

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1394

By: Bice

4  
5  
6 AS INTRODUCED

7 An Act relating to alcoholic beverages; amending  
8 Sections 108, 109, 110, 113, 114, 117, 137, 138 and  
9 139, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2017,  
10 Sections 5-105, 5-106, 5-107, 5-110, 5-111, 5-114, 5-  
11 134, 5-135 and 5-136), which relate to taxation of  
12 alcoholic beverages; changing rate and nature of  
13 certain tax imposed on sales of alcoholic beverages;  
14 requiring certain licensees to obtain tax permit and  
15 providing procedures; requiring reports and  
16 remittance; requiring tax be paid by distributor or  
17 wholesaler and providing procedures; and providing an  
18 effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY Section 108, Chapter 366, O.S.L.  
21 2016 (37A O.S. Supp. 2017, Section 5-105), is amended to read as  
22 follows:

23 Section 5-105. A. A tax at the rate of ~~thirteen and one-half~~  
24 ~~percent (13.5%)~~ six and one-half percent (6.5%) 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;~~

1       ~~2. The total retail value of complimentary or discounted mixed~~  
2 ~~beverages;~~

3       ~~3. Ice or nonalcoholic beverages that are sold, prepared or~~  
4 ~~served for the purpose of being mixed with alcoholic beverages and~~  
5 ~~consumed on the premises where the sale, preparation or service~~  
6 ~~occurs; and~~

7       ~~4. Any charges for the privilege of admission to a mixed~~  
8 ~~beverage establishment which entitle a person to complimentary mixed~~  
9 ~~beverages or discounted prices for mixed beverages~~ sale of alcoholic  
10 beverages to any licensee from a beer distributor, wine and spirits  
11 wholesaler or distributor or any other person or entity.

12       B. ~~For purposes of this section:~~

13       ~~1. "Mixed beverages" means mixed beverages as defined by~~  
14 ~~Section 3 of this act;~~

15       ~~2. "Total gross receipts" means the total amount of~~  
16 ~~consideration received as charges for admission to a mixed beverage~~  
17 ~~establishment, as provided in paragraph 4 of subsection A of this~~  
18 ~~section, and the total retail sale price received for the sale,~~  
19 ~~preparation or service of mixed beverages, ice and nonalcoholic~~  
20 ~~beverages to be mixed with alcoholic beverages. The advertised~~  
21 ~~price of a mixed beverage may be the sum of the total retail sale~~  
22 ~~price and the gross receipts tax levied thereon; and~~

1       ~~3. "Total retail value" means the total amount of consideration~~  
2 ~~that would be required for the sale, preparation or service of mixed~~  
3 ~~beverages.~~

4       ~~C. The gross receipts tax levied by this section shall be in~~  
5 ~~addition to the excise tax levied in Section ~~104~~ 5-101 of this ~~act~~~~  
6 ~~title, the sales tax levied in the Oklahoma Sales Tax Code and to~~  
7 ~~any municipal or county sales taxes.~~

8       ~~D. The gross receipts tax levied by this section is hereby~~  
9 ~~declared to be a direct tax upon the receipt of consideration for~~  
10 ~~any charges for admission to a mixed beverage establishment, as~~  
11 ~~provided in paragraph 4 of subsection A of this section, for the~~  
12 ~~sale, preparation or service of mixed beverages, ice and~~  
13 ~~nonalcoholic beverages to be mixed with alcoholic beverages, and the~~  
14 ~~total retail value of complimentary or discounted mixed beverages.~~

15       ~~E. The total of the retail sale price received for the sale,~~  
16 ~~preparation or service of mixed beverages, ice and nonalcoholic~~  
17 ~~beverages to be mixed with alcoholic beverages shall be the total~~  
18 ~~gross receipts for purposes of calculating the sales tax levied in~~  
19 ~~the Oklahoma Sales Tax Code.~~

20       SECTION 2.       AMENDATORY       Section 109, Chapter 366, O.S.L.  
21 2016 (37A O.S. Supp. 2017, Section 5-106), is amended to read as  
22 follows:

23       Section 5-106. All revenues generated from the ~~gross receipts~~  
24 tax levied pursuant to Section ~~108~~ 5-105 of this ~~act~~ title shall be

1 paid to the State Treasurer and placed to the credit of the General  
2 Revenue Fund of the State of Oklahoma.

