

ENGROSSED HOUSE
JOINT
RESOLUTION NO. 1059

By: Kinnamon, Gray,
Hilliard, Maddux,
Vaughn, Greenwood and
Thornbrugh

A Joint Resolution disapproving certain rules of the Oklahoma Tax Commission relating to sales and use tax exemptions; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to determine that a rule is not consistent with legislative intent and disapprove the rule or any portion thereof; and

WHEREAS, on or about March 28, 1995, the Oklahoma Tax Commission adopted proposed permanent rules 710:65-13-15, 710:65-13-37, 710:65-13-38, 710:65-13-39 and 710:65-13-40, which provide clarifying statements regarding sales tax exemptions for specified institutions and persons. These rules were submitted to the Legislature on March 31, 1995; and

WHEREAS, the clarifying statements to the proposed permanent rules provide that purchases of taxable personal property or services by contractors on behalf of certain persons, nonprofit organizations and churches are taxable to the contractor; and

WHEREAS, these clarifying statements to the proposed permanent rules are unnecessarily restrictive and inconsistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 45TH OKLAHOMA LEGISLATURE:

SECTION 1. The Oklahoma Tax Commission permanent rules OAC 710:65-13-15, 710:65-13-37, 710:65-13-38, 710:65-13-39 and 710:65-13-40, are hereby disapproved. The language of OAC 710:65-13-15 which is disapproved reads as follows:

"(k) Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor who performs improvements to real property for a farmer may not purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to a farmer."

The language of OAC 710:65-13-37 which is disapproved reads as follows:

"(e) Purchases by contractors. Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor who performs improvements to real property for "Meals on Wheels," "Mobile Meals," and similar programs enumerated in 68 O.S. Supp. 1993, §1357(11)(a), may not purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to "Meals on Wheels" and similar programs."

The language of OAC 710:65-13-38 which is disapproved reads as follows:

"(e) Purchases by contractors. Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor who performs improvements to real property for "Older Americans Act" organizations, enumerated in 68 O.S. Supp. 1993, §1357(11)(b), may not purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to "Older Americans Act" organizations."

The language of OAC 710:65-13-39 which is disapproved reads as follows:

"(f) Purchases by contractors. Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. §1352 are taxable to the contractor. A contractor who performs improvements to real property for a "Collection and Distribution" organization enumerated in 68 O.S. Supp. 1993, §1357(12) may not purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to a "Collection and Distribution" organization."

The language of OAC 710:65-13-40 which is disapproved reads as follows:

"(b) Sales "to" churches. Generally, sales made directly to a church are exempt from sales and use tax. The church must hold a valid letter of exemption from the Commission.

(c) Purchases by contractors. Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor who performs improvements to real property for a church may not purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to a church."

SECTION 2. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Oklahoma Tax Commission and the Editor of "The Oklahoma Register".

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 House of Representatives the 25th day of May, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate