

SHORT TITLE: Revenue and taxation; qualifications for agricultural sales tax exemption permit; income level for additional homestead exemption; adding another additional homestead exemption; tax sale procedures; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 629

By: Herbert

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 1358.1, as amended by Section 2, Chapter 70, O.S.L. 1992, 2890, 3108, 3111, 3120 and 3135 (68 O.S. Supp. 1994, Section 1358.1), which relate to sales and ad valorem taxes; modifying conditions under which certain certification may be made; modifying income level for purposes of qualifying for additional homestead exemption; granting additional homestead exemption to certain persons; modifying procedures for purchases of land at tax sales; modifying form of certain certification and certificate tax deed; authorizing county to hold certain auctions and providing procedures related thereto; authorizing contracts with auctioneer; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1358.1, as amended by Section 2, Chapter 70, O.S.L. 1992 (68 O.S. Supp. 1994, Section 1358.1), is amended to read as follows:

Section 1358.1 ~~(A)~~ A. In order to qualify for any exemption authorized by Section 1358 of this title, at the time of sale, the person to whom the sale is made shall be required to furnish the

vendor proof of eligibility for ~~such~~ the exemption as required by this section.

~~(B)~~ B. All vendors shall honor the proof of eligibility for sales tax exemption as authorized by this section and sales to a person providing such proof shall be exempt from the tax levied by this article, Section 1350 et seq. of this title.

~~(C)~~ C. For persons holding a valid motor fuel tax exemption permit issued pursuant to Section 509 of this title, ~~such~~ the permit shall constitute proof of eligibility for a sales tax exemption as provided by Section 1358 of this title. Upon the expiration of ~~any~~ ~~such~~ the permit or if an original application for the exemption is made, the holder may apply for the motor fuel tax exemption and, if the application is approved, a new permit shall be issued indicating the nature of the motor fuel tax exemption and ~~such~~ the permit shall contain a statement that the holder of the permit is eligible for sales tax exemptions authorized by Section 1358 of this title.

~~(D)~~ D. For persons who do not hold a motor fuel tax exemption permit as provided by this section, ~~such~~ the person shall obtain an agricultural exemption permit, the size and design of which shall be prescribed by the Oklahoma Tax Commission, which shall constitute proof of eligibility for sales tax exemptions authorized by Section 1358 of this title. ~~Such~~ The permit shall be obtained by listing personal property used in farming or ranching by ~~such~~ the person with the county assessor each year as provided by law. If the assessor determines that ~~such~~ the personal property is correctly listed and assessed for ad valorem taxation and that the person has no delinquent accounts appearing on the personal property tax lien docket in the county treasurer's office, the assessor shall certify the assessment upon a form prescribed by the Oklahoma Tax Commission. One (1) copy shall be retained by the assessor, one (1) copy shall be forwarded to the Oklahoma Tax Commission and one (1) copy shall be given to the person listing the personal property.

Upon verification that the applicant qualifies for the exemptions authorized by Section 1358 of this title, the Commission shall issue a permit as prescribed by this section. The permit shall constitute proof of eligibility for sales tax exemptions as authorized by Section 1358 of this title. The permit shall be renewable annually in the manner provided by this section.

~~(E)~~ E. A person who does not otherwise qualify for a permit pursuant to subsection ~~(D)~~ D of this section, except as provided in subsection ~~(F)~~ F of this section, shall file with the Oklahoma Tax Commission an application for an agricultural exemption permit constituting proof of eligibility for the sales tax exemptions authorized by Section 1358 of this title, setting forth such information as the Tax Commission may require. The application shall be certified by the applicant that ~~such~~ the applicant is engaged in custom farming operations or in the business of farming or ranching. If the applicant is a corporation, the application shall be certified by a legally constituted officer thereof.

~~(F)~~ F. For a person who is a resident of another state and who is engaged in custom farming operations in this state, ~~such~~ the person shall provide the vendor proof of residency, the name, address and telephone number of the person engaging the custom farmer and certification on the face of the invoice, under the penalty of perjury, that the property purchased shall be used in agricultural production as proof of eligibility for the sales tax exemption authorized by Section 1358 of this title.

~~(G)~~ G. If an agricultural exemption permit holder purchases tangible personal property from a vendor on a regular basis, the permit holder may furnish the vendor proof of eligibility as provided for in subsections ~~(D)~~ D and ~~(E)~~ E of this section and the vendor may subsequently make sales of tangible personal property to ~~such~~ the permit holder without requiring ~~such~~ proof of eligibility for each subsequent sale. Provided, the permit holder shall notify

the vendor of all purchases which are not exempt from sales tax under the provisions of Section 1358 of this title and remit the applicable amount of tax thereon. If the permit holder fails to notify the vendor of purchases not exempt from sales tax, then sufficient grounds shall exist for the Oklahoma Tax Commission to cancel the agricultural exemption permit of the permit holder who so failed to notify the vendor.

~~(H)~~ H. A purchaser who uses an agricultural exemption permit or provides proof of eligibility pursuant to subsection ~~(F)~~ F of this section to purchase, exempt from sales tax, items not authorized for ~~such~~ exemption under Section 1358 of this title shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00).

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2890, is amended to read as follows:

Section 2890. A. In addition to the amount of the homestead exemption authorized and allowed in Section 2889 of this title, an additional exemption is hereby granted, to the extent of One Thousand Dollars (\$1,000.00) of the assessed valuation on each homestead of heads of households whose gross household income from all sources for the preceding calendar year did not exceed ~~Ten Thousand Dollars (\$10,000.00)~~. ~~If Article X, Section 8 of the Oklahoma Constitution requires property to be taxed based upon one hundred percent (100%) of its fair cash value each homestead, as authorized by the provisions of this section, shall be exempted from ad valorem taxation to the extent of Ten Thousand Dollars (\$10,000.00) of the assessed valuation~~ the poverty level for the size of the household as determined annually by the United States Department of Health and Human Services.

B. The term "gross household income" as used in this section means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether ~~such~~ the income was taxable or nontaxable for federal or

state income tax purposes, including pensions, annuities, federal Social Security, unemployment payments, veterans' disability compensation, public assistance payments, alimony, support money, workers' compensation, loss-of-time insurance payments, capital gains and any other type of income received, and excluding gifts. The term "head of household" as used in this section means a person who as owner or joint owner maintains a home and furnishes his or her own support for ~~said~~ the home, furnishings, and other material necessities.

C. The application for ~~such~~ the additional homestead exemption shall be made each year before March 15 or within thirty (30) days from and after receipt by the taxpayer of notice of valuation increase, whichever is later, and upon the form prescribed by the Oklahoma Tax Commission, which shall require the taxpayer to certify as to the amount of gross income. Upon request of the county assessor, the Oklahoma Tax Commission shall assist in verifying the correctness of the amount of ~~said~~ gross income.

D. For persons sixty-five (65) years of age or older as of March 15 and who have previously qualified for the additional homestead exemption, no annual application shall be required in order to receive the exemption provided by this section; however, any person whose gross household income in any calendar year exceeds the amount specified in this section in order to qualify for the additional homestead exemption shall notify the county assessor and the additional exemption shall not be allowed for the applicable year. Any executor or administrator of an estate within which is included a homestead property exempt pursuant to the provisions of this section shall notify the county assessor of the change in status of the homestead property if ~~such~~ the property is not the homestead of a person who would be eligible for the exemption provided by this section.

E. In addition to the amount of homestead exemption authorized and allowed in Section 2889 of this title, and the additional homestead exemption authorized and allowed by this section, persons sixty-five (65) years of age or older as of March 15 who have previously qualified for homestead exemption pursuant to the provisions of Section 2889 of this title shall be granted an additional exemption to the extent of One Thousand Dollars (\$1,000.00) of the assessed valuation of each homestead of heads of households.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 3108, is amended to read as follows:

Section 3108. The first person who offers to pay the full amount due on any parcel of land shall be considered to be ~~a~~ the successful bidder. ~~In the event that more than one such person shall so appear at the same time the county treasurer shall decide the issue by fair and impartial drawing~~ purchaser. Parcels of land shall be sold to prospective purchasers on a first come, first served basis. The county treasurer is hereby authorized at all tax sales made under the laws of this state, in case there are no other ~~bidders~~ purchasers offering the amount due, to ~~bid off~~ purchase all or any real estate offered at ~~said~~ the sale for the amount of taxes, penalty, interest and costs due and unpaid thereon, in the name of the county in which the sale takes place, the ~~said~~ county acquiring all the rights both legal and equitable that any other purchaser could acquire by reason of ~~said~~ the purchase. Whenever the county treasurer of any county shall ~~bid off~~ purchase any real estate in the name of ~~his~~ the county, ~~he~~ the county treasurer shall note ~~such bid and~~ the purchase upon ~~his~~ the sale record and show the same in the return of sale.

