

ENGROSSED SENATE AMENDMENT  
TO  
ENGROSSED HOUSE BILL NO. 1807

By: Langmacher, Maddux,  
Weese, Roach and Tyler  
of the House

and

Wilkerson of the Senate

( Oklahoma Tax Commission - amending various sections in  
Titles 47, 59 and 68 - confidentiality of information -  
delinquent taxes - estate taxes - repealing 59 O.S.,  
Section 1404 - junk dealers - effective dates )

AUTHOR: Add the following Senate Coauthor: Williams

AUTHOR: Add the following House Coauthor: Easley

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting  
clause and entire bill and insert

"[ Oklahoma Tax Commission - amending various sections in  
Titles 47, 59 and 68 - confidentiality of information -  
delinquent taxes - estate taxes - repealing 59 O.S.,  
Section 1404 - junk dealers - repealing 68 O.S., Section  
2810 - effective date ]

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1109, is  
amended to read as follows:

Section 1109. A. All information contained in certificates of  
title, applications therefor, or registration certificates is hereby  
declared to be confidential information and shall not be copied by

anyone or disclosed to anyone other than employees of the Oklahoma Tax Commission in the regular course of their employment, except as follows:

1. To law enforcement officers in the regular course of their duties;

2. To other governmental agencies when required in their governmental functions;

3. To any motor vehicle manufacturer or his authorized representative for the purpose of meeting the requirements of the recall provisions of Title 15 U.S.C. 1974; provided that said manufacturer or his representative shall, when requesting information pertaining to motor vehicles, furnish the Commission with an affidavit stating the purpose for which the information is to be used, and that the confidentiality of the information shall be protected, as set out above, and used only for the purpose stated; provided, further, that the Commission shall be authorized to review the use of and the measures employed to safeguard said information; and provided, further, that the manufacturer or his representative shall bear the cost incurred by the Commission in the production of the information requested. If the confidentiality provisions, as set out above, are violated, the provisions of subsection (d) of Section 205 of Title 68 of the Oklahoma Statutes, shall apply and the privilege of obtaining information shall be terminated. Any manufacturer or his representative violating the provisions of this subsection, upon conviction, shall be punishable by a fine not to exceed Fifty Thousand Dollars (\$50,000.00); and

4. To any person compiling and publishing motor vehicle statistics, provided that such statistics do not disclose the names and addresses of individuals. Such information shall be provided upon payment of a fee as determined by the Oklahoma Tax Commission.

~~B. Notwithstanding the foregoing, the Commission may, when requested for a particular vehicle, furnish desired information for~~

~~the sum of One Dollar (\$1.00) per vehicle or make copies of certificates of title, applications therefor and registration certificates and sell the same for the fee hereinafter prescribed. Certified copies of any and all records held by the Commission relative to certificates of title and registration certificates issued under the laws of this state, duly certified by the Commission, may be received in evidence with the same effect as the original, when such original is not in the possession or under the control of the party desiring to use the same. For each certified copy furnished under this section, a fee of Two Dollars (\$2.00) per instrument shall be charged and collected by the Commission. All such funds shall be deposited in the Oklahoma Tax Commission Revolving Fund.~~

~~C.~~ Notwithstanding the foregoing, the Commission may allow the release of information from its motor vehicle records upon magnetic tape consisting only of the following information:

1. The date of the certificate of title;
2. The certificate of title number;
3. The type of title issued for the vehicle;
4. The odometer reading from the certificate of title;
5. The year in which the vehicle was manufactured;
6. The vehicle identification number for the vehicle;
7. The make of the vehicle; and
8. The location in which the vehicle is registered.

The Commission shall allow the release of such information upon payment of a fee to be determined by the Commission. The information released as authorized by this subsection may only be used for purposes of detecting odometer rollback or odometer tampering, for determining the issuance in this state or any other state of salvage or rebuilt titles for vehicles or for determining whether a vehicle has been reported stolen in this state or any other state.

~~D. Notwithstanding the foregoing, any motor license agent, upon written request from a secured party for information contained in the certificate of title or registration certificate of a vehicle in which the secured party has an interest or upon written request from a vehicle owner for information contained in the certificate of title or registration certificate of such vehicle, may furnish such desired information for the sum of One Dollar (\$1.00) per vehicle.~~

~~E.~~ C. Notwithstanding the provisions of this section or of Section 205 of Title 68 of the Oklahoma Statutes, the Commission may inform a secured party that taxes and fees are delinquent with respect to a vehicle upon which the secured party has a perfected lien.

~~F.~~ D. The provisions of ~~subsections~~ subsection A and ~~B~~ of this section shall not apply to vehicles in excess of twenty-six thousand (26,000) pounds, or to trailers or semitrailers which may be used in combination with such vehicles. The Oklahoma Tax Commission shall establish an appropriate fee to cover the cost of furnishing the requested data and shall issue specific rules and regulations for the dissemination of information that shall apply only to vehicles registered in Oklahoma with a gross vehicle weight in excess of twenty-six thousand (26,000) pounds, or the applicable trailers or semitrailers.

The release of such information shall be limited to Oklahoma incorporated and domiciled, nonprofit, tax exempt industry trade groups and organizations for the express purpose of making such data directly available to the heavy duty motor transportation industry.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1402, is amended to read as follows:

Section 1402. ~~(a)~~ Any junk dealer being engaged in business when this act becomes effective shall, within thirty (30) days thereafter, and any other person, firm or corporation desiring to become a junk dealer shall prior to the commencement of business

file a verified application and obtain a license sales tax permit as provided by Section 1364 of Title 68 of the Oklahoma Statutes from the Oklahoma Tax Commission. ~~Each junk dealer shall pay an annual license fee to the State of Oklahoma in the sum of Thirty-five Dollars (\$35.00).~~ Each junk dealer shall maintain at least one yard and, if such junk dealer maintains or desires to maintain more than one yard, ~~said~~ the junk dealer shall obtain, in addition to ~~his~~ the original license sales tax permit, a duplicate license sales tax permit for each additional yard. ~~An annual fee of Fifteen Dollars (\$15.00) shall be paid by the junk dealer for each duplicate license.~~ Licensed junk dealers may, at any time after they have obtained an original license and before its expiration, obtain duplicate licenses for additional yards by payment to the Oklahoma Tax Commission of a fee of Fifteen Dollars (\$15.00) for each duplicate license. ~~The application for license shall be on a form provided by and approved by the Oklahoma Tax Commission. Such form shall state the name of the junk dealer; the location of his principal yard; the location of all other yards maintained by him within the state; the name or style of the firm under which such business is being conducted; the names and addresses of persons interested in the business as principals, copartners, officers and directors, specifying as to each his capacity and title. Provided that any junk dealer who shall feel aggrieved by the action of the Oklahoma Tax Commission, that it has acted unreasonably or arbitrarily in refusing to grant a license or in suspending or revoking his license may appeal from the action of said Commission to the Supreme Court of the state for a review of any such alleged unreasonable and arbitrary action; and the decision of said Court shall be final and binding upon said Commission; provided that any such order of said Commission shall be binding upon any such junk dealer until reversed by said Court.~~

~~(b) A certificate of license shall be furnished by the Oklahoma Tax Commission to every person whose application to become a junk dealer has been filed and approved. Such certificate shall be nonassignable and shall designate the name and address of licensee, the location of the yard and the fact that he is authorized to engage in the business of a junk dealer to handle copper material and shall be signed by the Oklahoma Tax Commission. Each junk dealer shall keep such certificate of license in a prominent and conspicuous place in his yard. In the case of a junk dealer having more than one yard, a duplicate license shall be on display in a conspicuous and prominent place in each such yard.~~

~~(c) The license or duplicate license herein provided for shall be renewable on the first day of January of each year upon application to the Oklahoma Tax Commission and upon payment of the fees herein provided for.~~

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1403, is amended to read as follows:

Section 1403. Any ~~license~~ sales tax permit, issued pursuant to Section ~~1402~~ 1364 of ~~this title~~ Title 68 of the Oklahoma Statutes to any junk dealer who violates any of the provisions of Sections 1401 through this section and Section 1405 through 1408 of this title relating to the purchase of copper materials, may be canceled or suspended for a period not to exceed thirty (30) days by the Oklahoma Tax Commission. The Oklahoma Tax Commission may refuse the issuance of or extension or reinstatement of any ~~license~~ permit where the applicant or licensee shall have violated any provisions of this act or existing laws. ~~Provided that such~~ Such cancellation or refusal shall be mandatory as to any junk dealer having been convicted of three separate violations of this act. ~~Provided,~~ However, before the Oklahoma Tax Commission may cancel or suspend any ~~license~~ permit or refuse the issuance, reinstatement or extension thereof, ~~said~~ the Oklahoma Tax Commission shall give

each licensee or applicant ten (10) days' notice of a hearing before ~~said~~ the Oklahoma Tax Commission, granting such person an opportunity to show cause why such action should not be taken. ~~Provided, further, that upon~~ Upon notice given to any junk dealer by the Oklahoma Tax Commission of its intention to cancel or suspend any ~~license~~ permit or to refuse the issuance, reinstatement or extension thereof, the Oklahoma Tax Commission shall have the authority to enter its order suspending such ~~license~~ permit or prohibiting the applicant from doing business without a ~~license~~ permit pending the final hearing before it as ~~herein~~ provided for ~~and, after~~ in this section. After notice of ~~such~~ the order of suspension or prohibition from doing business, it shall be unlawful for ~~such~~ the junk dealer to further engage in the business of a junk dealer, as defined herein, and in the event any such person shall conduct or at any time continue such unlawful operation, after notice of suspension or prohibition from doing business, the Oklahoma Tax Commission may institute or cause to be brought against such person or persons proceedings for injunction in any court of competent jurisdiction to enjoin and restrain such person or persons from doing business pending the order of the Oklahoma Tax Commission. Upon cancellation of a ~~license~~ permit by the Oklahoma Tax Commission, no new ~~license~~ permit shall be issued to such dealer for a period of one (1) year from the date of cancellation. In all cases where proceedings are brought for injunction under this act, no bond for injunction shall be required and in all such cases, after notice of suspension has been given, no further notice shall be required before the issuance of a temporary restraining order on any proceeding for injunction. If an appeal is taken from the order of the Oklahoma Tax Commission issued pursuant to this section, the junk dealer, in order to conduct business as a junk dealer pending outcome of the appeal, shall be required to post a bond in the amount of Five Thousand Dollars (\$5,000.00).

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1408, is amended to read as follows:

Section 1408. ~~(a)~~ A. Anyone acting as a junk dealer without a ~~license permit~~, as required by Section ~~2~~ 1402 of this ~~act~~ title, is guilty of a misdemeanor and, upon conviction thereof, is subject to a fine of Fifty Dollars (\$50.00); provided that each day's operation without a license constitutes a separate offense.

~~(b)~~ B. Any junk dealer failing to maintain records, as required by Section ~~6~~ 1406 of this ~~act~~ title, and any junk dealer failing to hold copper material, as required by Section ~~7~~ 1407 of this ~~act~~ title, is guilty of a misdemeanor and, upon conviction thereof, is subject to a fine of Five Hundred Dollars (\$500.00).

~~(c)~~ C. Any person who knowingly gives false information with respect to the information required in Section ~~6~~ 1406 of this ~~act~~ title is guilty of a misdemeanor and, upon conviction thereof, is subject to a fine not to exceed Five Hundred Dollars (\$500.00).

~~(d)~~ D. Each conviction of a junk dealer for violation of any provision of this act shall be reported to the Oklahoma Tax Commission by the clerk of the court rendering such verdict.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1411, as amended by Section 4, Chapter 89, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1411), is amended to read as follows:

Section 1411. Any ~~license permit~~, issued pursuant to Section ~~1402~~ 1364 of ~~this title~~ Title 68 of the Oklahoma Statutes to any junk dealer who violates any of the provisions of Section 1410 of this title relating to purchases of aluminum material, may be canceled or suspended for a period not to exceed thirty (30) days by the Oklahoma Tax Commission. The Oklahoma Tax Commission may refuse the issuance of or extension or reinstatement of any ~~license permit~~ where the applicant or licensee has violated any of the provisions of Section 1410 of this title or existing laws. Before the Oklahoma Tax Commission may cancel or suspend any ~~license permit~~ or refuse

the issuance, reinstatement or extension of a ~~license~~ permit, the Oklahoma Tax Commission shall give each licensee or applicant ten (10) days' notice of a hearing before the Oklahoma Tax Commission, granting the person an opportunity to show cause why such action should not be taken. Upon notice given to any junk dealer by the Oklahoma Tax Commission of its intention to cancel or suspend any ~~license~~ permit or to refuse the issuance, reinstatement or extension of a ~~license~~ permit, the Oklahoma Tax Commission may enter its order suspending such ~~license~~ permit or prohibiting the applicant from doing business without a ~~license~~ permit pending the final hearing before it as provided for in this section and, after notice of such order of suspension or prohibition from doing business, it shall be unlawful for such junk dealer to further engage in the business of a junk dealer. If any such person shall conduct or at any time continue such unlawful operation, after notice of suspension or prohibition from doing business, the Oklahoma Tax Commission may institute or cause to be brought against such person or persons proceedings for injunction in any court of competent jurisdiction to enjoin and restrain such person or persons from doing business pending the order of the Oklahoma Tax Commission. Upon cancellation of a license by the Oklahoma Tax Commission, no new license shall be issued to such dealer for a period of one (1) year from the date of the cancellation. In all cases where proceedings are brought for injunction pursuant to this section, no bond for injunction shall be required and in all such cases, after notice of suspension has been given, no further notice shall be required before the issuance of a temporary restraining order on any proceeding for injunction. If an appeal is taken from the order of the Oklahoma Tax Commission issued pursuant to this section, the junk dealer, in order to conduct business as a junk dealer pending the outcome of the appeal, shall be required to post a bond in the amount of Five Thousand Dollars (\$5,000.00).

SECTION 6. AMENDATORY 68 O.S. 1991, Section 220, as amended by Section 10, Chapter 146, O.S.L. 1993 (68 O.S. Supp. 1996, Section 220), is amended to read as follows:

Section 220. ~~(a)~~ A. The interest or penalty or any portion thereof ordinarily accruing by reason of a taxpayer's failure to file a report or return or failure to file a report or return in the correct form as required by any state tax law or by this Code or to pay a state tax within the statutory period allowed for its payment may be waived or remitted by the Tax Commission or its designee provided the taxpayer's failure to file a report or return or to pay the tax is satisfactorily explained to the Tax Commission or such designee, or provided such failure has resulted from a mistake by the taxpayer of either the law or the facts subjecting him to such tax, or inability to pay such interest or penalty resulting from insolvency.

~~(b)~~ B. The waiver or remission of all or any part of any such interest or penalties in excess of ~~One Thousand Five Hundred Dollars (\$1,500.00)~~ Five Thousand Dollars (\$5,000.00) shall not become effective unless approved by one of the judges of the district court of Oklahoma County after a full hearing thereon.

The application for the approval of such waiver or remission shall be filed in the office of the court clerk of ~~said~~ the court at least twenty (20) days prior to the entry of the order of the judge finally approving or disapproving the waiver or remission. The order so entered shall be a final order of the district court of ~~said~~ the county.

SECTION 7. AMENDATORY 68 O.S. 1991, Section 234, is amended to read as follows:

Section 234. ~~(a)~~ A. All taxes, interest and penalties imposed by the provisions of this article, or any state tax law, are hereby declared to constitute a lien in favor of the state upon all franchises, property, and rights to property, whether real or

personal, then belonging to or thereafter acquired by the person owing the tax, whether such property is employed by such person in the prosecution of business, or is in the hands of an assignee, trustee or receiver for the benefit of creditors, from the date said taxes are due and payable under the provisions of the state tax laws levying such taxes. ~~Said~~ The lien shall be in addition to any lien accrued by the filing of a tax warrant or tax certificate as provided by Sections 230 and 231 of this Code. ~~Said~~ The lien shall be prior, superior and paramount to all other liens, claims, or encumbrances on ~~said~~ the property of whatsoever kind or character, except those of any bona fide mortgagee, pledgee, judgment creditor, or purchaser, whose right shall have attached prior to the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of the lien of the state under a tax certificate, as provided by Section 230 of this Code, or under a tax warrant as provided by Section 231 of this Code, and who have filed or recorded said mortgages and conveyances in the office of the county clerk of the county in which the property is located. Such taxes, penalties and interest shall at all times, constitute a prior, superior and paramount claim as against the claims of unsecured creditors. The ~~said~~ lien of the state shall continue until the amount of the tax and penalty due and owing, and interest subsequently accruing thereon, is paid.

~~(b)~~ B. In any action affecting the title to real estate or the ownership or right to possession of personal property, the State of Oklahoma may be made a party defendant, for the purpose of determining its lien upon the property involved therein only in cases where notice of the lien of the state has been filed and indexed as provided in Sections 230 and 231 of this Code; and, in any such action, service of summons upon the Oklahoma Tax Commission, by serving any member thereof, shall be sufficient service and binding upon the State of Oklahoma. In all such actions

or suits, the complaint or pleading shall include the name and address of the taxpayer whose liability created the lien and the identifying number evidencing the lien.

SECTION 8. AMENDATORY 68 O.S. 1991, Section 255, as amended by Section 2, Chapter 385, O.S.L. 1994 (68 O.S. Supp. 1996, Section 255), is amended to read as follows:

Section 255. A. In order to facilitate and expedite the collection of taxes more than six (6) months overdue from any taxpayer, the Oklahoma Tax Commission may enter into a contract with a debt collection agency doing business in the State of Oklahoma or in any other state for the collection of such delinquent taxes in addition to all other taxes accrued or accruing, including penalties and interest thereon, from ~~such nonresident~~ the taxpayer ~~or~~. The Tax Commission may also enter into a contract with a person doing business in the State of Oklahoma or in any other state for the purpose of identifying and locating the assets of such delinquent taxpayer. Such contracts authorized by this section shall be subject to the provisions of the Oklahoma Central Purchasing Act.

B. Prior to entering into such a contract with a debt collection agency, the Tax Commission shall require that the debt collection agency file a bond in the amount of One Hundred Thousand Dollars (\$100,000.00). ~~Said~~ The bond shall be a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bonds, as the Tax Commission may deem necessary to guarantee compliance with the terms of the contract.

C. Each contract entered into by the Tax Commission with a debt collection agency, pursuant to the provisions of this section, shall specify that fees for services rendered, reimbursements or other remuneration shall be based on the total amount of delinquent taxes, including accrued penalties and interest, which is actually collected. No costs shall be reimbursed unless authorized in ~~said~~

the contract. Each contract entered into between the Tax Commission and a debt collection agency shall provide for the payment of fees for such services, reimbursements or other remuneration not in excess of twenty percent (20%) of the total amount of delinquent taxes, penalty and interest actually collected.

D. Each contract entered into by the Tax Commission with a person for the purpose of identifying and locating assets of delinquent taxpayers shall specify the amount of money to be paid for the performance of such services. No costs shall be reimbursed unless authorized in ~~said~~ the contract.

E. All such funds collected by a debt collection agency, including the fees for collection services as provided for in such contract, shall be remitted to the Tax Commission within five (5) days from the date of collection from a taxpayer. The Tax Commission shall pay from such remitted fees the amount of fees such debt collecting agency is entitled to for services performed pursuant to the provisions of such contract. All assets of such delinquent taxpayers which are identified and located shall be reported to the Tax Commission within five (5) days from the date of identification and location. Forms to be used for such remittances and reports shall be prescribed by the Tax Commission.

F. A debt collection agency entering into a contract with the Tax Commission or a person entering into a contract with the Tax Commission for asset location purposes pursuant to this section shall agree that it is receiving income from sources within this state or doing business in this state for purposes of the Oklahoma tax laws.

SECTION 9. AMENDATORY 68 O.S. 1991, Section 607.2, as amended by Section 2, Chapter 33, O.S.L. 1994 (68 O.S. Supp. 1996, Section 607.2), is amended to read as follows:

Section 607.2 A. There is hereby created the Oklahoma Motor/Diesel Fuel ~~Importer for Use~~ Indemnity Fund. The fund shall

be established to ensure that the Oklahoma Tax Commission recovers tax revenue not remitted to the Oklahoma Tax Commission because of negligence, malfeasance or fraud by a motor fuel/diesel fuel importer or a motor fuel distributor.

B. The fund shall be administered by the three (3) members of the Oklahoma Tax Commission or their designees. The Commission shall invest all monies deposited in the fund in insured accounts and all interest shall be deposited in the fund.

C. Beginning March 15, 1988, the nonrefundable assessment of Twenty-five Dollars (\$25.00) for each motor fuel/diesel fuel importer shall be collected by the Motor Vehicle Division of the Oklahoma Tax Commission and remitted to the Commission for deposit into the fund. The Commission shall have the power to make annual assessments for contribution to the fund in an amount not to exceed Twenty-five Dollars (\$25.00) per year for each motor fuel/diesel fuel importer. Nothing herein shall be construed as prohibiting the Motor Vehicle Division of the Oklahoma Tax Commission from requiring a motor fuel/diesel fuel importer to file a bond payable to the Oklahoma Tax Commission as provided in this act.

D. Upon final determination by the Motor Vehicle Division of the Oklahoma Tax Commission of the tax liability of the motor fuel/diesel fuel importer or a motor fuel distributor, a claim in the amount of said liability may be made by the Motor Vehicle Division of the Oklahoma Tax Commission against the fund. ~~Said~~ The claim shall be paid by the fund unless the Commission finds that there has not been a final determination of the tax liability by the Motor Vehicle Division of the Oklahoma Tax Commission. No claim shall be paid until sixty (60) days' written notice is given to the delinquent importer or motor fuel distributor.

E. The payment of a claim shall subrogate the Commission's right to recover the tax liability to the fund. The Commission, on behalf of the fund, shall have the same rights and remedies to

recover the amounts paid by the fund as afforded the Commission to recover delinquent tax, penalty and interest. Any tax warrant shall remain in effect until the fund has recovered the amount paid.

F. The State Auditor and Inspector shall conduct an annual audit of the activity for the Oklahoma Motor/Diesel Fuel ~~Importer~~ ~~for Use~~ Indemnity Fund each fiscal year. The audit shall be made in accordance with standards established by the American Institute of Certified Public Accountants by a licensed public accountant or a certified public accountant holding a permit to practice in this state. A copy of the review examination shall be forwarded to the Oklahoma Tax Commission. The State Auditor and Inspector and the Tax Commission shall review the examination and may conduct any further examinations as deemed necessary.

G. For purposes of this section, "motor fuel distributor" means a distributor as defined and licensed pursuant to the Motor Fuel Tax Code prior to October 1, 1996.

SECTION 10. AMENDATORY 68 O.S. 1991, Section 801, is amended to read as follows:

Section 801. In any action to determine heirs, partition real estate, quiet title thereto, foreclose a lien thereon, or any combination thereof, where such title has been derived wholly or in part, directly or remotely, by inheritance, devise or gift made in contemplation of death, from any deceased person, the State of Oklahoma may be made a party defendant for the purpose of determining its claim against the estate of such deceased person for inheritance or transfer taxes. The court shall not acquire jurisdiction to enter any judgment against the State of Oklahoma or the Oklahoma Tax Commission in any such action until there shall have been served on the Oklahoma Tax Commission, in the manner hereinafter provided, a notice of the pendency of ~~said~~ the suit containing the ~~following details, viz., the~~ title and number under which ~~said~~ the action is filed, the court in which filed, the name,

date and place of death of the deceased person, the name, relationship and address, if known, of each heir, executor, administrator, devisee, trustee, and assign, of such deceased person, the identifying number of any tax liens which may have been filed against the decedent, and a description of the real estate covered by such action in which it is claimed the decedent owned or held any right, title or interest, which notice shall be signed by the plaintiff or his attorney of record. ~~Said~~ The notice, with a copy of the petition in ~~said~~ the cause thereto attached, shall be served on the Oklahoma Tax Commission in the same manner as for the service of summons; ~~provided, however, that the.~~ The Oklahoma Tax Commission or its General Counsel may, in lieu of service, accept service by indorsement of such acceptance on one copy of ~~said~~ the notice; and ~~said~~ the service or acceptance of service shall operate to make the State of Oklahoma a party to such action; ~~and provided, further, that the.~~ The Oklahoma Tax Commission may in its discretion, without service of any notice on ~~said~~ the Commission, disclaim or plead in any ~~said~~ such cause. The Oklahoma Tax Commission shall have forty (40) days after the date of service or acceptance of service within which to plead in ~~said~~ the cause, and the Oklahoma Tax Commission shall set up any interest the State of Oklahoma may have in the subject matter of ~~said~~ the action. If the Oklahoma Tax Commission fails to answer such petition within the time allowed, judgment may be rendered foreclosing the State of Oklahoma from any interest, lien or claim for state taxes, interest or penalty on or against the property described in the ~~said~~ notice. Provided, that in all cases where the person, or persons, owning the real property involved in ~~said~~ the action at the time of death has been dead for more than ten (10) years, prior to the institution of ~~said~~ the action and such facts are set forth in the petition, it shall not be necessary to make the State of Oklahoma a party to such action.

SECTION 11. AMENDATORY 68 O.S. 1991, Section 1213, is amended to read as follows:

Section 1213. The provisions of ~~68 O.S. 1961~~, Section ~~454~~ 205 of this title shall not be construed to prevent the Tax Commission from furnishing the names of officers, or registered agents, and it may furnish certificates to show the compliance or noncompliance with the provisions of this article by any particular corporation, association or organization, under such rules as the Tax Commission may adopt, and shall collect a fee of One Dollar (\$1.00) ~~7~~ for each certificate so furnished.

SECTION 12. AMENDATORY 68 O.S. 1991, Section 1356, as last amended by Section 1, Chapter 289, O.S.L. 1996 (68 O.S. Supp. 1996, Section 1356), is amended to read as follows:

Section 1356. There are hereby specifically exempted from the tax levied by ~~this article~~ Section 1350 et seq. of this title:

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~~ Section 1350 et seq. of this title, except as hereinafter provided;

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;

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;

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;

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;

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;

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;

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;

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 Boys and Girls shall be exempt from sales tax;

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, the Grand River Dam Authority and the Oklahoma Municipal Power 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;

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 the 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 paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

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);

13. Sales of tangible personal property made by:

- a. a public school,
- b. a private school offering instruction for grade levels kindergarten through twelfth grade,
- c. a public school district,
- d. a public or private school board,
- e. a public or private school student group or organization,
- f. a parent-teacher association or organization, or

- 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 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;

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);

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;

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;

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 state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes

of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,
- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:
  - (1) provides primary care services at no cost to the recipient, and
  - (2) 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);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs or YWCAs for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to

the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity 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 museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph 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 by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches members of which serve as trustees of the home; and

~~27.~~ 28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof.

SECTION 13. AMENDATORY 68 O.S. 1991, Section 1358.1, as last amended by Section 1, Chapter 182, O.S.L. 1995 (68 O.S. Supp. 1996, Section 1358.1), is amended to read as follows:

Section 1358.1 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 the exemption as required by this section.

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. ~~For persons holding a valid motor fuel tax exemption permit issued pursuant to Section 509 of this title, the permit shall constitute proof of eligibility for a sales tax exemption as provided by Section 1358 of this title. Upon the expiration of 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 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. ~~For persons who do not hold a motor fuel tax exemption permit as provided by this section, the person shall obtain an~~ The 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. The permit shall be obtained by listing personal property used in farming or ranching by the person with the

county assessor each year as provided by law. If the assessor determines that the personal property is correctly listed and assessed for ad valorem taxation and the county treasurer certifies whether the person has 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 and that the applicant has no delinquent accounts appearing on the personal property tax lien docket in the office of the county treasurer, ~~the Commission shall issue~~ a permit shall be issued 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.~~ D. A person who does not otherwise qualify for a permit pursuant to subsection ~~D~~ C of this section, except as provided in subsection ~~F~~ E 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 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.~~ E. For a person who is a resident of another state and who is engaged in custom farming operations in this state, 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.~~ F. 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~~ C and ~~E~~ D of this section and the vendor may subsequently make sales of tangible personal property to the permit holder without requiring 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.~~ G. A purchaser who uses an agricultural exemption permit or provides proof of eligibility pursuant to subsection ~~F~~ E of this section to purchase, exempt from sales tax, items not authorized for exemption under Section 1358 of this title shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00).

SECTION 14. AMENDATORY 68 O.S. 1991, Section 1364, is amended to read as follows:

Section 1364. Permits to do business.

~~(A)~~ A. Every person desiring to engage in a business within this state who would be designated as a Group One or Group Three vendor, pursuant to Section 1363 of this title, shall be required to secure from the Oklahoma Tax Commission every three (3) years a written permit for a fee of Twenty Dollars (\$20.00) prior to

engaging in such business in this state. Each such person shall file with the Tax Commission an application for a permit to engage in or transact business in this state, setting forth such information as the Tax Commission may require. The application shall be signed by the owner of the business or representative of the business entity and as a natural person, and, in the case of a corporation, as a legally constituted officer thereof.

~~(B) Upon verification that the applicant is a Group One vendor, the Tax Commission shall issue a permit for the place of business set forth in the application for permit.~~ B. Upon receipt of an initial application, the Tax Commission may issue a probationary permit effective for six (6) months which will automatically renew for an additional thirty (30) months unless the applicant receives written notification of the refusal of the Commission to renew the permit. If the applicant receives a notice of refusal, the applicant may request a hearing to show cause why the permit should be renewed. Upon receipt of a request for a hearing, the Tax Commission shall set the matter for hearing and give ten (10) days' notice in writing of the time and place of the hearing. At the hearing, the applicant shall set forth the qualifications of the applicant for a permit and proof of compliance with all state tax laws.

C. Holders of a probationary permit as provided in subsection B of this section shall not be permitted to present the permit to obtain a commercial license plate for their motor vehicle as provided in Section 1133.1 of Title 47 of the Oklahoma Statutes.

D. Upon verification that the applicant is a Group Three vendor, the Tax Commission may require such applicant to furnish a surety bond or other security as the Commission may deem necessary to secure payment of taxes under this article, prior to issuance of a permit for the place of business set forth in the application for permit. Provided, the Tax Commission is hereby authorized to set

guidelines, by adoption of regulations, for the issuance of sales tax permits. Pursuant to said guidelines the Tax Commission may refuse to issue permits to any Group Three vendors, or any class of vendors included in the whole classification of Group Three vendors, if the Commission determines that it is likely this state will lose tax revenue due to the difficulty of enforcing this article for any reasons stated in subsection (T) of Section 1354 of this title.

~~(C)~~ E. A separate permit for each additional place of business to be operated must be obtained from the Tax Commission for a fee of Ten Dollars (\$10.00). Such permit shall be good for a period of three (3) years. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

~~(D)~~ F. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. The permit shall at all times be conspicuously displayed at the place of business for which issued in a position where it can be easily seen. ~~Said~~ The permit shall be in addition to all other permits required by the ~~Statutes of Oklahoma~~ laws of this state. Provided, if the location of the business is changed, such person shall file with the Tax Commission an application for a permit to engage in or transact business at the new location. Upon issuance of the permit to the new location of such business, no additional permit fee shall be due until the expiration of the permit issued to the previous location of such business.

~~(E)~~ G. It shall be unlawful for any person coming within the class designated as Group One or the class designated as Group Three to engage in or transact a business of reselling tangible personal property or services within this state unless a written permit or permits shall have been issued to ~~him~~ such person. Any person who

engages in a business subject to the provisions of this section without a permit or permits, or after a permit has been suspended, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00). Any person convicted of a second or subsequent violation hereof shall be guilty of a felony and punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) or by a term of imprisonment in the State Penitentiary for not more than two (2) years, or both such fine and imprisonment.

~~(F)~~ H. Any person operating under a permit as provided in this article shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with a remittance for any unpaid or accrued taxes. Failure to surrender a permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a permit subsequently to such person to engage in or transact any other business in this state. In the case of a sale of any business, the tax shall be deemed to be due on the sale of the fixtures and equipment, and the Tax Commission shall not issue a permit to continue or conduct ~~said~~ the business to the purchaser until all tax claims due the State of Oklahoma have been settled.

~~(G)~~ I. All permits issued under the provisions of this article shall expire three (3) years from the date of issuance at the close of business at each place or location of the business within this state. No refund of the fee shall be made if the business is terminated prior to the expiration of the permit.

~~(H)~~ J. Whenever a holder of a permit fails to comply with any provisions of this article, the Tax Commission, after giving ten (10) days' notice in writing of the time and place of hearing to show cause why ~~his~~ the permit should not be revoked, may revoke or suspend the permit, ~~said~~ the permit to be renewed upon removal of cause or causes of revocation or suspension. However, if a holder

of a permit becomes delinquent for a period of three (3) months or more in reporting or paying of any tax due under this article, any duly authorized agent of the Tax Commission may remove the permit from the taxpayer's premises and it shall be returned or renewed only upon the filing of proper reports and payment of all taxes due under this article.

~~(I)~~ K. Permits are not required of persons coming within the classification designated as Group Two. The Oklahoma Tax Commission shall issue a limited permit to Group Five vendors. The permit shall be in such form as the Commission may prescribe.

~~(J)~~ L. Nothing in this article shall be construed to allow a permit holder to purchase, tax exempt, anything for resale that ~~he~~ the permit holder is not regularly in the business of reselling.

~~(K)~~ M. All monies received pursuant to issuance of such permits to do business shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State Treasury.

~~(L)~~ N. Notwithstanding the provisions of Section 205 of this title, the Oklahoma Tax Commission is authorized to release the following information contained in the Master Sales and Use Tax File to vendors:

- ~~(1)~~ 1. Permit number;
- ~~(2)~~ 2. Name in which permit is issued;
- ~~(3)~~ 3. Name of business operation if different from ownership (DBA);
- ~~(4)~~ 4. Mailing address;
- ~~(5)~~ 5. Business address;
- ~~(6)~~ 6. Business class or Standard Industrial Code (SIC); and
- ~~(7)~~ 7. Effective date and expiration or cancellation date of permit.

Release of such information shall be limited to tax remitters for the express purpose of determining the validity of sales permits

presented as evidence of purchasers' sales tax resale status under this Code.

The provisions of this subsection shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to sales tax or to any other taxes.

This information may be provided on a subscription basis, with periodic updates, and sufficient fee charged, not to exceed One Hundred Fifty Dollars (\$150.00) per year, to offset the administrative costs of providing the list. All revenue received by the Oklahoma Tax Commission from such fees shall be deposited to the credit of the Oklahoma Tax Commission Revolving Fund. No liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of information pursuant to this subsection.

SECTION 15. AMENDATORY Section 1, Chapter 126, O.S.L. 1996 (68 O.S. Supp. 1996, Section 1364.1), is amended to read as follows:

Section 1364.1 Every person ~~desiring~~ who makes purchases of One Million Dollars (\$1,000,000.00) or more annually in taxable items for use in their Oklahoma enterprises and desires to directly remit the taxes due under Section 1350 et seq. of ~~Title 68 of the Oklahoma Statutes~~ this title or Section 1401 et seq. of ~~Title 68 of the Oklahoma Statutes~~ this title to the Oklahoma Tax Commission rather than remit such taxes to the vendor may apply to the Tax Commission for a direct payment permit. The permit shall be valid for three (3) years and the fee for the permit shall be Twenty Dollars (\$20.00). Each such person shall file with the Tax Commission an application for a direct payment permit, setting forth such information as the Tax Commission may require, including but not limited to:

1. An agreement that is signed by the owner of the business or representative of the business entity and as a natural person, and, in the case of a corporation, as a legally constituted officer thereof, that provides that the applicant agrees to:

- a. accrue and remit all taxes imposed by Section 1350 et seq. of ~~Title 68 of the Oklahoma Statutes~~ this title or Section 1401 et seq. of ~~Title 68 of the Oklahoma Statutes~~ this title on the sale or use of all taxable personal property or services sold to or leased or rented by the applicant,
- b. pay such taxes as required by Section 1365 of ~~Title 68 of the Oklahoma Statutes~~ this title,
- c. waive the discount permitted by Section 1367.1 of ~~Title 68 of the Oklahoma Statutes~~ this title on the payment of all taxes remitted directly to the Tax Commission; and

2. A description of the accounting method by which the applicant proposes to differentiate between taxable and exempt transactions.

Upon verification that the applicant is eligible to receive a direct payment permit, the Tax Commission shall issue a direct payment permit for the place of business set forth in the application for the permit. The Tax Commission shall be the sole judge of the applicant's qualifications and may refuse to issue a direct payment permit to an applicant. An applicant who has been denied the issuance of a permit may submit an amended application or may submit a new application after a reasonable period of time after the denial of the original application.

SECTION 16. AMENDATORY 68 O.S. 1991, Section 2103, is amended to read as follows:

Section 2103. A. 1. Except as otherwise provided in Sections 2101 through 2108 of this title, there is hereby levied an excise

tax upon the transfer of legal ownership of any vehicle registered in this state and upon the use of any vehicle registered in this state and upon the use of any vehicle registered for the first time in this state. The excise tax shall be levied at three and one-fourth percent (3 1/4%) of the value of each vehicle, except; for any truck or truck-tractor registered under the provisions of subsection A of Section 1133 of Title 47 of the Oklahoma Statutes, for a laden weight or combined laden weight of 54,001 pounds or more, and for any trailer or semitrailer registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes, which is primarily designed to transport cargo over the highways of this state and generally recognized as such, the excise tax shall be Ten Dollars (\$10.00). ~~Provided further, this~~ This exception shall not apply to special mobilized machinery, trailers, or semitrailers manufactured, modified or remanufactured for the purpose of providing services other than transporting cargo over the highways of this state. This exception shall also not apply to pickup trucks, vans, or sport utility vehicles.

2. The tax hereby levied shall be due at the time of the transfer of legal ownership or first registration in this state of such vehicle, and shall be collected by the Tax Commission at the time of the issuance of a certificate of title for any such vehicle. In the event an excise tax is collected on the transfer of legal ownership or use of the vehicle during any calendar year, then an additional excise tax must be collected upon all subsequent transfers of legal ownership. The excise tax levied by this section shall be delinquent from and after the thirtieth day after the legal ownership or possession of any vehicle is obtained. Any person failing or refusing to pay the tax as herein provided on or before date of delinquency shall pay in addition to the tax a penalty of twenty-five cents (\$0.25) per day for each day of delinquency, but such penalty shall in no event exceed the amount of the tax.

B. The excise tax levied in subsection A of this section assessed on all commercial vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes, as amended, shall be in lieu of all sales and use taxes levied under Articles 13 and 14 of this title. The transfer of legal ownership of any motor vehicle as used in this section and Articles 13 and 14 of this title shall include the lease, lease purchase or lease finance agreement involving any truck in excess of eight thousand (8,000) pounds combined laden weight or any truck-tractor provided the vehicle is registered in Oklahoma pursuant to Section 1120 of Title 47 of the Oklahoma Statutes or any trailer, semitrailer or open commercial vehicle registered pursuant to Section 1133 of Title 47 of the Oklahoma Statutes, as amended. The excise tax levied herein shall not be subsequently collected at the end of the lease period if the lessee acquires complete legal title of ~~said~~ the vehicle.

C. The provisions of this section shall not apply to transfers made without consideration between:

1. Husband and wife;
2. Parent and child; or
3. An individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

D. 1. There shall be a credit allowed with respect to the excise tax paid for a new vehicle which is a replacement for:

- a. a new original vehicle which is stolen from the purchaser/registant within ninety (90) days of the date of purchase of the original vehicle as certified by a police report or other documentation as required by the Commission, or
- b. a defective new original vehicle returned by the purchaser/registant to the seller within six (6)

months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

2. The credit allowed pursuant to paragraph 1 of this subsection shall be in the amount of the excise tax which was paid for the new original vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event ~~will said~~ shall the credit be refunded.

SECTION 17. AMENDATORY 68 O.S. 1991, Section 2357, as amended by Section 8, Chapter 289, O.S.L. 1996 (68 O.S. Supp. 1996, Section 2357), is amended to read as follows:

Section 2357. A. The withheld taxes and estimated taxes paid shall be allowed as credits as provided by law.

B. 1. There shall be allowed as a credit against the tax imposed by Section 2355 of this title the amount of tax paid another state by a resident individual, as defined in paragraph 4 of Section 2353 of this title, upon income received as compensation for personal services in such other state; provided, such credit shall not be allowed with respect to any income specified in Section 114 of Title 4 of the United States Code, 4 U.S.C., Section 114, upon which a state is prohibited from imposing an income tax. The credit shall not exceed such proportion of the tax payable under Section 2355 of this title as the compensation for personal services subject to tax in the other state and also taxable under Section 2355 of this title bears to the Oklahoma adjusted gross income as defined in paragraph 13 of Section 2353 of this title.

2. For tax years beginning after December 31, 1975, there shall be allowed to a resident individual or part-year resident individual or nonresident individual member of the Armed Forces as a credit against the tax imposed by Section 2355 of this title twenty percent (20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States. The credit shall not exceed the tax imposed by Section 2355 of this title. The maximum

child care credit allowable on the Oklahoma income tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the federal adjusted gross income.

C. 1. Every taxpayer who operates a manufacturing establishment in the state shall be allowed a direct credit against income taxes owed by such taxpayer to the state, the amount of which credit shall be proportioned to the amount of gas used or consumed in Oklahoma by such taxpayer in the operation of a manufacturing establishment, at a rate of three (3) mills per thousand (1,000) cubic feet of gas used or consumed after May 1, 1971, and during each taxable year of such taxpayer provided that the credit allowed herein shall not apply to the first twenty-five thousand (25,000) MCF of gas used or gas used to generate electricity or consumed after May 1, 1971, and during each taxable year of such taxpayer.

2. As used in this subsection:

- a. "manufacturing establishment" means a plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, new qualities or new combinations to matter which has already gone through some artificial process~~—~~
- b. "gas used or consumed" shall include all natural or casinghead gas used in the operation of the manufacturing establishment for whatever purposes, but shall not include the following:
  - (1) gas which, after being severed from the earth, is subsequently injected into a formation in the state for the purpose of storing, recycling, repressuring or pressure maintenance~~—~~
  - (2) gas vented or flared directly into the atmosphere~~—~~

- (3) gas used for fuel in connection with the operation and development for or production of oil or gas in the field where produced~~;~~ and
  - (4) gas, any part of which is resold by the manufacturing establishment, except as to that part and quantity of the gas which is actually used by the establishment and not resold~~;~~ and
- c. "one thousand (1,000) cubic feet of gas" (MCF) means that quantity of gas which, measured at a pressure of fifteen and twenty-five thousandths (15.025) pounds per square inch absolute and at a temperature of sixty-nine (69) degrees Fahrenheit, would have the volume of one thousand (1,000) cubic feet.

