject to tax. Conforming bingo faces may not be sold to federally recognized Indian tribes or nations.
- (b) **Records and reports required.** The following items apply to records and reports of distributors:
- (1) A distributor who sells, leases, or otherwise provides charity game equipment must record the transaction on a sales invoice.
  - (2) A sales invoice must be on a form approved by the Tax Commission and must contain the following information:
    - (A) The "ABLE" license number of the distributor;

- (B) The name of the licensed organization, entity, or licensed distributor;
  - (C) The complete business name and address of the organization, entity, or licensed distributor;
  - (D) The "ABLE" license or "ABLE" exemption permit number of the organization, entity, or licensed distributor;
  - (E) The invoice number;
  - (F) The date the equipment was shipped;
  - (G) A full description of each item of equipment sold;
  - (H) The serial numbers of the bingo sets, U-Pik-Em game sets, breakopen ticket games, and selection equipment. The invoice for bingo faces must designate whether the bingo faces are conforming bingo faces;
  - (I) The identity of the manufacturer from which the distributor purchased the equipment;
  - (J) The date of the sale of the charity game equipment;
  - (K) The name of the person who ordered the charity game equipment;
  - (L) Whether the sale was an exempt sale made to a veterans' organization.
- (c) **Monthly reporting.** Each distributor shall submit monthly to the Tax Commission:
- (1) **Purchase invoices.** Copies of all purchase invoices from the licensed manufacturer, licensed distributor, or printer (jobber), stating the amount and price of each item obtained and in the case of invoices for bingo faces, whether they are conforming or nonconforming;
  - (2) **Sales invoices.** Copies of all sales invoices submitted for payment to purchasers of charity game equipment, bingo faces (conforming and nonconforming), U-Pik-Em game sets, and breakopen ticket games, regardless of whether the sale was to a licensed organization, exempt organization or entity, or person or entity excluded from the Act;
  - (3) **Printing invoices.** Copies of all invoices and work orders for conversion by jobbers, (i.e., the printing of the outline of the state of Oklahoma onto nonconforming paper) and for the printing of U-Pik-Em game sets. The invoice and work order must include the name of the printer, the number of bingo faces, and the series and serial numbers of the bingo faces. If the bingo faces printed are in sets, only the serial number of the top sheet must be included.
  - (4) **Reconciliation of inventory of charity game equipment.**
    - (A) The perpetual reconciliation of inventory is reported on the monthly reporting form, Schedule A, pertaining to bingo faces, and shall be detailed as to the number of conforming, nonconforming, and U-Pik-Em bingo games purchased from licensed manufacturers, licensed distributors, and printers (jobbers). It must reflect the total number of faces and U-Pik-Em games purchased and sold by the distributor.
    - (B) The breakopen ticket game reconciliation is reported on Schedule B on the monthly reporting form and must reflect the retail sales value of the breakopen ticket games purchased and sold by the distributor.
    - (C) Distributors who are also licensed as manufacturers must include in the reconciliation, the number of U-Pik-Em bingo game sets printed or purchased and transferred by the manufacturer and the number of U-Pik-Em bingo game sets printed by a jobber for the distributor.
  - (5) **Physical inventory required.** All licensed distributors shall be required to file a physical inventory of all paper (designated conforming and nonconforming), U-Pik-Ems, Tabs, and Equipment, the month following the ending month of the distributor's fiscal year. Such inventory

shall include the number of conforming faces, nonconforming faces, and U-Pik-Ems, and for Tabs and Equipment, the total number of deals and items, as well as the total retail value.

(6) **Remittance of tax.** Remittance of tax is due on charity game equipment sold, rented or leased the previous month, less any discount lawfully retained. With the exception of conforming bingo faces sold to veterans' organizations, all conforming bingo faces sold or otherwise transferred during the previous month are subject to tax. Adjustments may be made upon proper showing, as a result of destruction or breakage. [See: 710:23-1-6]

(7) **Remuneration.** A distributor who timely reports and remits monthly may retain the discount provided in the Act. If the tax becomes delinquent, the discount is forfeited by the distributor.

(8) **Interest and penalty.** Interest and penalty as provided in 68 O.S. §217 shall apply to all liability not paid at the time required by the Act.

(d) **Quarterly reporting.** Each distributor, on the last day of the month following the end of the quarter, shall submit a report and supporting data to the Tax Commission containing the name, address, and license or exemption number, if any, of each purchaser of charity game equipment.

(e) **Magnetic or electronic reporting.** The quarterly report may, if desired, be submitted via magnetic media (tape or diskette) or by modem, directly to the Commission. Reports submitted via the magnetic media or electronic data shall conform to the Magnetic Media Guide prepared by the Oklahoma Tax Commission.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 14 Ok Reg 2693, eff 6-26-97; Amended at 17 Ok Reg 2666, eff 6-25-00; Amended at 22 Ok Reg 1530, eff 6-11-05]

#### **710:23-1-5. Rentals and leases of charity game equipment**

(a) **Application of the tax; persons liable for collection and remittance.** The tax imposed by the Act shall apply to the gross rental or lease payment on charity game equipment and must be collected by the licensed distributor and remitted to the Tax Commission for each period the lease or rental payment is received.

(b) **Leases including charity gaming equipment and items not subject to the Act.** If the lease includes both charity game equipment and other items, such as tables, chairs, premises, etc., the lease amount for the charity game equipment must be separately stated and the charity game tax collected and remitted thereon. Leases of tangible personal property other than charity game equipment are subject to Sales Tax.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

#### **710:23-1-6. Credit allowed distributor**

(a) **Prior authorization required for credit for damaged or returned items.** Credit for damaged bingo faces, U-Pik-Em bingo game sets, breakopen game tickets and charity game equipment may not be taken by the distributor on the face of the Charity Gaming Tax Report until a valid credit authorization has been received from the Tax Commission. [See: 710:23-1-15] The burden of establishing the right to, and the validity of a credit or refund is on the distributor.

(b) **Credit for damaged, miscut, unusable items.** Credit may be allowed against subsequent charity game tax liability of the distributor for bingo faces, U-Pik-Em bingo game sets, breakopen

game tickets and charitable game equipment determined upon review by the Tax Commission to be:

- (1) Misprinted.
- (2) Miscut.
- (3) Damaged by a disaster such as flood or fire.
- (4) Otherwise unplayable or unusable.

(c) **Credit for undamaged, returned items.** Credit may also be authorized for returns of saleable, complete sets, but only after the Commission has verified that the items have been returned to inventory and the tax has been credited or refunded to the entity returning the equipment.

(d) **Required information.** Credit/refund requests based upon (b) or (c) of this Section must be documented with the following information (if applicable):

- (1) A written detailed explanation of why the credit/refund is due, including the "ABLE" license or exemption number and a description of the damaged items for which credit/refund is claimed.
- (2) Copy of Tax Commission authorization for destruction of damaged items.
- (3) Copies of Charity Gaming Tax Reports on which the tax was originally reported.
- (4) Copies of cancelled check used to remit the tax paid.
- (5) Copies of the original purchase invoices for the items.
- (6) Copies of the original invoices on which the tax was originally charged.
- (7) Copies of the credit invoices or checks showing the price paid for and the tax collected on damaged bingo faces, U-Pik-Em bingo game sets, breakopen game tickets or charity game tickets has been refunded to the organization or entity.

(e) **Credit for uncollectible taxes.** Credit for taxes uncollectible from a defaulting organization may be claimed and must be shown on Schedule C of the Charity Games Report. A credit may also be claimed for taxes paid by the distributor pursuant to this Subsection when a check tendered by a defaulting organization in payment of charity games taxes has been returned unpaid. However, the burden of establishing the right to any credit, and the validity of each claim, is on the distributor. Once the right to a credit is established, a letter authorizing the credit to be taken on the face of the tax report will be issued. Upon receipt of the letter, the distributor may deduct the amount authorized from the tax shown on the face of the report.

(f) **Required information.** Credit is limited to amounts supported by adequate documentation which are being or will be charged off the distributor's accounting records and all amounts claimed must be adjusted to reflect any remuneration taken on reports filed previously. A claim for credit based upon uncollectible taxes due and unpaid by a defaulting organization must be documented with the following information, if applicable:

- (1) A detailed, written explanation of why the credit is due.
- (2) "ABLE" license number of the defaulting organization;
- (3) Name, address, and business name of the defaulting organization;
- (4) The amount of tax liability unpaid, along with the type of charity games tax to be credited;
- (5) Copy of the original invoice; and
- (6) Copy of the returned check or checks.

