

SHORT TITLE: Revenue and taxation; sales tax exemption for sales of utilities to produce oil from marginal wells; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 760

By: Long (Lewis)

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 1357, as last amended by Section 5, Chapter 337, O.S.L. 1995, 1803 and 2602 (68 O.S. Supp. 1995, Section 1357), which relate to sales tax exemptions, rural electric cooperative corporations and municipal taxes on utilities; exempting sales of natural or artificial gas and electricity from certain taxes when sold for purpose of producing oil from marginal wells; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 5, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 1995, Section 1357), is amended to read as follows:

Section 1357. There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this article title:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
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;
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 Section 1350 et seq. of this article title. 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~~ salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this 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 Section 1350 et seq. of this article title. 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;

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;

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~~ the purchaser 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;

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;

7. Sales of natural or artificial gas and electricity when sold exclusively for the purpose of producing oil from marginal wells. As used in this paragraph, "marginal well" shall mean a well producing ten (10) or fewer barrels of oil per day;

8. 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;

~~8.~~ 9. 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;

~~9.~~ 10. 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;

~~10.~~ 11. 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;

~~11.~~ 12. 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.~~ 13. 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.~~ 14. Sales of food, food products, or clothing to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

~~14.~~ 15. 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 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 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);

~~15.~~ 16. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph ~~13~~ 15 of this section. For purposes of this 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;

~~16.~~ 17. Sales of any interstate telecommunications services which:

- 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
- b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

~~17.~~ 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; and

~~18.~~ 19. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 1504.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1803, is amended to read as follows:

Section 1803. ~~There~~ A. Except as otherwise provided by subsection B of this section, there is hereby levied on each cooperative an annual tax which shall equal two percent (2%) of the gross receipts derived by it from the sale and distribution of electric energy during the calendar year. The tax hereby levied shall be payable monthly according to, and as and when the statements shall be made as required in Section ~~2~~ 1802 of this ~~act~~ title. The tax so levied or so imposed shall, when paid as herein provided, be in full and in lieu of any and all other taxes imposed by the state, counties, cities, towns, townships, school district, and other municipalities or political subdivisions of the state on the property of each such cooperative.

B. The tax levied pursuant to subsection A of this section shall not be applied to sales of natural or artificial gas and electricity when sold exclusively for the purpose of producing oil from marginal wells, as defined in paragraph 7 of Section 1357 of this title.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 2602, is amended to read as follows:

Section 2602. ~~The~~ Except as otherwise provided by this section, the tax authorized to be levied under Section ~~17~~ 2601 of this ~~act~~ title shall, when levied, apply to all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, gas, electricity or water in any city or town, ~~except it.~~ The tax levied under Section 2601 of this title shall not apply to any:

1. Any person, firm, association or corporation operating under a valid franchise from ~~said~~ the city or town; or

2. Sales of natural or artificial gas and electricity when sold exclusively for the purpose of producing oil from marginal wells, as defined in paragraph 7 of Section 1357 of this title.

SECTION 4. This act shall become effective November 1, 1996.

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