D. No additions to tax shall be made in Oklahoma income tax returns by reason of the recapture or restoration of credits under the Internal Revenue Code, and no other credits against tax shall be allowed in Oklahoma income tax returns except as follows:

- 1. Those credits provided in this section~~;~~ and
- 2. Those credits authorized by Sections 921 through 925 of Title 82 of the Oklahoma Statutes, or Sections 2001 through 2008 of Title 63 of the Oklahoma Statutes, which have been, or may hereafter be, certified pursuant to applications therefor made on or before March 22, 1971. Provided, the total amount of the credits referred to in this subparagraph to be taken by the taxpayer shall not exceed the certified net investment cost of the facilities or processes to which such credits pertain, reduced by the greater of:
  - a. the reduction in federal income tax of taxpayer as the result of deducting depreciation on such facilities or processes, or deducting nondepreciable costs for which credit has been so certified~~;~~ or
  - b. the increase in the amount of Oklahoma income tax that would result if taxable income were increased by the

amount deducted as set forth in subparagraph a ~~above~~  
of this paragraph.

And, provided further, that, after such credits have been exhausted, taxpayer shall each year thereafter adjust taxable income by adding any depreciation taken on such facilities or processes, or any nondepreciable costs having been included in the net investment cost allowed as credit, and which depreciation or costs have been allowed as a deduction in arriving at federal taxable income for such year.

SECTION 18. AMENDATORY 68 O.S. 1991, Section 2375, as last amended by Section 28, Chapter 278, O.S.L. 1994 (68 O.S. Supp. 1996, Section 2375), is amended to read as follows:

Section 2375. A. At the time of transmitting the return required hereunder to the Tax Commission, the taxpayer shall remit therewith to the Tax Commission the amount of tax due under the applicable provisions of this article. Failure to pay such tax on or before the date the return is due shall cause ~~said~~ the tax to become delinquent. If the return is filed electronically, the amount of the tax due pursuant to the provisions of this article shall be due on or before the 15th day of April following the close of the taxable year regardless of when the return is electronically filed. The tax shall be deemed delinquent after the 15th day of April if the return is electronically filed.

B. If any tax due under this article, except a deficiency determined under Section 221 of this title, is not paid on or before the date such tax becomes delinquent, a penalty of five percent (5%) of the total amount of the tax due shall be added thereto, collected and paid.

C. If any part of deficiency, arbitrary or jeopardy assessment made by the Tax Commission is based upon or occasioned by the refusal of any taxpayer to file with the Tax Commission any return as required by this article, within ten (10) days after a written demand for such report or return has been served upon any taxpayer

by the Tax Commission by registered letter with a return receipt attached, the Tax Commission may assess and collect, as a penalty, twenty-five percent (25%) of the amount of the assessment. In the exercise of the authority granted by subsection (c) of Section 223 and Section 224 of this title, the Oklahoma Tax Commission shall assess the tax as an estimated tax on the basis of its own determination of the Oklahoma taxable income of the taxpayer, to be adjusted if and when Oklahoma taxable income is ascertained under the provisions of this act.

D. If any part of any deficiency was due to negligence or intentional disregard, without the intent to defraud, then ten percent (10%) of the total amount of the deficiency, in addition to such deficiency, including interest as authorized by law, shall be added, collected and paid.

E. If any part of any deficiency was due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency, in addition to such deficiency, including interest as herein provided, shall be added, collected and paid.

F. The provisions in this section for penalties shall supersede all other provisions for penalties on income taxes. The provisions in this section for penalties shall supersede the provisions in the Uniform Tax Procedure Code, Section 201 et seq. of this title, only to the extent of conflict between such provisions and the penalty provisions in this section.

G. All taxes, penalties and interest levied under this article must be paid to the Tax Commission at Oklahoma City, in the form or remittance required by and payable to it.

H. 1. The period of time prescribed in Section 223 of this title, in which the procedures for the assessment of income tax may be commenced by the Oklahoma Tax Commission, shall be tolled and extended until the amount of taxable income for any year of a taxpayer under the Internal Revenue Code has been finally determined

under applicable federal law and for the additional period of time hereinafter provided in this subsection.

2. If, in such final determination, the amount of taxable income for any year of a taxpayer under the Internal Revenue Code is changed or corrected from the amounts included in the federal return of the taxpayer for such year and such change or correction affects the Oklahoma taxable income of the taxpayer for such year, the taxpayer, within one (1) year after such final determination of the corrected taxable income, shall file an amended return under this article reporting the corrected Oklahoma taxable income, and the Tax Commission shall make assessment or refund within two (2) years from the date the return required by this paragraph is filed and not thereafter, unless a waiver is agreed to and signed by the Tax Commission and the taxpayer.

3. In the event of failure by a taxpayer to comply with the provisions of paragraph 2 of this subsection, the statute of limitations shall be tolled for a period of time equal to the time between the date the amended return under this subsection is required until such return is actually furnished.

4. In administering the provisions of this subsection, the Tax Commission shall have the authority to audit each and every item of income, deduction, credit or any other matter related to the return where such items or matters relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government even if such items or matters were not affected by revisions made in such final determination. Where such items or matters do not relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government, the Tax Commission shall be bound by the revisions made in such final determination.

5. The provisions of this subsection shall be effective on September 1, 1993, and except in the case of tax years which are the

subject of closing, settlement or resolution agreements entered into by taxpayers and the Tax Commission, keep open all tax years beginning after June 30, 1988, and all tax years beginning on or before June 30, 1988, for which extensions of the statute of limitations have been executed by the taxpayer, but only to the extent such extensions remain open on the date of enactment hereof.

SECTION 19. AMENDATORY 68 O.S. 1991, Section 2385.7, is amended to read as follows:

Section 2385.7 ~~Every~~ A. Except as provided in subsection B of this section, every taxpayer, as defined by Section 2353 of this title, ~~other than estates and any individual whose gross income from farming for the taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total estimated gross income from all sources for the taxable year,~~ shall make a declaration of the estimated tax for the taxable year if:

~~(a)~~ 1. In the case of a single individual taxpayer ~~whose,~~ the taxpayer's tax liability can reasonably be expected to be ~~One Hundred Dollars (\$100.00)~~ Five Hundred Dollars (\$500.00) or more in excess of taxes to be withheld from wages;

~~(b)~~ 2. In the case of married individuals ~~whose,~~ the individuals' combined tax liability can reasonably be expected to be ~~One Hundred Dollars (\$100.00)~~ Five Hundred Dollars (\$500.00) or more in excess of taxes to be withheld from wages; or

~~(c)~~ 3. In the case of a corporation or trust ~~when,~~ the corporation's or trust's tax for the taxable year can reasonably be expected to be Five Hundred Dollars (\$500.00) or more.

B. Subsection A of this section shall not apply to:

1. Estates; and

2. Any individual whose gross income from farming for the taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total estimated gross income from all sources for the taxable year. However, if an individual whose gross income from farming

qualifies pursuant to the provisions of this paragraph for the previous taxable year, the individual shall not be required to qualify for the current taxable year. In no event shall the qualification for the previous taxable year be carried forward for more than one (1) year.