(g) **Limitations.** A credit authorization allowed pursuant to this Section will be issued only to the entity who remitted and reported the tax to the Commission. Subsequent recoveries of Charity Games Tax amounts previously claimed as "uncollectible", on which a credit has been taken, or for which a refund has been issued, are to be reported to the Tax Commission in the month of recovery.

(h) **Procedure for applying credits.** A copy of the credit authorization letter must be attached to the monthly report on which the credit is taken or the distributor will not be allowed to deduct the amount claimed. Distributors must apply for the credit authorization letter by the date the second report is due, following the date of the original sale.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 16 Ok Reg 2643, eff 6-25-99]

#### **710:23-1-7. Organization records and reporting; payment of tax to distributor**

(a) **Due date.** Charity games taxes levied by 3A O.S. §421 must be paid by the organization to the distributor no later than the fifteenth (15th) day of the calendar month following the month in which the items of charity game equipment were sold to the organization.

(b) **Timely payment to distributor.** If an organization does not make timely payment to the distributor, the distributor may require payment of the tax at the time of any subsequent purchase of charity game equipment by the organization. [See: 3A O.S. § 422]

(c) **Recordkeeping requirements.** Copies of distributor's invoices or invoices from other sources for bingo faces, U-Pik-Em bingo sets, and breakopen ticket games must be maintained by the organization for a period of three years and shall be made available for inspection by the Tax Commission. Invoices for games in play and inventory must be maintained on the premises where the charity games are conducted.

(d) **Reports filed with United States Treasury.** Each licensed organization that files with the United States Department of the Treasury any reports that are required for organizations exempt from the payment of income tax shall retain a copy of those reports and make them available to the Tax Commission upon request.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98]

#### **710:23-1-8. Limited exemptions**

(a) **Use of conforming bingo faces required.** If an exempt entity or exempt organization chooses to use disposable paper bingo faces in conducting charity games, only bingo faces with the word "Oklahoma" and outline of the state of Oklahoma printed thereon ("conforming bingo faces") purchased from a licensed distributor may be used and the tax levied by the Act must be paid.

(b) **Charity game equipment purchased from licensed distributors.** An exempt entity or exempt organization purchasing charity game equipment from a licensed distributor or licensed organization shall pay the tax levied by the Act in the same manner as prescribed for licensed organizations.

(c) **Exemption if tax levied by the Act is paid.** An exempt entity or exempt organization shall be exempt from sales and use tax on any item of charity game equipment purchased by the exempt entity or organization on which tax levied by the Act has been paid.

(d) **Sales of charity game equipment to veterans' organizations.** The sale of charity game equipment to a veterans' organization is exempt from sales tax.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 11 Ok Reg 4685, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 22 Ok Reg 1531, eff 6-11-05]

**710:23-1-9. Recordkeeping and reporting of dual license holders (DLH)**

(a) **Proper invoicing procedure.** All purchases of charity game equipment by a dual license holder (DLH) from a licensed manufacturer or a licensed distributor must be invoiced to the dual license holder's distributor's license number. Any purchases of charity game equipment by a dual license holder, made from an unlicensed manufacturer or distributor must be invoiced to the DLH's manufacturer license, and then subsequently invoiced from the DLH's manufacturer license to the DLH's distributor license, and reported as a sale on the DLH's manufacturer quarterly report.

(b) **Maintenance of records required.** A record of the form and serial number of all items incorporated into a finished product must be maintained.

(c) **Duty of license holders to keep adequate records and to report variances.** Dual license holders will be subject to the record keeping and reporting requirements applicable to both manufacturers and distributors set out in this Chapter and the Act. Dual license holders must also keep records and report any items of charity game equipment, the components of which were not previously invoiced to the licensee pursuant to (a) of this Section, which are sold to another licensed distributor in this state.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94; Amended at 14 Ok Reg 2693, eff 6-26-97; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 16 Ok Reg 2643, eff 6-25-99]

**710:23-1-10. Organizations with employees required to withhold, report and remit Oklahoma income taxes**

(a) **Compensation made to a person to conduct a charity game.** Compensation for the conduct of a charity game are wages subject to withholding for Oklahoma Income Tax purposes.