3 SECTION 3. AMENDATORY Section 110, Chapter 366, O.S.L.  
4 2016 (37A O.S. Supp. 2017, Section 5-107), is amended to read as  
5 follows:

6 Section 5-107. A. Every holder of a mixed beverage, if not  
7 catered, beer and wine, caterer, hotel beverage, public event, if  
8 not catered, or special event license, issued by the ABLE  
9 Commission, shall obtain a mixed beverage tax permit from the  
10 Oklahoma Tax Commission prior to engaging within this state in the  
11 sale, preparation or service of mixed beverages, ice or nonalcoholic  
12 beverages that are sold, prepared or served to be mixed with  
13 alcoholic beverages. Every holder of a beer distributor or wine and  
14 spirits wholesaler license, or any other license that permits the  
15 direct sale of alcoholic beverages to a licensee, shall obtain a tax  
16 permit from the Tax Commission prior to engaging in such sales.

17 Each licensee shall file a verified application for ~~a mixed beverage~~  
18 the appropriate tax permit or permits with the Tax Commission,  
19 setting forth information as may be required by the Tax Commission.

20 The Tax Commission, or its designated agent, shall issue,  
21 without any fees or charges therefor, ~~a mixed beverage~~ the  
22 appropriate tax permit or permits in the name of the licensee for  
23 the place of business set forth in the application upon verification  
24 that:

1 1. The applicant is a holder of a ~~mixed beverage, if not~~  
2 ~~catered, beer and wine, caterer, hotel beverage, public event, if~~  
3 ~~not catered, or special event~~ the appropriate license issued by the  
4 ABLE Commission;

5 2. The applicant has posted a surety bond or other negotiable  
6 collateral to protect the proper payment of the ~~gross receipts~~  
7 taxes;

8 3. ~~The~~ For a holder of a mixed beverage, beer and wine,  
9 caterer, hotel beverage, public event, or special event license, the  
10 applicant is a holder of a sales tax permit for the place of  
11 business set forth in the application; and

12 4. The applicant is not delinquent in the payment of any ~~gross~~  
13 ~~receipts~~ taxes levied under this title or sales taxes.

14 A ~~mixed beverage~~ tax permit shall expire three (3) years after  
15 issuance; provided, if the holder thereof is also the holder of a  
16 sales tax permit, a ~~mixed beverage~~ tax permit shall be valid for  
17 three (3) years or until expiration of the sales tax permit,  
18 whichever is earlier, after which a renewal permit shall be valid  
19 for three (3) years.

20 B. A separate ~~mixed beverage~~ tax permit for each place of  
21 business to be operated must be obtained and no charge therefor  
22 shall be made by the Tax Commission. The Tax Commission shall grant  
23 and issue to each applicant a separate permit for each place of  
24

1 business in this state, upon proper application therefor and  
2 verification thereof by the Tax Commission.

3 C. A ~~mixed beverage~~ tax permit is not assignable and shall be  
4 valid only for the person in whose name it is issued and for the  
5 transaction of business at the place designated in the permit.

6 D. It shall be unlawful for any person to engage in a business  
7 subject to the provisions of this section prior to the issuance of a  
8 ~~mixed beverage~~ tax permit. Any person who engages in a business  
9 subject to the provisions of this section without a ~~mixed beverage~~  
10 tax permit or permits, or after a permit has been suspended, shall  
11 be guilty of a misdemeanor, and upon conviction thereof, shall be  
12 fined not more than One Thousand Dollars (\$1,000.00) or incarcerated  
13 for not more than sixty (60) days, or by both such fine and  
14 imprisonment.