If any person is desirous of purchasing the interest of the county in ~~said~~ the real estate ~~he~~, the person shall have an absolute right to purchase a certificate by paying to ~~said~~ the county

treasurer the amount of all the taxes, penalties, interest and costs of sale and transfer, for the year or years so purchased, up to the date of ~~said~~ the purchase; and thereupon the ~~said~~ treasurer shall issue, assign and deliver to ~~said~~ the purchaser a certificate of purchase to ~~said~~ the real estate which assignment and transfer shall convey to the purchaser all the rights and interest of ~~said~~ the county as fully as if ~~he~~ the purchaser had been the original purchaser at the tax sale. The county treasurer shall note ~~such~~ the assignment on the tax sale record.

SECTION 4. AMENDATORY 68 O.S. 1991, Section 3111, is amended to read as follows:

Section 3111. The purchaser of any tract of land sold by the county treasurer for taxes shall be entitled to a certificate in writing describing the land purchased and the sum paid, and the time when the purchaser will be entitled to a deed. ~~Such~~ The certificate shall be assignable and ~~said~~ the assignment must be acknowledged before some officer having power to take acknowledgment of deeds. ~~Such~~ The certificate shall be signed by the treasurer in ~~his~~ the treasurer's official capacity and shall be presumptive evidence of the regularity of all prior proceedings. The county treasurer shall collect an additional Ten Dollars (\$10.00) for the issuance and acknowledgment of the certificate. The purchaser shall have a lien on the land for the delinquent taxes and if ~~he~~ the purchaser subsequently pays the taxes levied on ~~said~~ the land, whether levied for one (1) year or years, previous or subsequent to ~~such~~ the sale, ~~he~~ the purchaser shall have the same lien for ~~said~~ the delinquent taxes and may add ~~said~~ the delinquent taxes to the amount paid ~~by~~ him in the purchase. The treasurer shall make out a tax receipt and duplicate for the taxes on the real estate mentioned in ~~such~~ the certificate the same as in other cases, and shall write on ~~such~~ the certificate "Sold for tax at public sale". ~~Such~~ The certificate shall be substantially in the following form:

County Treasurer's Certificate of Tax Sale

State of Oklahoma,)

) ss.

_____ County)

I, _____, Treasurer of the County of _____ in the State of Oklahoma, do hereby certify that the following described real estate in said county and State, to wit: (describing the same), was on the ____ day of _____, A.D., _____ duly sold by me in the manner provided by law, for the delinquent taxes for the year _____ thereon, amounting to _____ Dollars, including interest and penalty thereon, and the cost allowed by law to _____ for the sum of _____ Dollars, ~~he the purchaser~~ being the ~~highest and best bidder for the same~~ first person to offer to pay the full amount of taxes due on said real estate. And I further certify that unless redemption is made of the real estate, in the manner provided by law, the said _____ or assigns will be entitled to a deed therefor on and after the ____ day of _____, A.D., _____ on surrender of this certificate. In witness whereof I have hereunto set my hand this ____ day of _____, A.D. _____.

_____Treasurer

SECTION 5. AMENDATORY 68 O.S. 1991, Section 3120, is amended to read as follows:

Section 3120. FORM OF DEED. The certificate tax deed shall be substantially in the following form, to wit:

WHEREAS, A. B., on the ____ day of _____, A.D. _____, produced to the undersigned C. D., treasurer of the County of _____ in the State of Oklahoma, a certificate of purchase in writing bearing the date of the ____ day of _____, signed by E. F., who at the last mentioned date was treasurer of said County, from which it appears that _____ did on the ____ day of _____, purchase at public ~~auction~~ sale, at the office of the county treasurer in the courthouse in said county, the tract, parcel or lot

of land lastly in this indenture described, and which tract, parcel or lot was sold to _____ for the sum of _____, being the amount due on the following tract or lot of land, returning delinquent for nonpayment of taxes, costs and charges for the year _____, to wit:

(Here insert a description of the land offered for sale)

and it appearing that the said A. B. is the legal owner of said certificate of purchase, and the time fixed by law for redeeming the land therein described having now expired and the same not having been redeemed as provided by law and the said A. B. having demanded a deed for the tract of land mentioned in said certificate, which was the least quantity of the tract above described that would sell for the amount due thereon for taxes, costs, and charges, as above specified, and it appearing that said lands were legally liable for taxation, and had been duly assessed and properly charged on the tax book or duplicate for the year _____ and that said lands had been legally advertised for sale for said taxes and were sold on the _____ day of _____, _____.