SECTION 20. AMENDATORY 68 O.S. 1991, Section 2385.9, is amended to read as follows:

Section 2385.9 The amount of estimated tax with respect to which a declaration is required shall be paid at the time of filing the declaration, except that if the estimated tax is more than ~~One Hundred Dollars (\$100.00)~~ Five Hundred Dollars (\$500.00), it may at the election of the taxpayer be paid in four equal installments as follows:

~~(a)~~ 1. In the case of a taxpayer on a calendar year basis, the first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year and the fourth on January 15 of the succeeding taxable year. Provided, however, if taxpayer files return and pays tax due on or before January 31, the payment of the installment due January 15 is waived; and

~~(b)~~ 2. In the application of this section to the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

SECTION 21. AMENDATORY 68 O.S. 1991, Section 2385.13, as amended by Section 1, Chapter 42, O.S.L. 1996 (68 O.S. Supp. 1996, Section 2385.13), is amended to read as follows:

Section 2385.13 Every taxpayer required under the provisions of Section 2385.7 of this title to make a declaration of estimated tax shall make the declaration at the time provided in Section 2385.8 of this title, for the amount the taxpayer expects to owe for the current year. The estimate so made may be amended by either

increasing or decreasing the amount originally estimated on either of the dates provided for the making of installment payments on estimates, and the estimates at the respective dates shall be not less than seventy percent (70%) of the amount of tax due as indicated by the taxpayer's records or information on the respective dates. For purposes of determining the amount of tax due on any of the respective dates, taxpayers with Oklahoma taxable income of at least One Million Dollars (\$1,000,000.00) in at least one of the preceding three (3) taxable years may compute the tax by placing taxable income on an annualized basis as prescribed by rules promulgated by the Tax Commission which rules shall be in accordance with the annualization provisions of the Internal Revenue Code. The provisions allowed in this section for computing estimated taxes on an annualized basis shall only be permitted for a taxable year of twelve (12) months. ~~Should a taxpayer fail to make an estimate on any quarterly due date equivalent to at least seventy percent (70%) of the amount so indicated to be due, a penalty of five percent (5%) of the amount of the underpayment and interest thereon at the rate of one and one-quarter percent (1 1/4%) per month, or fraction thereof, for the period of the underpayment, shall be added thereto and paid. The penalty and interest provided by this section shall not be applicable where the amount of Oklahoma income tax withheld during the current year and/or payments made on the estimated tax for the current year is an amount which is equal to or greater than the amount shown to be due by the return for the preceding taxable year of twelve (12) months~~ A penalty of five percent (5%) and interest at one and one-quarter percent (1.25%) per month of the amount of underpayment for the period of the underpayment shall be assessed for underestimating. The penalty and interest provided by this section shall not be applicable where the amount of Oklahoma income tax withheld during the current year or the quarterly payments made on the estimated tax for the current year is an amount

equal to or greater than the amount shown to be due by the return for the preceding taxable year of twelve (12) months. The penalty and interest provided by this section shall also not be applicable where the quarterly payments due on the respective dates is equal to at least seventy percent (70%) of the amount of tax due as indicated by the taxpayer's records or information on the respective dates, or if ninety percent (90%) of the current year's estimated tax due is paid by January 15 of the succeeding taxable year.

SECTION 22. AMENDATORY 68 O.S. 1991, Section 2902, as last amended by Section 10, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 1996, Section 2902), is amended to read as follows:

Section 2902. A. A qualifying manufacturing concern, as defined by Section 6B of Article X of the Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities, including facilities engaged in research and development, for a period of five (5) years. Such facilities are hereby classified for the purposes of taxation as provided in Section 22 of Article X of the Constitution of the State of Oklahoma.

B. For purposes of this section, the following definitions shall apply:

1. "Manufacturing facilities" shall mean facilities engaged in the mechanical or chemical transformation of materials or substances into new products and shall include:

- a. establishments as defined or classified under Division D of the Standard Industrial Classification (SIC) Manual, latest revision,
- b. facilities, including repair and replacement parts, primarily engaged in aircraft repair, building and rebuilding whether or not on a factory basis,

- c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372 and 7373 of the SIC Manual, latest revision, and which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 7374 of the SIC Manual, latest revision, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Oklahoma Tax Commission stating that the facility so qualifies and such other information as required by the Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer,
- d. establishments primarily engaged in distribution as defined under Industrial Group Number 4221, 4222, 4225 or 4226 or Major Group Number 50 or 51 of the SIC Manual, latest revision, and which were constructed with an initial capital investment of at least Five Million Dollars (\$5,000,000.00) and which employ at least one hundred (100) full-time-equivalent employees, as certified by the Employment Security Commission. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by

annually filing an affidavit with the Oklahoma Tax Commission stating that the facility so qualifies and such other information as required by the Commission. The exemption provided for in this subparagraph shall apply only to an establishment for which construction of the facility has commenced prior to October 1, 1993, or

- e. establishments primarily engaged in distribution as defined under Industrial Group Number 4221, 4222, 4225 or 4226 or Major Group Number 50 or 51 of the SIC Manual, latest revision, and which were constructed with an initial capital investment of at least Five Million Dollars (\$5,000,000.00) and which employ at least three hundred (300) full-time-equivalent employees, as certified by the Employment Security Commission. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Oklahoma Tax Commission stating that the facility so qualifies and providing such other information as required by the Commission. The exemption provided for in this subparagraph shall apply only to an establishment for which construction of the facility has commenced after the effective date of this act but prior to December 1, 1997.

Provided, eating and drinking places, as well as other retail establishments, shall not qualify as manufacturing facilities for purposes of this section, nor shall centrally assessed properties.

2. For tax years beginning after December 31, 1992, "manufacturing facilities" shall mean those facilities as defined in paragraph 1 of this subsection for which the investment cost of the

construction, acquisition or expansion of the manufacturing facility is Two Hundred Fifty Thousand Dollars (\$250,000.00) or more;

3. "Facility" and "facilities" shall mean and include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process; provided, for establishments specified in subparagraph e of paragraph 1 of this subsection, the terms "facility" and "facilities" shall mean and include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process, including but not limited to, fork lifts and fork lifts support equipment, conveyor systems and components, pallet jacks, storage or order filling racking, inventory control computers and other computer systems used in the distribution process, bar code readers, motorized vehicles for moving trailers and all other tangible personal property used in handling the items being distributed; and

4. "Research and development" shall mean activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity.

C. For applications for a five-year exemption submitted on or before December 31, 1993, the exemption herein provided for shall apply to new or acquired manufacturing facilities as defined by Section 6B of Article X of the Oklahoma Constitution and to the expansion of existing facilities on the same site. Any exemption as to expansions of existing facilities shall be limited to the increase in ad valorem taxes directly attributable to the expansion. Provided further,

any exemption as to equipment used in the manufacturing process for manufacturing facilities which qualify pursuant to subparagraph b of paragraph 1 of subsection B of this section shall be granted only if such equipment results in a net increase in the number of full-time-equivalent employees of the facility in the year for which the exemption is initially granted and in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. Calculation of the number of new employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit.

D. For applications for a five-year exemption submitted after December 31, 1993, the following provisions shall apply:

1. A manufacturing concern shall be entitled to the exemption herein provided for each new manufacturing facility constructed, each existing manufacturing facility acquired and the expansion of existing manufacturing facilities on the same site, as such terms are defined by Section 6B of Article X of the Oklahoma Constitution and by this section;

2. No manufacturing concern shall receive more than one five-year exemption for any one manufacturing facility unless the expansion which qualifies the manufacturing facility for an additional five-year exemption meets the requirements of paragraph 4 of this subsection, provided the employment level established for any previous exemption is maintained;

3. Any exemption as to the expansion of an existing manufacturing facility shall be limited to the increase in ad valorem taxes directly attributable to the expansion;

4. Except as provided in paragraph 5 of this subsection, any exemption for a new, acquired or expanded manufacturing facility shall be granted only if:

- a. the construction, acquisition or expansion results in a net increase of fifteen (15) or more full-time-equivalent employees of said manufacturing facility in the year for which the exemption is initially granted and in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year, and
- b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto.

For purposes of this section, calculation of the number of new employees shall be measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or expansion, whichever occurs first. The manufacturing concern shall submit an affidavit to the Oklahoma Tax Commission, signed by an officer, stating that the construction, acquisition or expansion of the facility will result in a net increase in the number of full-time-equivalent employees as required by this paragraph and that such employees are or will be offered a basic health benefits plan as required by this paragraph. If, after the completion of such construction or expansion or after three (3) years from the start of initial construction or expansion, whichever occurs first, the construction, acquisition or expansion has not resulted in a net

increase in the number of full-time-equivalent employees or has not met any other qualification specified in this paragraph, the manufacturing concern shall pay an amount equal to the amount of any exemption granted, including penalties and interest thereon, to the county treasurer, who shall cause such amount to be remitted to the Oklahoma Tax Commission for deposit to the Ad Valorem Reimbursement Fund; and

5. Any new, acquired or expanded automotive final assembly manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment costs of the construction, acquisition or expansion of the manufacturing facility is Seventy-five Million Dollars (\$75,000,000.00) or more and the manufacturing facility retains employment of two thousand five hundred (2,500) or more full-time-equivalent employees in the year in which the exemption is initially granted and in each of the four (4) subsequent years only if employment of two thousand five hundred (2,500) or more full-time-equivalent employees is maintained in the subsequent year. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit. As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product.