15 E. Any person operating under a ~~mixed beverage~~ tax permit as  
16 provided in this section shall, upon discontinuance of business by  
17 sale or otherwise, return such permit to the Tax Commission for  
18 cancellation, together with payment of any unpaid or accrued taxes.  
19 Failure to surrender a ~~mixed beverage~~ tax permit and pay any and all  
20 accrued taxes will be sufficient cause for the Tax Commission to  
21 refuse to issue a ~~mixed beverage~~ tax permit subsequently to such  
22 person to engage in or transact any business in this state subject  
23 to the provisions of this section. Notwithstanding the provisions  
24 of subsection H of Section 1364 of Title 68 of the Oklahoma

1 Statutes, the Tax Commission shall not deny a purchaser of a  
2 business subject to the provisions of this section a ~~mixed beverage~~  
3 tax permit under this title or sales tax permit because of  
4 outstanding tax liabilities of the seller, provided the seller pays  
5 to the Tax Commission the estimated sales tax owed by the seller.  
6 Provided, further, upon completion of an audit by the Tax Commission  
7 and determination of actual sales tax owed, the difference between  
8 the estimated sales tax paid and the actual sales tax owed shall be  
9 paid by the seller to the Tax Commission if taxes were underpaid or  
10 returned to the seller by the Tax Commission if taxes were overpaid.

11 F. Whenever a holder of a ~~mixed beverage~~ tax permit fails to  
12 comply with any provisions of any state alcoholic beverage laws or  
13 tax laws, the Tax Commission, after giving ten-days' notice in  
14 writing of the time and place of hearing to show cause why this  
15 permit should not be revoked, may revoke or suspend the permit. A  
16 ~~mixed beverage~~ tax permit shall be renewed upon removal of cause or  
17 causes of revocation or suspension. ~~Mixed beverage tax~~ Tax permits  
18 are conditioned upon the proper and timely payment of all taxes due  
19 and in the event a holder of a ~~mixed beverage~~ tax permit becomes  
20 delinquent in reporting or paying any tax due under the provisions  
21 of state tax law, any duly authorized agent of the Tax Commission  
22 may cancel the permit and it shall be renewed only upon the filing  
23 of proper reports and payment of all taxes due and application for  
24 renewal in accordance with subsection A of this section.

1 G. Upon revocation or suspension of the ~~mixed beverage, beer~~  
2 ~~and wine, caterer, hotel beverage, public event or special event~~  
3 permit holder's license by the ABLE Commission, the Tax Commission,  
4 or its duly authorized agent, shall temporarily suspend the ~~mixed~~  
5 ~~beverage~~ tax permit issued to the licensee in accordance with  
6 Section 212 of Title 68 of the Oklahoma Statutes.

7 SECTION 4. AMENDATORY Section 113, Chapter 366, O.S.L.  
8 2016 (37A O.S. Supp. 2017, Section 5-110), is amended to read as  
9 follows:

10 Section 5-110. A. Payment of the ~~excise~~ tax levied by ~~Section~~  
11 ~~104~~ Sections 5-101 and 5-105 of this ~~act~~ title with respect to beer  
12 shall be made by the brewer or the beer distributor as herein  
13 provided. The tax shall be due and payable on the first day of each  
14 month for the preceding calendar month and if not paid on or before  
15 the tenth day of each month shall thereafter be delinquent.

16 B. Every brewer and beer distributor shall make and transmit to  
17 the Oklahoma Tax Commission on or before the tenth day of each  
18 calendar month, upon a form prescribed and furnished by the Tax  
19 Commission, an itemized and verified report, for the preceding  
20 calendar month, showing the following information:

- 21 1. Total quantity and description of opening inventory of beer  
22 as of the first day of the month;
- 23 2. Total receipts and acquisitions during month from every  
24 source. This shall be itemized showing:



- a. imports and purchases within and without this state separately,
- b. the kind and quantity of each type of beer as shown by the shipper's or seller's invoices thereof,
- c. the date of each purchase,
- d. the quantities purchased,
- e. the date received,
- f. the person from whom purchased,
- g. the manifest, bill of lading or delivery invoice number of each shipment, which number shall be the number used by the original seller as shown on the basic shipping records which accompany the shipment,
- h. the point of origin and point of destination of each shipment, and
- i. the name and ABLE Commission license number of the carrier if shipped by carrier;

3. The kind and quantity of all beer sold or withdrawn from stock for sale, use or consumption in the State of Oklahoma during the preceding calendar month; the date of each sale; the kind and quantity of beer in each sale; the name, address and ABLE Commission license number of each purchaser; the manifest, bill of lading or delivery invoice number, which number shall be the number as shown on the basic shipping records which accompany the delivery; and the

1 name and ABLE Commission license number of the carrier if shipped by  
2 carrier;

3 4. All nontaxable sales and dispositions made during the month,  
4 including exports and sales and deliveries to military installations  
5 located within this state, shall be reported and information in  
6 reference to each such nontaxable sale, disposition and export shall  
7 be shown in detail as is required for sales in the State of Oklahoma  
8 and shall be supported by evidence satisfactory to the Tax  
9 Commission;

10 5. Closing inventory of beer as of the last day of the calendar  
11 month; and

12 6. Such other information pertaining to the brewer's and beer  
13 distributor's beginning inventory of beer, receipts or acquisitions  
14 thereof, sales and dispositions thereof, and the closing inventory,  
15 as the Tax Commission may by form or rule require.

16 C. Every brewer and beer distributor, at the time of making the  
17 monthly report required by this section, shall remit to the Tax  
18 Commission the total amount of the ~~excise~~ tax due as shown by the  
19 report. It shall be unlawful for any brewer or beer distributor to  
20 sell or offer for sale any beer while delinquent in the payment of  
21 any ~~excise~~ tax due the state.

22 D. Reports and remittances, as required herein, which are  
23 mailed on the tenth day of the month and received by the Tax  
24 Commission subsequent to the tenth of the month in which the ~~excise~~

1 tax is payable, shall be deemed to have been received by the Tax  
2 Commission before becoming delinquent. Postmark or registry receipt  
3 showing deposit in the United States mails shall be conclusive  
4 evidence of the date of mailing. The time for filing returns and  
5 paying the ~~excise~~ tax levied by the Oklahoma Alcoholic Beverage  
6 Control Act shall not be extended.

7 E. If upon investigation it is determined by the Tax Commission  
8 that any nontaxable disposition or sale claimed by any brewer or  
9 beer distributor is not supported by a valid invoice, or is  
10 fraudulently or falsely claimed in any manner by such brewer or beer  
11 distributor or any agent of such licensee, the Tax Commission shall  
12 disallow any such deduction and shall assess and collect the tax,  
13 together with the penalty and interest thereon, on the total amount  
14 of the disallowed deduction taken by the licensee.

15 F. The taking and claiming of any deduction not authorized by  
16 law, upon a report by any brewer or beer distributor, or the failure  
17 to file monthly reports or to pay any ~~excise~~ tax due, shall  
18 constitute grounds for the revocation of such person's license by  
19 the ABLE Commission and the Tax Commission shall promptly notify the  
20 ABLE Commission of all such cases.

21 SECTION 5. AMENDATORY Section 114, Chapter 366, O.S.L.  
22 2016 (37A O.S. Supp. 2017, Section 5-111), is amended to read as  
23 follows:  
24

1 Section 5-111. A. Payment of the tax levied by Section 5-105  
2 of this title with respect to wine and spirits shall be made by the  
3 wine and spirits wholesaler as herein provided. The tax shall be  
4 due and payable on the first day of each month for the preceding  
5 calendar month and if not paid on or before the tenth day of each  
6 month shall thereafter be delinquent.

7 B. Every wine and spirits wholesaler and/or other person  
8 authorized under the Oklahoma Alcoholic Beverage Control Act to  
9 import alcoholic beverages into this state, shall make and transmit  
10 to the Oklahoma Tax Commission on or before the tenth day of each  
11 month, upon a form prescribed and furnished by the Tax Commission,  
12 an itemized and verified report for the preceding calendar month,  
13 showing the following information:

14 1. Opening inventory of alcoholic beverages other than beer;  
15 2. Total receipts and acquisitions during month from every  
16 source. This shall be itemized showing:

- 17 a. imports and purchases from within and without this  
18 state separately,
- 19 b. the kind, proof and quantity of each type of alcoholic  
20 beverage as shown by the shipper's or seller's  
21 invoices thereof,
- 22 c. the date of each purchase,
- 23 d. the amount purchased,
- 24 e. the date received,

- 1 f. the person from whom purchased,  
2 g. the manifest, bill of lading or delivery invoice  
3 number of each shipment, which number shall be the  
4 number used by the original seller as shown on the  
5 basic shipping records which accompany the shipment,  
6 and  
7 h. the point of origin and point of destination of each  
8 shipment;

