

ENROLLED SENATE
BILL NO. 5

By: Long (Ed), Capps, Muegge,
Kerr and Shurden of the
Senate

and

Bryant (James), Leist, Boyd
(Laura), Monks, Bonny,
Voskuhl, Thompson, Beutler,
Coleman, Cotner, Adair,
Smith (Bill) and Mitchell
of the House

An Act relating to revenue and taxation;
amending 68 O.S. 1991, Sections 1356, as last
amended by Section 9 of Enrolled Senate Bill No.
518 of the 1st Session of the 44th Oklahoma
Legislature and 1357, as last amended by Section
1 of Enrolled House Bill No. 1225 of the 1st
Session of the 44th Oklahoma Legislature, which
relate to sales taxes; exempting sales of
certain tangible personal property from sales
taxes; defining term; exempting sales of certain
food or food products from sales taxes; and
declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1356, as
last amended by Section 9 of Enrolled Senate Bill No. 518 of the
1st Session of the 44th Oklahoma Legislature, is amended to read as
follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by
this article:

~~(A)~~ 1. Sale of tangible personal property or services to the
United States government or to the State of Oklahoma, any political
subdivision of this state or any agency of a political subdivision
of this state; provided, all sales to contractors in connection with
the performance of any contract with the United States government,
State of Oklahoma or any of its political subdivisions shall not be
exempted from the tax levied by this article, except as hereinafter
provided;

~~(B)~~ 2. Sales of property to agents appointed by or under
contract with agencies or instrumentalities of the United States
government if ownership and possession of such property transfers
immediately to the United States government;

~~(C)~~ 3. Sales of property to agents appointed by or under
contract with a political subdivision of this state if the sale of
such property is associated with the development of a qualified
federal facility, as provided in the Oklahoma Federal Facilities
Development Act, and if ownership and possession of such property
transfers immediately to the political subdivision or the state;

~~(D)~~ 4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority;

~~(E)~~ 5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

~~(F)~~ 6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

~~(G)~~ 7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business;

~~(H)~~ 8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

~~(I)~~ 9. Sales of tangible personal property or services to the Council Organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Girls shall be exempt from sales tax;

~~(J)~~ 10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education and the Grand River Dam Authority, or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

~~(K)~~ 11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by said institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this act shall be a misdemeanor as set forth in paragraph ~~(J)~~ 10 of this section;

~~(L)~~ 12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

~~(M)~~ 13. Sales of tangible personal property made by:

- ~~1. A~~ a. a public school~~†~~†
- ~~2. A~~ b. a private school offering instruction for grade levels kindergarten through twelfth grade~~†~~†
- ~~3. A~~ c. a public school district~~†~~†
- ~~4. A~~ d. a public or private school board~~†~~†
- ~~5. A~~ e. a public or private school student group or organization~~†~~†
- ~~6. A~~ f. a parent-teacher association or organization~~†~~† or
- ~~7. Public~~ g. public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization.

The exemption provided by this ~~subsection~~ paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

~~(N)~~ 14. Sales of tangible personal property by:

- a. local 4-H clubs,
- b. county, regional or state 4-H councils,
- c. county, regional or state 4-H committees,
- d. 4-H leader associations,
- e. county, regional or state 4-H foundations, and
- f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each

organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (4);

~~(O)~~ 16. Items or services which are subsequently given away by the Oklahoma Department of Tourism and Recreation as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

~~(P)~~ 17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both; and

~~(Q)~~ 18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a municipality with municipal employees.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 1 of Enrolled House Bill No. 1225 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1357. Exemptions - General.

There are hereby specifically exempted from the tax levied by this article:

~~(A)~~ 1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

~~(B)~~ 2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;

~~(C)~~ 3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this article. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit. The exemption provided by this ~~subsection~~ paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by this article. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

~~(D)~~ 4. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television;

~~(E)~~ 5. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that he is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

~~(F)~~ 6. Sale of natural or artificial gas and electricity when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 1370.2 of this title, from levying and collecting taxes on the sale of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of Section 1370.2 of this title, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

~~(G)~~ 7. In addition to the exemptions authorized by Section 1357.6 of this title, sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

~~(H)~~ 8. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

~~(I)~~ 9. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

~~(J)~~ 10. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the State of Oklahoma in the federal food stamp program;