E. Any person, firm or corporation claiming the exemption herein provided for shall file each year for which exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. Said application shall be on a form or forms prescribed by the Oklahoma Tax Commission, and shall be filed before March 15, except

as provided in Section 2902.1 of this title, of each year in which the facility desires to take the exemption or within thirty (30) days from and after receipt by such person, firm or corporation of notice of valuation increase, whichever is later. In a case where completion of the facility or facilities will occur after January 1 of a given year, a facility may apply to claim the ad valorem tax exemption for said year. If such facility is found to be qualified for exemption, the ad valorem tax exemption provided for herein shall be granted for that entire year and shall apply to the ad valorem valuation as of January 1st of that given year. For applicants which qualify under the provisions of subparagraph b of paragraph 1 of subsection B of this section, the application shall include a copy of the affidavit and any other information required to be filed with the Oklahoma Tax Commission pursuant to said provisions.

F. Said application shall be examined by the county assessor and approved or rejected ~~by him~~ in the same manner as provided by law for approval or rejection of claims for homestead exemptions. The taxpayer shall have the same right of review by and appeal from the county board of equalization, in the same manner and subject to the same requirements as provided by law for review and appeals concerning homestead exemption claims. Approved applications shall be filed by the county assessor with the Oklahoma Tax Commission no later than June 15, except as provided in Section 2902.1 of this title, of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after said date will be declared null and void by the Commission. In the event that a taxpayer qualified to receive an exemption pursuant to the provisions of this section shall make payment of ad valorem taxes in excess of the amount due, the county treasurer shall have the authority to credit the taxpayer's real or personal property tax overpayment against current taxes due. The county treasurer may

establish a schedule of up to five (5) years of credit to resolve the overpayment.

G. Nothing herein shall in any manner affect, alter or impair any law relating to the assessment of property, and all property, real or personal, which may be entitled to exemption hereunder shall be valued and assessed as is other like property and as provided by law. The valuation and assessment of property for which an exemption is granted hereunder shall be performed by the Oklahoma Tax Commission.

H. The Oklahoma Tax Commission shall have the authority and duty to prescribe forms and to promulgate rules and regulations as may be necessary to carry out and administer the terms and provisions of this section.

SECTION 23. AMENDATORY 68 O.S. 1991, Section 5011, as amended by Section 2, Chapter 311, O.S.L. 1992 (68 O.S. Supp. 1996, Section 5011), is amended to read as follows:

Section 5011. A. Except as otherwise provided by this section, beginning with the calendar year 1990 and ~~for each~~ ending with calendar year ~~thereafter~~ 1997, any individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made and whose gross household income for such year does not exceed Twelve Thousand Dollars (\$12,000.00) may file a claim for sales tax relief. Except as otherwise provided by this section, beginning with calendar year 1998, any individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made may file a claim for sales tax relief if the gross household income does not exceed the following amounts:

1. For an individual with one allowable personal exemption claimed and whose income tax filing status is single or married filing separately, Twelve Thousand Dollars (\$12,000.00);

2. For an individual with two allowable personal exemptions claimed and whose income tax filing status is married filing jointly, married filing separately, or head of household, Fifteen Thousand Dollars (\$15,000.00); or

3. For an individual with three or more allowable personal exemptions claimed and whose income tax filing status is married filing jointly, married filing separately or head of household, Twenty Thousand Dollars (\$20,000.00).

B. For calendar year 1990, the amount of the claim filed pursuant to ~~this act~~ the Sales Tax Relief Act shall be Twenty Dollars (\$20.00) multiplied by the number of personal exemptions to which the taxpayer would be entitled pursuant to the provisions of the Oklahoma Income Tax Act, Section 2351 et seq. of this title, except for the exemptions such taxpayer would be entitled to pursuant to Section 2358 of this title if such taxpayer or spouse is blind or sixty-five (65) years of age or older at the close of the tax year.

For calendar year 1991 and each year thereafter, the amount of the claim filed pursuant to ~~this act~~ the Sales Tax Relief Act shall be Forty Dollars (\$40.00) multiplied by the number of allowable personal exemptions. As used in the Sales Tax Relief Act, "allowable personal exemption" means a personal exemption to which the taxpayer would be entitled pursuant to the provisions of the Oklahoma Income Tax Act, except for:

1. The exemptions such taxpayer would be entitled to pursuant to Section 2358 of this title if such taxpayer or spouse is blind or sixty-five (65) years of age or older at the close of the tax year;

2. An exemption for a person convicted of a felony if during all or any part of the calendar year for which the claim is filed such person was an inmate in the custody of the Department of Corrections; or

3. An exemption for a person if during all or any part of the calendar year for which the claim is filed such person resided outside of this state.

~~B.~~ C. A person convicted of a felony shall not be permitted to file a claim for sales tax relief pursuant to the provisions of Sections 5010 through 5016 of this title for the period of time during which the person is an inmate in the custody of the Department of Corrections. Such period of time shall include the entire calendar year if the person is in the custody of the Department of Corrections during any part of the calendar year. The provisions of this subsection shall not prohibit all other members of the household of an inmate from filing a claim based upon the personal exemptions to which the household members would be entitled pursuant to the provisions of the Oklahoma Income Tax Act.

~~C.~~ D. The Department of Corrections shall withhold up to fifty percent (50%) of any money inmates receive for claims made pursuant to the Sales Tax Relief Act prior to September 1, 1991, for costs of incarceration.

SECTION 24. AMENDATORY 68 O.S. 1991, Section 6003, as last amended by Section 3, Chapter 344, O.S.L. 1996 (68 O.S. Supp. 1996, Section 6003), is amended to read as follows:

Section 6003. The following aircraft shall be exempt from provisions of this article:

1. Aircraft manufactured under an F.A.A. approved certificate and which are owned and in the physical possession of the manufacturer of said aircraft. Said aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;

2. Aircraft owned by dealers and in the dealer's inventory, not including aircraft that are used personally or for business. Said aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;

3. Aircraft of the federal government, any agency thereof, any territory or possession, any state government, agency, or political subdivision thereof;

4. Aircraft transferred from one corporation or limited liability company to another corporation or limited liability company pursuant to reorganization of the corporation or limited liability company. For the purpose of this section the term reorganization means a statutory merger, consolidation, or acquisition;

5. Aircraft purchased or used by commercial airlines as defined by paragraph 2 of Section 6001 of this title;

6. Aircraft transferred in connection with the dissolution or liquidation of a corporation or limited liability company and only if included in a payment in kind to the shareholders or members;

7. Aircraft transferred to a corporation for the purpose of organizing such corporation. However, the former owners of the aircraft must have control of the corporation in proportion to their interest in the aircraft prior to the transfer;

8. Aircraft transferred to a partnership or limited liability company when the organization of the partnership or limited liability company is by the former owners of the aircraft. However, the former owners of the aircraft must have control of the partnership in proportion to their interest in the aircraft prior to the transfer;

9. Aircraft transferred from a partnership or limited liability company to the members of the partnership or limited liability company and if made in payment in kind in the dissolution of the partnership;

10. Aircraft transferred or conveyed to a partner of a partnership or shareholder or member of a limited liability company or other person who after such sale owns a joint interest in the aircraft and on which the sales or use tax levied pursuant to the

provisions of this title or the excise tax levied pursuant to the provisions of Section 6002 of this title have previously been paid on the aircraft;

11. Aircraft on which a tax levied pursuant to the provisions of the laws of another state, equal to or in excess of the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state. Aircraft on which a tax levied pursuant to the laws of another state, in an amount less than the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state shall be subject to the levy of the excise tax at a rate equal to the difference between the rate of tax levied by Section 6002 of this title and the rate of tax levied by the other state;

12. Aircraft when legal ownership of such aircraft is obtained by the applicant for a certificate of title by inheritance;

13. Aircraft when legal ownership of such aircraft is obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided for by law;

14. Aircraft which is transferred between husband and wife or parent and child where no valuable consideration is given;

15. Aircraft which is purchased by a resident of this state and used exclusively in this state for agricultural spraying purposes; provided, if such aircraft is sold, leased or used outside this state or for a purpose other than agricultural spraying at any time within three (3) years from the date of purchase, the excise tax levied pursuant to the provisions of Section 6002 of this title shall be due and payable. For purposes of this subsection, "agricultural spraying" means the aerial application of any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants and animals;

16. Aircraft ~~manufactured in the State of Oklahoma~~ with a selling price in excess of Five Million Dollars (\$5,000,000.00);

17. Aircraft which have a selling price in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) and which are transferred to a purchaser who is not a resident of this state for immediate transfer out of state; and

18. Aircraft which is transferred without consideration between an individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

SECTION 25. REPEALER 59 O.S. 1991, Section 1404, is hereby repealed. 68 O.S. 1991, Section 2810, is hereby repealed.

SECTION 26. Sections 1 through 11 and Sections 13 through 25 of this act shall become effective November 1, 1997. Section 12 of this act shall become effective July 1, 1998."

Passed the Senate the 8th day of April, 1997.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_, 1997.

Speaker of the House of Representatives