(b) **Registration as employer.** Any organization not previously registered with the Tax Commission as an employer which will pay a person or persons to conduct charity games, shall, at the time the organization is issued a license to conduct charity games, register as an employer with the Tax Commission pursuant to the provisions of Chapter 90 of this Title.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

**710:23-1-11. Withholding from winnings**

Winnings from bingo games, U-Pik-Em games, and breakopen ticket games which are subject to withholding under the Internal Revenue Code are subject to withholding for Oklahoma state tax purposes. Currently, under federal law, winnings from bingo games are not subject to withholding. Winnings from all other types of charity games are subject to withholding if the amount won exceeds three hundred (300) times the amount paid to play.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

**710:23-1-12. Admissions, concessions and other property subject to sales tax**

(a) **Admission charges.** The gross receipts received from the sale of admission tickets or fees for admission to a charity game location are subject to sales tax. If admission tickets are sold or fees charged, the value of all free or complimentary admissions provided by an organization is also subject to sales tax and must be reported on the organization's monthly sales tax report.

(b) **Concessions.** Sales of food or drink at a charity game are subject to sales tax. The person making such sales must comply with the Sales Tax Code and Rules of the Tax Commission promulgated thereto.

(c) **Other property.** Sales of tangible personal property other than items on which charity game tax is levied are subject to sales tax. The person making such sales must comply with the Sales Tax Code and Rules of the Tax Commission promulgated thereto. [See: Chapter 65 of this Title.]

(d) **Failure to collect, report and remit sales tax.** Failure to collect, report and timely remit sales tax on items subject thereto shall be reported to the Alcoholic Beverage Laws Enforcement Commission, pursuant to 3A O.S.Supp.1993, §407.

[Source: Added at 10 Ok Reg 4489, eff 8-10-93 (emergency); Added at 11 Ok Reg 3489, eff 6-26-94]

**710:23-1-13. Returns by organization**

Organizations required to file an annual return stating items of gross income, including gross receipts from bingo games, must file an annual return with the Oklahoma Tax Commission. Sales of breakopen tickets which subject an organization to federal income tax, likewise subject the organization to state income tax.

[Source: Added at 11 Ok Reg 4685, eff 8-15-94 (emergency); Added at 12 Ok Reg 2621, eff 6-26-95]

**710:23-1-14. Printers**

Printers who imprint the outline of the state of Oklahoma onto bingo paper or print U-Pik-Em bingo sets are "manufacturers" pursuant to Sections 402(18) and 426(D) of Title 3A of the Oklahoma Statutes and must comply with all applicable licensing and reporting requirements. In particular, printers must report to the Oklahoma Tax Commission the number of bingo faces or U-Pik-Em bingo sets printed, the series and serial numbers of the bingo faces, and the name, address, and ABLE license number of the licensed distributor for whom the bingo faces were imprinted. In the case of dual license holders, the printer shall invoice and report sales as provided by 710:23-1-9.

[Source: Added at 11 Ok Reg 4685, eff 8-15-94 (emergency); Added at 12 Ok Reg 2621, eff 6-26-95; Amended at 16 Ok Reg 2643, eff 6-25-99]

**710:23-1-15. Authorization to destroy charity game equipment**

- (a) Each licensed distributor must have available for inspection at its business location, the items for which authorization for destruction is being requested.
- (b) The items must be accompanied by a written inventory detailing the type and quantity of each item. Copies of the original purchase invoice(s) from licensed manufacturers, licensed distributors, or printers must be attached.
- (c) Authorization may be requested at any time. However, the Oklahoma Tax Commission must be notified when the number of bingo faces, U-Pik-Em bingo game sets, or breakopen game tickets, or any combination thereof, equals or exceeds one million (1,000,000).
- (d) Credit is for damaged items and will be authorized only after the licensed distributor has physically destroyed the items. Destruction must be witnessed by an agent of the Oklahoma Tax Commission, who will then issue a credit authorization letter. **[See: 710:23-1-6]**

**[Source:** Added at 11 Ok Reg 4685, eff 8-15-94 (emergency); Added at 12 Ok Reg 2621, eff 6-26-95; Amended at 15 Ok Reg 2410, eff 6-11-98; Amended at 16 Ok Reg 2643, eff 6-25-99]