~~(K)~~ 11. Sales of food or food products to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program

commonly known as "Meals on Wheels" or "Mobile Meals",
or

- b. is exempt from taxation pursuant to the provisions of
Section 501(c) (3) of the Internal Revenue Code, 26
U.S.C., Section 501(c) (3), and which receives federal
funding pursuant to the Older Americans Act of 1965,
as amended, for the purpose of providing nutrition
programs for the care and benefit of elderly persons;

12. Sales of tangible personal property or services to or by
organizations which are exempt from taxation pursuant to the
provisions of Section 501(c) (3) of the Internal Revenue Code, 26
U.S.C., Section 501(c) (3), and which are primarily involved in the
collection and distribution of food and other household products to
other organizations which are exempt from taxation pursuant to the
provisions of Section 501(c) (3) of the Internal Revenue Code, 26
U.S.C., Section 501(c) (3) which facilitate the distribution of such
products to the needy, except sales made in the course of business
for profit or savings, competing with other persons engaged in the
same or similar business;

13. Sales of computers, data processing equipment, related
peripherals and telephone, telegraph or telecommunications service
and equipment to a new or expanding business. In order to qualify
for the exemption provided for by this ~~subsection~~ paragraph, the
sale of said items shall equal or exceed the sum of Two Million
Dollars (\$2,000,000.00). For purposes of this ~~subsection~~ paragraph,
qualified purchaser means any new or expanding business which adds
at least one hundred (100) new full-time-equivalent employees, as
certified by the Employment Security Commission. Only sales of
computers, data processing equipment, related peripherals and
telephone, telegraph or telecommunications service and equipment
made within thirty-six (36) months of the effective date of this act
shall be eligible for the exemption provided by this ~~subsection~~
paragraph;

~~(L)~~ 14. Sales of computers, data processing equipment, related
peripherals and telephone, telegraph or telecommunications service
and equipment for use in a qualified aircraft maintenance or
manufacturing facility. For purposes of this ~~subsection~~ paragraph,
"qualified aircraft maintenance or manufacturing facility" means a
new or expanding facility primarily engaged in aircraft repair,
building or rebuilding whether or not on a factory basis, whose
total cost of construction exceeds the sum of Five Million Dollars
(\$5,000,000.00) and which employs at least two hundred fifty (250)
new full-time-equivalent employees, as certified by the Oklahoma
Employment Security Commission, upon completion of the facility. In
order to qualify for the exemption provided for by this ~~subsection~~
paragraph, the cost of said items purchased by the qualified
aircraft maintenance or manufacturing facility shall equal or exceed
the sum of Two Million Dollars (\$2,000,000.00);

~~(M)~~ 15. Sales of tangible personal property consumed or
incorporated in the construction or expansion of a qualified
aircraft maintenance or manufacturing facility as defined in
~~subsection (L)~~ paragraph 14 of this section. For purposes of this
~~subsection~~ paragraph, sales made to a contractor or subcontractor
that has previously entered into a contractual relationship with a
qualified aircraft maintenance or manufacturing facility for
construction or expansion of such a facility shall be considered
sales made to a qualified aircraft maintenance or manufacturing
facility;

~~(N)~~ 16. Effective July 1, 1993, and thereafter, sales of repair
machinery, repair equipment and repair parts, and fuel, oil,

lubricants and other substances used for the operation and maintenance of such repair machinery, repair equipment and repair parts, all of which are to be used directly within a nongovernmental aircraft maintenance facility which is primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis and:

- ~~1. Which~~ a. which has been certified by the Oklahoma Employment Security Commission as employing at least two thousand (2,000) full-time-equivalent employees~~†~~ or
- ~~2. Whose~~ b. whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees and which is owned or leased by an aircraft manufacturing facility which employs at least two thousand (2,000) full-time-equivalent employees in this state as certified by the Oklahoma Employment Security Commission.

Provided, the provisions of this ~~subsection~~ paragraph shall be null and void unless and until there are two (2) or more such aircraft maintenance facilities located in this state;

~~(O)~~ 17. Sales of any interstate telecommunications services which:

- ~~1. Entitle~~ a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber~~†~~ or
- ~~2. Entitle~~ b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges.

For the fiscal year ending June 30, 1993, the exemption provided for in this paragraph shall not become effective until sales tax collections pursuant to subparagraph (2) of paragraph (D) of Section 1354 of this title reach Five Million Six Hundred Thousand Dollars (\$5,600,000.00); and

~~(P)~~ 18. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 20th day of May, 1993.

President of the Senate

Passed the House of Representatives the 20th day of May, 1993.

Speaker

of the House of
Representatives