9 3. The kind and quantity of all alcoholic beverages sold or  
10 withdrawn from inventory for sale, use or consumption during the  
11 calendar month; the date of each sale; and the kind, proof and  
12 quantity of alcoholic beverages in each sale; the name, address and  
13 ABLE Commission license number of each purchaser; and the manifest,  
14 bill of lading or delivery invoice number, which number shall be the  
15 number as shown on the basic shipping records which accompany the  
16 delivery;

17 4. All nontaxable sales and dispositions made during the month,  
18 supported by evidence satisfactory to the Tax Commission;

19 5. Closing inventory of alcoholic beverages as of the last day  
20 of the calendar month; and

21 6. Such other information pertaining to the wholesaler's  
22 beginning inventory of alcoholic beverages, receipts or acquisitions  
23 thereof, sales and dispositions thereof, and closing inventory, as  
24 the Tax Commission may by form or rule require.

1       ~~B.~~ C. If upon investigation it is determined by the Tax  
2 Commission that any nontaxable disposition or sale claimed by any  
3 licensee is not supported by a valid invoice, or is fraudulently or  
4 falsely claimed in any manner by such licensee or any agent of such  
5 licensee, the Tax Commission shall disallow any such deduction and  
6 shall assess and collect the excise tax, together with the penalty  
7 and interest thereon, on the total amount of the disallowed  
8 deduction taken by the licensee.

9       ~~C.~~ D. The taking and claiming of any deduction not authorized  
10 by law, upon a report by any wholesaler or the failure to file  
11 monthly reports or pay any excise tax due, shall constitute grounds  
12 for the revocation of such person's license, distributor permit or  
13 wholesaler permit by the ABLE Commission and the Tax Commission  
14 shall promptly notify the ABLE Commission of all such cases.

15       SECTION 6.       AMENDATORY       Section 117, Chapter 366, O.S.L.  
16 2016 (37A O.S. Supp. 2017, Section 5-114), is amended to read as  
17 follows:

18       Section 5-114. A. All bottles or other original containers of  
19 alcoholic beverages in the possession of any person upon which the  
20 taxes have not been paid as required by the Oklahoma Alcoholic  
21 Beverage Control Act and the rules thereunder are declared to be  
22 contraband. Any duly authorized employee of the ABLE Commission or  
23 the Oklahoma Tax Commission is authorized to seize the same, and  
24 such containers of alcoholic beverages so seized shall be subject to

1 confiscation and forfeiture by the Tax Commission as hereinafter  
2 provided.

3 B. If, upon examination of invoices or from other  
4 investigation, the Tax Commission finds that any alcoholic beverages  
5 have been sold without tax payment as required by the Oklahoma  
6 Alcoholic Beverage Control Act, the Tax Commission shall have the  
7 power to require such person to pay to the Tax Commission as such  
8 tax a sum equal to twice the amount of the tax due. If any person  
9 is unable to furnish evidence to the Tax Commission of ~~excise~~ tax  
10 payment to cover purchases of alcoholic beverages made by such  
11 person, the prima facie presumption shall arise that such alcoholic  
12 beverages were sold without ~~excise~~ tax payment.

13 It is expressly provided, except where specific provisions of  
14 the Oklahoma Alcoholic Beverage Control Act require otherwise, that  
15 the procedures and remedies contained in the Uniform Tax Procedure  
16 Code of the Oklahoma Statutes in connection with the making of  
17 assessments, and the enforcement and collection thereof, the  
18 penalties and interest to be applied, all lien and tax warrant  
19 provisions, all incidental remedies, including procedure for an  
20 injunction, and all other provisions of the Uniform Tax Procedure  
21 Code which may be applied or used to enforce the provisions of the  
22 Oklahoma Alcoholic Beverage Control Act, shall be applicable and  
23 available to the Tax Commission in administering the provisions  
24

1 hereof and collecting the taxes herein levied on alcoholic  
2 beverages.

3 SECTION 7. AMENDATORY Section 137, Chapter 366, O.S.L.  
4 2016 (37A O.S. Supp. 2017, Section 5-134), is amended to read as  
5 follows:

6 Section 5-134. A. Every holder of a mixed beverage, beer and  
7 wine, caterer, public event ~~or~~, special event, beer wholesaler or  
8 wine and spirits wholesaler license issued by the ABLE Commission,  
9 as a condition precedent to the issuance of a ~~mixed beverage~~ tax  
10 permit, shall furnish to the Oklahoma Tax Commission a bond from a  
11 surety company chartered or authorized to do business in this state,  
12 cash bond, certificates of deposits, certificates of savings or U.S.  
13 Treasury bond, or an assignment of negotiable stocks or bonds, as  
14 the Tax Commission may deem necessary to secure payment of the ~~gross~~  
15 ~~receipts~~ tax levied upon ~~gross receipts~~ of the licensees.