NOW THEREFORE, this indenture, made this _____ day of _____ between the State of Oklahoma, by C. D., the treasurer of said county, of the first part, and the said A. B. of the second part,

WITNESSETH, that the said party of the first part, for and in consideration of the premises and the sum of one dollar in hand paid, hath granted, bargained and sold, and by these presents doth grant, bargain, sell and convey to the said party of the second part, _____ heirs and assigns forever, the tract of parcel of land mentioned in said certificate and described as follows, to wit:

(describing the land)

to have and to hold said mentioned tract or parcel of land with the appurtenances thereunto belonging, to the said party of the second part, _____ heirs and assigns forever, in as full and ample manner as the said treasurer of said county is empowered by law to sell the same.

IN TESTIMONY WHEREOF, the said C. D., treasurer of said county of _____, has hereunto set ~~his~~ the treasurer's hand and seal on the day and year aforesaid.

Attest:

(Seal)

Which deed shall be acknowledged by said treasurer before some one authorized by law to take acknowledgment of deeds.

SECTION 6. AMENDATORY 68 O.S. 1991, Section 3135, is amended to read as follows:

Section 3135. A. Any property acquired by the county under the provisions of the resale tax laws may be sold by the county treasurer, after notice by publication, at ~~such~~ a price as may be approved by the board of county commissioners, ~~said~~ the notice to be given after receipt of bid on ~~such~~ the property. ~~Such~~ The notice shall be published by the county treasurer once during each of the three (3) consecutive weeks preceding the sale, and if there be no paper published in the county, the county treasurer shall give notice by written or printed notice posted on the door of the courthouse. ~~Such~~ The notice shall embrace a description of the property, the amount bid and the name of ~~such~~ the bidder, and state that the sale of ~~said~~ the property so listed shall be made at ~~such~~ the price and to ~~such~~ the bidder at a given date, beginning at an hour to be specified therein, subject to the approval of the board of county commissioners, unless higher bids are received at ~~such~~ the sale. On the date stated in ~~such~~ the notice, ~~said~~ the property shall be sold by the county treasurer to the highest competitive bidder, for cash in hand, or to the original bidder if there be no higher price offered. The sale in any event shall be subject to the approval of the board of county commissioners in its discretion. The cost of ~~said~~ the advertisement and other expense incident to ~~said~~ the sale, as provided by law, shall be apportioned to the

respective tracts listed in ~~said~~ the sale and shall be added to the sale price of ~~said~~ the real estate as a separate and additional charge and shall be paid by the purchaser, in addition to the amount bid upon ~~said~~ the real estate. A deposit shall be required of any bidder before advertisement of ~~such~~ the property to cover ~~such~~ the advertisement and costs. Upon declaring the successful bidder at the sale, and before closing the sale, ~~said~~ the bidder shall be required to make, or increase, ~~his~~ the bid sufficient to cover cost of advertising and sale, and sufficient to cover the fees of the county clerk for the recording mandatorily required by law upon approval by the board of county commissioners, otherwise the sale shall continue. Upon approval of ~~such~~ the sale as hereinbefore provided, the ~~chairman~~ chair of the board of county commissioners shall execute a deed conveying title to the purchaser of ~~such~~ the property in as full and ample manner as by law provided; ~~such deed to be~~ on a form prescribed by the State Auditor and Inspector.

B. In addition to the methods provided for in subsection A of this section, the county may also periodically hold auctions to sell any property or properties acquired by the county under the provisions of the resale tax laws. The auctions shall be held at a time, date and place as set by the county treasurer with the approval of the county commissioners. On the date of the auction, the property or properties shall be sold by the county treasurer to the highest competitive bidder, for cash in hand. Provided, in no event shall any bid be accepted which is less than all of the real estate ad valorem taxes owed at the time of the original resale. The county treasurer and county commissioners may contract with an auctioneer to conduct the auction for a fee or commission as may be mutually agreed upon. If an auctioneer is employed, the auctioneer shall be responsible for conducting the auction and all the necessary advertising.

SECTION 7. This act shall become effective November 1, 1995.

45-1-0608

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