ENGROSSED HOUSE AMENDMENTS
TO
ENGROSSED SENATE BILL NO. 573 By: Robinson of the Senate

and

Ervin of the House

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 1357, as last amended by Section 5, Chapter 301, O.S.L. 1998 and 1404, as amended by Section 11, Chapter 301, O.S.L. 1998 (68 O.S. Supp. 1998, Sections 1357 and 1404), which relate to sales and use tax exemptions; providing certain exemptions from sales and use taxes; and declaring an emergency.

AMENDMENT NO. 1. Page 1, lines 7 through 10, strike the title to read

"(revenue and taxation - amending 68 O.S., Sections 1354, 1357 and 1404 - sales and use tax exemptions - emergency)"

AMENDMENT NO. 2. Page 1, line 13, strike the enacting clause

AMENDMENT NO. 3. Page 1, line 13½, insert a new Section 1 to read

"SECTION 1. AMENDATORY 68 O.S. 1991, Section 1354, as last amended by Section 4, Chapter 301, O.S.L. 1998 (68 O.S. Supp. 1998, Section 1354), is amended to read as follows:

Section 1354. Tax levy - Rate - Sales subject to tax.

~~1. There~~ A. Except as provided in subsection C of this section, there is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, Section 1350 et seq. of this title, an excise tax of four and one-half percent (4.5%) of the gross receipts or gross proceeds of each sale of the following:

~~(A)~~ 1. Tangible personal property, except newspapers and periodicals;

~~(B)~~ 2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, except water, sewage and refuse and those specifically exempt pursuant to the provisions of Section 1357 of this title;

~~(C)~~ 3. Transportation for hire to persons by common carriers, including railroads both steam and electric, motor transportation companies, pullman car companies, airlines, and other means of transportation for hire, excluding:

~~(1)~~

a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this ~~subsection~~ subparagraph, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and

~~(2)~~

b. transportation services provided by a funeral establishment to family members and other persons for purposes of conducting a funeral in this state;

~~(D)~~ 4. Telecommunications services that originate and terminate in this state and that originate or terminate in this state and are charged to the consumer's telephone number or account in this state regardless of where the billing for such service is made, and all local telecommunications service and rental charges, including all installation and construction charges and all service and rental

charges having any connection with transmission of any message or image.

~~(1)~~

a. The term "telecommunications services" shall mean the transmission of any interactive, two-way electromagnetic communications, including voice, image, data and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media, but shall not include the following:

~~a.~~

(1) sales of value-added nonvocal services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted, including charges for the storage of data or information for subsequent retrieval but not including services commonly known as voice mail,

~~b.~~

(2) any interstate telecommunications service which is:

~~(1)~~

(a) rendered by a company for private use within its organization, or

~~(2)~~

(b) used, allocated, or distributed by a company to its affiliated group, or

~~c.~~

(3) sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications services used in

the subsequent provision of, use as a component part of, or integrated into end-to-end telecommunications service~~,~~.

~~(2)~~

b. The term "telecommunications services" shall include, but not be limited to, sales of any interstate telecommunications services which:

~~a.~~

(1) entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

~~b.~~

(2) entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges~~, and~~.

~~(3)~~

c. The term "interstate" includes any international service that either originates or terminates outside of the fifty ~~(50)~~ United States and the District of Columbia;

~~(E)~~ 5. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any

service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

~~(F)~~ 6. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

~~(G)~~ 7. Service of furnishing storage or parking privileges by auto hotels or parking lots;

~~(H)~~ 8. Computer hardware, software, coding sheets, cards, magnetic tapes or other media on which prewritten programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

~~(I)~~ 9. Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

~~(J)~~ 10. Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes except those specifically exempt pursuant to the provisions of Section 1357 of this title;

~~(K)~~ 11. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

~~(L)~~ 12. Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

~~(M)~~ 13. Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

~~(N)~~ 14. Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

~~(O)~~ 15. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

~~(P)~~ 16. The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

~~(Q)~~ 17. The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill, or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

~~(R)~~ 18. Flowers, plants, shrubs, trees, and other floral items, whether or not produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. All orders taken outside this state for delivery within this state shall not be subject to the taxes levied in this section;

~~(S)~~ 19. Tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale when there is likelihood that this state will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code because of:

~~(1)~~

a. the operation of the business~~;~~,

~~(2)~~

b. the nature of the business~~;~~,

~~(3)~~

c. the turnover of independent contractors~~;~~,

~~(4)~~

d. the lack of place of business in which to display a permit or keep records~~;~~,

~~(5)~~

e. lack of adequate records~~;~~,

~~(6)~~

f. the fact that the persons are minors or transients~~;~~,

~~(7)~~

g. the fact that the persons are engaged in service businesses~~;~~, or

~~(8)~~

h. any other reasonable reason;

~~(T)~~ 20. Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users~~, however~~. However, taxable materials, supplies and equipment sold to contractors as provided by this ~~subsection~~ paragraph which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date

of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into, whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim for refund before the expiration of three (3) years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this ~~subsection~~ paragraph; and

~~(U)~~ 21. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users.

~~2.~~ B. All solicitations or advertisements in print or electronic media by Group Three vendors, for the sale of tangible property to be delivered within this state, shall contain a notice that the sale is subject to Oklahoma sales tax, unless the sale is exempt from such taxation.

C. The tax imposed by this section shall be reduced for sales of all eligible food and beverages as defined in the federal Food Stamp Act, 7 U.S.C., Section 2011 et seq., as the act existed on January 1, 1999, as follows:

1. Beginning January 1, 2000, the tax shall be reduced from four and one-half percent (4.5%) to two and one-half percent (2.5%);

2. Beginning January 1, 2001, the tax shall be reduced from two and one-half percent (2.5%) to one percent (1%); and

3. Beginning January 1, 2002, the tax shall be reduced from one percent (1%) to zero and all eligible food and beverages shall be exempt from the tax levied pursuant to Section 1354 of this title. Any increase in the tax levied pursuant to subsection A of this section shall not apply to sales of eligible food and beverages as provided in this subsection."

and renumber subsequent sections

and when the title is restored, amend accordingly

Passed the House of Representatives the 5th day of April, 1999.

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Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1999.

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President of the Senate