16 B. Any surety bond furnished under this section shall be a  
17 continuing instrument and shall constitute a new and separate  
18 obligation in the sum stated therein for each calendar year or a  
19 portion thereof while such bond is in force. Such bond shall remain  
20 in effect until the surety or sureties are released and discharged  
21 by the Tax Commission.

22 C. The Tax Commission, or its duly authorized agent, shall fix  
23 the amount of such bond or other security for each licensee for each  
24 place of business after considering the estimated ~~gross receipts~~ tax



1 liability of such licensee. Such bond shall be no less than an  
2 amount equal to the average estimated quarterly ~~gross receipts~~ tax  
3 liability and no greater than an amount equal to three times the  
4 amount of the average estimated quarterly ~~gross receipts~~ tax  
5 liability. The minimum bond required for a new permit holder shall  
6 be not less than One Thousand Five Hundred Dollars (\$1,500.00).

7 D. Notwithstanding the provisions of subsection C of this  
8 section, if the permit holder has held the permit for at least four  
9 (4) years and is not delinquent in the payment of ~~mixed beverage~~  
10 taxes, the Tax Commission shall not require any increase in the bond  
11 so long as the permit holder remains current in the payment of such  
12 taxes.

13 E. Any bond or other security shall be such as will protect  
14 this state against failure of the taxpayer or licensee to pay the  
15 tax levied by Section ~~408~~ 5-105 of this ~~act~~ title. The forfeiture  
16 or cancellation of such bond or security, for any reason whatsoever,  
17 shall automatically revoke the mixed beverage tax permit issued  
18 pursuant to the provisions of the Oklahoma Alcoholic Beverage  
19 Control Act.

20 SECTION 8. AMENDATORY Section 138, Chapter 366, O.S.L.  
21 2016 (37A O.S. Supp. 2017, Section 5-135), is amended to read as  
22 follows:

23 Section 5-135. A. Every ~~mixed beverage~~ tax permit holder, or  
24 any person transacting business subject to the ~~gross receipts~~ tax

1 levied by Section ~~108~~ 5-105 of this ~~act~~ title, shall file with the  
2 Oklahoma Tax Commission a monthly report for each place or location  
3 of business, on or before the twentieth day of the month immediately  
4 following the month of receipt. The reports shall be made under  
5 oath, on forms prescribed by the Tax Commission, which shall include  
6 the following information:

- 7 1. Name of ~~mixed beverage~~ tax permit holder;
- 8 2. ~~Mixed beverage tax~~ Tax permit number;
- 9 3. Sales tax permit number;
- 10 4. ~~Mixed beverage, caterer, public event or special event~~  
11 ~~license~~ License number;
- 12 5. ~~Gross receipts for the month for the sale, preparation or~~  
13 ~~service of mixed beverages, ice and nonalcoholic beverages mixed~~  
14 ~~with~~ Taxable sales of alcoholic beverages; and
- 15 6. ~~Gross receipts for the month from charges for the privilege~~  
16 ~~of admission to a mixed beverage establishment which entitles a~~  
17 ~~person to complimentary mixed beverages or discounted prices for~~  
18 ~~mixed beverages;~~
- 19 7. ~~Total retail value of complimentary or discounted alcoholic~~  
20 ~~beverages served for the month; and~~
- 21 ~~8.~~ Such other information as may be required by the Tax  
22 Commission to enable it to collect taxes imposed as provided by law.
- 23 B. The ~~gross receipts~~ tax levied by Section ~~108~~ 5-105 of this  
24 ~~act~~ title shall be calculated by multiplying the tax rate, ~~thirteen~~

1 ~~and one-half percent (13.5%)~~ six and one-half percent (6.5%), and  
2 the total ~~gross receipts for each month from the sale, preparation~~  
3 ~~or service of mixed beverages, ice and nonalcoholic beverages mixed~~  
4 ~~with alcoholic beverages, the total gross receipts of charges~~  
5 ~~received for admission to mixed beverage establishments, as provided~~  
6 ~~in paragraph 6 of subsection A of this section, and the total retail~~  
7 ~~value of complimentary or discounted mixed beverages~~ taxable sales  
8 of alcoholic beverages. ~~Gross receipts from the sale of food~~  
9 ~~prepared with alcoholic beverages shall not be included in the~~  
10 ~~calculation of the monthly tax liability.~~ The tax due for the  
11 preceding month shall accompany the report required in subsection A  
12 of this section. All taxes, penalties and interest imposed by the  
13 Oklahoma Alcoholic Beverage Control Act may be paid in the form of  
14 electronic funds transfer or by a personal or company check,  
15 cashier's check, certified check or postal money order payable to  
16 the Tax Commission.

17 C. If the ~~gross receipts~~ tax levied pursuant to the provisions  
18 of Section ~~408~~ 5-105 of this ~~act~~ title is not paid on or before the  
19 twentieth day of each month, the tax shall be delinquent, and  
20 interest and penalty shall accrue on and from the twenty-first day  
21 of each month, pursuant to the provisions of the Uniform Tax  
22 Procedure Code.

23 D. Every licensed wholesaler of alcoholic beverages in this  
24 state shall file with the Tax Commission a monthly report, under

1 oath, on forms prescribed by the Tax Commission, which shall include  
2 the name, location and mixed beverage tax permit number of each  
3 mixed beverage, caterer, public event or special event licensee to  
4 whom the licensed wholesaler sold alcoholic beverages during the  
5 report month.

6 E. If the report required by subsection A of this section is  
7 not filed with the Tax Commission on or before the twentieth day of  
8 the month, the Tax Commission may assess an additional penalty of  
9 Five Dollars (\$5.00) for each day thereafter that the report is not  
10 filed pursuant to the provisions of this section. The Tax  
11 Commission may waive the penalty assessed pursuant to the provisions  
12 of the Uniform Tax Procedure Code; provided, however, the additional  
13 penalty, if assessed, shall not exceed an amount equal to twice the  
14 amount of tax due for the period for which such report was required  
15 to be filed, or the sum of Three Hundred Dollars (\$300.00),  
16 whichever is greater.

17 F. Taxes paid as provided by law represented by accounts  
18 receivable which are found to be worthless or uncollectible may be  
19 credited upon subsequent reports and remittances of such tax, in  
20 accordance with rules promulgated by the Tax Commission. If such  
21 accounts are thereafter collected, the same shall be reported and  
22 the tax shall be paid upon the amount so collected.

23 G. In addition to any other authority granted by law, the Tax  
24 Commission is hereby authorized to audit any ~~mixed beverage, beer~~

1 ~~and wine, caterer, public event or special event~~ licensee to  
2 determine if the correct amount of tax payable under Section ~~108~~ 5-  
3 105 of this ~~act~~ title has been collected; provided, if such an audit  
4 reveals that the amount collected is within the following  
5 percentages of the amount of tax payable, the taxpayer shall be  
6 deemed to be in compliance:

7 1. For spirits, eighty-four percent (84%) to one hundred  
8 sixteen percent (116%);

9 2. For wine, ninety percent (90%) to one hundred ten percent  
10 (110%);

11 3. For beer sold at draft and not in original packages, eighty-  
12 six percent (86%) to one hundred fourteen percent (114%); and

13 4. For beer sold in original packages, ninety-five percent  
14 (95%) to one hundred five percent (105%).

15 SECTION 9. AMENDATORY Section 139, Chapter 366, O.S.L.  
16 2016 (37A O.S. Supp. 2017, Section 5-136), is amended to read as  
17 follows:

18 Section 5-136. The ~~mixed beverage~~ tax permit holder or taxpayer  
19 may retain one percent (1%) of the tax due and timely reported and  
20 paid, in accordance with the provisions of Section ~~138~~ 5-135 of this  
21 ~~act~~ title, as remuneration for establishing and maintaining the  
22 records required by the Oklahoma Alcoholic Beverage Control Act. If  
23 such tax becomes delinquent, such taxpayer forfeits his or her claim  
24 to the one percent (1%) discount.

1 SECTION 10. This act shall become effective October 1, 2018.

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