

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 1294

6 By: Settle and Pettigrew of the
7 House

8 and

9 Fisher and Haney of the
10 Senate

11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to revenue and taxation; amending 68
13 O.S. 1991, Section 1357, as last amended by Section
14 5, Chapter 301, O.S.L. 1998 (68 O.S. Supp. 1998,
15 Section 1357), which relates to sales tax exemptions;
16 exempting sales of certain aircraft repairs or
17 modification from sales tax; defining terms; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 68 O.S. 1991, Section 1357, as
21 last amended by Section 5, Chapter 301, O.S.L. 1998 (68 O.S. Supp.
22 1998, Section 1357), is amended to read as follows:

23 Section 1357. Exemptions - General.

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

26 1. Transportation of school pupils to and from elementary
27 schools or high schools in motor or other vehicles;

28 2. Transportation of persons where the fare of each person does
29 not exceed One Dollar (\$1.00), or local transportation of persons
30 within the corporate limits of a municipality except by taxicabs;

31 3. Sales for resale to persons engaged in the business of
32 reselling the articles purchased, whether within or without the
state, provided that such sales to residents of this state are made

1 to persons to whom sales tax permits have been issued as provided in
2 this article. This exemption shall not apply to the sales of
3 articles made to persons holding permits when such persons purchase
4 items for their use and which they are not regularly engaged in the
5 business of reselling; neither shall this exemption apply to sales
6 of tangible personal property to peddlers, solicitors and other
7 salesmen who do not have an established place of business and a
8 sales tax permit. The exemption provided by this paragraph shall
9 apply to sales of motor fuel or diesel fuel to a Group Five vendor,
10 but the use of such motor fuel or diesel fuel by the Group Five
11 vendor shall not be exempt from the tax levied by Section 1350 et
12 seq. of this title. The purchase of motor fuel or diesel fuel is
13 exempt from sales tax when the motor fuel is for shipment outside
14 this state and consumed by a common carrier by rail in the conduct
15 of its business. The sales tax shall apply to the purchase of motor
16 fuel or diesel fuel in Oklahoma by a common carrier by rail when
17 such motor fuel is purchased for fueling, within this state, of any
18 locomotive or other motorized flanged wheel equipment;

19 4. Sales of advertising space in newspapers and periodicals and
20 billboard advertising service, and any advertising through the
21 electronic media, including radio, television and cable television,
22 and the servicing of any advertising devices;

23 5. Eggs, feed, supplies, machinery and equipment purchased by
24 persons regularly engaged in the business of raising worms, fish,
25 any insect or any other form of terrestrial or aquatic animal life
26 and used for the purpose of raising same for marketing. This
27 exemption shall only be granted and extended to the purchaser when
28 the items are to be used and in fact are used in the raising of
29 animal life as set out above. Each purchaser shall certify, in
30 writing, on the invoice or sales ticket retained by the vendor that
31 the purchaser is regularly engaged in the business of raising such
32 animal life and that the items purchased will be used only in such

1 business. The vendor shall certify to the Oklahoma Tax Commission
2 that the price of the items has been reduced to grant the full
3 benefit of the exemption. Violation hereof by the purchaser or
4 vendor shall be a misdemeanor;

5 6. Sale of natural or artificial gas and electricity when sold
6 exclusively for residential use after December 31, 1980. Provided,
7 nothing herein shall be construed as limiting or prohibiting cities
8 and towns, and counties levying a tax pursuant to the provisions of
9 Section 1370.2 of this title, from levying and collecting taxes on
10 the sale of natural or artificial gas and electricity. Provided
11 further, any sales tax levied by a city or town, or a county levying
12 a tax pursuant to the provisions of Section 1370.2 of this title, on
13 natural or artificial gas and electricity shall be in effect
14 regardless of ordinance or contractual provisions referring to
15 previously imposed state sales tax on such items;

16 7. In addition to the exemptions authorized by Section 1357.6
17 of this title, sales of medicines or drugs prescribed for the
18 treatment of human beings by a person licensed to prescribe the
19 medicines or drugs. Provided, this exemption shall not apply to
20 proprietary or patent medicines as defined by Section 353.1 of Title
21 59 of the Oklahoma Statutes;

22 8. Transfers of title or possession of empty, partially filled,
23 or filled returnable oil and chemical drums to any person who is not
24 regularly engaged in the business of selling, reselling or otherwise
25 transferring empty, partially filled, or filled returnable oil
26 drums;

27 9. Sales of one-way utensils, paper napkins, paper cups,
28 disposable hot containers and other one-way carry out materials to a
29 vendor of meals or beverages;

30 10. Sales of food or food products for home consumption which
31 are purchased in whole or in part with coupons issued pursuant to
32 the federal food stamp program as authorized by Sections 2011

1 through 2029 of Title 7 of the United States Code, as to that
2 portion purchased with such coupons. The exemption provided for
3 such sales shall be inapplicable to such sales upon the effective
4 date of any federal law that removes the requirement of the
5 exemption as a condition for participation by the state in the
6 federal food stamp program;

7 11. Sales of food or food products to or by an organization
8 which:

9 a. is exempt from taxation pursuant to the provisions of
10 Section 501(c) (3) of the Internal Revenue Code, 26
11 U.S.C., Section 501(c) (3), and which provides and
12 delivers prepared meals for home consumption to
13 elderly or homebound persons as part of a program
14 commonly known as "Meals on Wheels" or "Mobile Meals",
15 or

16 b. is exempt from taxation pursuant to the provisions of
17 Section 501(c) (3) of the Internal Revenue Code, 26
18 U.S.C., Section 501(c) (3), and which receives federal
19 funding pursuant to the Older Americans Act of 1965,
20 as amended, for the purpose of providing nutrition
21 programs for the care and benefit of elderly persons;

22 12. Sales of tangible personal property or services to or by
23 organizations which are exempt from taxation pursuant to the
24 provisions of Section 501(c) (3) of the Internal Revenue Code, 26
25 U.S.C., Section 501(c) (3), and which are primarily involved in the
26 collection and distribution of food and other household products to
27 other organizations which are exempt from taxation pursuant to the
28 provisions of Section 501(c) (3) of the Internal Revenue Code, 26
29 U.S.C., Section 501(c) (3), which facilitate the distribution of such
30 products to the needy, except sales made in the course of business
31 for profit or savings, competing with other persons engaged in the
32 same or similar business;

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

5 14. Sales of computers, data processing equipment, related
6 peripherals and telephone, telegraph or telecommunications service
7 and equipment for use in a qualified aircraft maintenance or
8 manufacturing facility. For purposes of this paragraph, "qualified
9 aircraft maintenance or manufacturing facility" means a new or
10 expanding facility primarily engaged in aircraft repair, building or
11 rebuilding whether or not on a factory basis, whose total cost of
12 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)
13 and which employs at least two hundred fifty (250) new full-time-
14 equivalent employees, as certified by the Oklahoma Employment
15 Security Commission, upon completion of the facility. In order to
16 qualify for the exemption provided for by this paragraph, the cost
17 of the items purchased by the qualified aircraft maintenance or
18 manufacturing facility shall equal or exceed the sum of Two Million
19 Dollars (\$2,000,000.00);

20 15. Sales of tangible personal property consumed or
21 incorporated in the construction or expansion of a qualified
22 aircraft maintenance or manufacturing facility as defined in
23 paragraph 14 of this section. For purposes of this paragraph, sales
24 made to a contractor or subcontractor that has previously entered
25 into a contractual relationship with a qualified aircraft
26 maintenance or manufacturing facility for construction or expansion
27 of such a facility shall be considered sales made to a qualified
28 aircraft maintenance or manufacturing facility;

29 16. Sales of any interstate telecommunications services which:

- 30 a. entitle the subscriber to inward or outward calling
31 respectively between a station associated with an
32 access line in the local telephone system area or a

1 station directly connected to any interexchange
2 carrier's facilities and telephone or radiotelephone
3 stations in diverse geographical locations specified
4 by the subscriber, or

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

9 17. Sales of railroad track spikes manufactured and sold for
10 use in this state in the construction or repair of railroad tracks,
11 switches, sidings and turnouts;

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

25 19. Sales of machinery and equipment purchased and used by
26 persons and establishments primarily engaged in computer services
27 and data processing:

- 28 a. as defined under Industrial Group Numbers 7372 and
29 7373 of the Standard Industrial Classification (SIC)
30 Manual, latest version, which derive at least fifty
31 percent (50%) of their annual gross revenues from the
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1 sale of a product or service to an out-of-state buyer
2 or consumer, and

3 b. as defined under Industrial Group Number 7374 of the
4 SIC Manual, latest version, which derive at least
5 eighty percent (80%) of their annual gross revenues
6 from the sale of a product or service to an out-of-
7 state buyer or consumer.

8 Eligibility for the exemption set out in this paragraph shall be
9 established, subject to review by the Tax Commission, by annually
10 filing an affidavit with the Tax Commission stating that the
11 facility so qualifies and such information as required by the Tax
12 Commission. For purposes of determining whether annual gross
13 revenues are derived from sales to out-of-state buyers or consumers,
14 all sales to the federal government shall be considered to be to an
15 out-of-state buyer or consumer;

16 20. Sales of prosthetic devices to an individual for use by
17 such individual. For purposes of this paragraph, "prosthetic
18 device" means a device which replaces a missing part of the human
19 body and shall include any supplies physically connected to the
20 device;

21 21. Sales of tangible personal property or services to a motion
22 picture or television production company to be used or consumed in
23 connection with an eligible production. For purposes of this
24 paragraph, "eligible production" means a documentary, special, music
25 video, or a television program that will serve as a pilot for or be
26 a segment of an ongoing dramatic or situation comedy series filmed
27 or taped for network or national or regional syndication or a
28 feature-length motion picture intended for theatrical release or for
29 network or national or regional syndication or broadcast. The
30 provisions of this paragraph shall apply to sales occurring on or
31 after July 1, 1996;

1 22. Sales of diesel fuel sold for consumption by commercial
2 vessels, barges and other commercial watercraft;

3 23. Beginning July 1, 1998, sales of tangible personal property
4 or services to tax-exempt independent nonprofit biomedical research
5 foundations that provide educational programs for Oklahoma science
6 students and teachers and to tax-exempt independent nonprofit
7 community blood banks headquartered in this state; ~~and~~

8 24. Effective May 6, 1992, sales of wireless telecommunications
9 equipment to a vendor who subsequently transfers the equipment at no
10 charge or for a discounted charge to a consumer as part of a
11 promotional package or as an inducement to commence or continue a
12 contract for wireless telecommunications services; and

13 25. Beginning July 1, 2000, sales of aircraft engine repairs,
14 modification, and replacement parts, sales of aircraft frame repairs
15 and modification, aircraft interior modification, and paint, and
16 sales of services employed in the repair, modification and
17 replacement of parts of aircraft engines, aircraft frame and
18 interior repair and modification, and paint. The exemption provided
19 by this paragraph shall be limited to aircraft repairs,
20 modification, and replacement parts for aircraft weighing more than
21 twelve thousand five hundred (12,500) pounds and less than one
22 hundred thousand (100,000) pounds and which aircraft are brought
23 into this state exclusively for such repairs or modification. The
24 exemption provided by this paragraph shall be limited to repairs or
25 modifications made by a new or expanded aircraft repair facility.
26 As used in this paragraph, the term "aircraft" shall have the same
27 meaning as such term is defined in Section 6001 of this title. The
28 term "new or expanded aircraft repair facility" shall mean any new
29 or expanded facility which repairs, modifies or replaces aircraft
30 parts in which more than Four Million Dollars (\$4,000,000.00) was
31 invested to establish the new facility or expand an existing
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1 facility and which construction was commenced or was in progress on
2 or after January 1, 1999.

3 SECTION 2. This act shall become effective November 1, 1999.

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