

ENROLLED SENATE
BILL NO. 984

By: Haney and Hobson of the
Senate

and

Settle and Begley of the
House

An Act relating to revenue and taxation and higher education; amending 68 O.S. 1991, Section 1365, as amended by Section 4, Chapter 126, O.S.L. 1996 (68 O.S. Supp. 1999, Section 1365), which relates to sales tax remission and reports; modifying sales tax remission schedule for certain taxpayers; making an appropriation to the Oklahoma State Regents for Higher Education; making an appropriation to the State Board of Education; stating purposes; providing for noncodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1365, as amended by Section 4, Chapter 126, O.S.L. 1996 (68 O.S. Supp. 1999, Section 1365), is amended to read as follows:

Section 1365. When Tax Due - Reports - Records.

A. The tax levied hereunder shall be due and payable on the first day of each month, except as herein provided, by any person liable to remit or pay any tax due under Section 1350 et seq. of this title. For the purpose of ascertaining the amount of the tax payable, it shall be the duty of all tax remitters, on or before the ~~15th~~ fifteenth day of each month, to deliver to the Oklahoma Tax Commission, upon forms prescribed and furnished by it, sales tax reports signed under oath, showing the gross receipts or gross proceeds arising from all sales taxable or nontaxable under Section 1350 et seq. of this title during the preceding calendar month. Such reports shall show such further information as the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on reports, the Tax Commission may request and the taxpayer must furnish any information deemed necessary for a correct computation of the tax levied herein. Such tax remitter shall compute and remit to the Tax Commission the required tax due for the preceding calendar month, the remittance or remittances of the tax to accompany the reports herein required. If not filed on or before the ~~15th~~ fifteenth of such month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed.

If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

B. Effective March 1, 2001, every person owing an average of One Hundred Thousand Dollars (\$100,000.00) or more per month in total sales taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic data interchange program, according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month; and

2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the tenth day of the following month.

For such persons participating in the Tax Commission's electronic funds transfer program, the reports and payments shall be due and payable five (5) calendar days after the due dates specified in this subsection.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

C. In lieu of monthly reports, tax remitters or taxpayers who are classified as Group Three vendors in this article or tax remitters or taxpayers whose total amount of tax liability for any one (1) month does not exceed Fifty Dollars (\$50.00) may file semiannual reports and remit taxes due thereunder to the Tax Commission on or before the ~~15th~~ fifteenth day of January and July of each year for the preceding six-month period. If not paid on or before the ~~15th~~ fifteenth day of such month, the tax shall be delinquent.

~~C.~~ D. It shall be the duty of every tax remitter required to make a sales tax report and pay any tax under Section 1350 et seq. of this title to keep and preserve suitable records of the gross daily sales together with invoices of purchases and sales, bills of lading, bills of sale and other pertinent records and documents which may be necessary to determine the amount of tax due hereunder and such other records of goods, wares and merchandise, and other subjects of taxation under Section 1350 et seq. of this title as will substantiate and prove the accuracy of such returns. It shall also be the duty of every person who makes sales for resale to keep records of such sales which shall be subject to examination by the Tax Commission or any authorized employee thereof while engaged in checking or auditing the records of any person required to make a report under the terms of Section 1350 et seq. of this title. All such records shall remain in Oklahoma and be preserved for a period of three (3) years, unless the Tax Commission, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the Tax Commission or by any of its duly authorized agents. The burden of proving that a sale was not a taxable sale shall be upon the person who made the sale.

~~D.~~ E. The purchaser must provide the vendor with the purchaser's sales tax permit number, the direct payment permit number or a copy of the direct payment permit if the sale is made within Oklahoma. In addition to furnishing the sales tax permit number to the vendor, the purchaser must certify in writing to the vendor that the purchaser is engaged in the business of reselling the articles purchased. Failure to so certify, or to falsely certify with the knowledge that the items purchased are not for resale, shall be sufficient grounds upon which the Tax Commission may cause the purchaser's sales tax permit to be canceled. Certification may be made on the bill, invoice or sales slip retained by the vendor or by furnishing a certification letter to the seller which contains the following:

1. The name and address of the purchaser;
2. The sales tax permit number of the permit issued to the purchaser;
3. A statement that the purchaser is engaged in the business of reselling the articles purchased, if applicable;
4. A statement that the articles purchased are purchased for resale, if applicable; and
5. The signature of the purchaser or a person authorized to legally bind the purchaser.

~~E.~~ F. If a sales tax permit holder purchases goods, wares and merchandise from a vendor on a regular basis, then the permit holder may furnish the certification letter described in subsection ~~D~~ E of this section to the vendor and the vendor may subsequently make sales of tangible personal property to the permit holder without requiring a certification letter or certification statement for each subsequent sale. The permit holder must notify the seller of all purchases which are not for resale and remit the applicable amount of tax thereon. If the permit holder fails to notify the vendor of purchases not intended for resale, then sufficient grounds shall exist for the Tax Commission to cancel the sales tax permit of the permit holder who so failed to notify the vendor.

SECTION 2. There is hereby appropriated to the Oklahoma State Regents for Higher Education from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 2001, the sum of Twenty-four Million Two Hundred Fifty-three Thousand Four Hundred Fourteen Dollars (\$24,253,414.00) or so much thereof as may be necessary for the allocation by the Oklahoma State Regents for Higher Education pursuant to the provisions of Article XIII-A of the Oklahoma Constitution for the education and general operation budgets of the institutions and for other programs, construction, renovations or repairs administered by the Oklahoma State Regents for Higher Education.

SECTION 3. There is hereby appropriated to the State Board of Education from any monies not otherwise appropriated from the

Education Reform Revolving Fund created in Section 41.29b of Title 62 of the Oklahoma Statutes, the sum of Three Million Ninety-one Thousand Eight Hundred Thirty-seven Dollars (\$3,091,837.00) or so much thereof as may be necessary for the financial support of public schools.

SECTION 4. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The amendments made by Section 1 of this act are for the purpose of providing a funding source and are directly related to and necessary for the appropriations made in Sections 2 and 3 of this act. It is the intent of the Legislature to utilize the accelerated collection of revenue derived from the amendments made by Section 1 of this act in order to provide funding for the appropriations made in Sections 2 and 3 of this act.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 23rd day of May, 2000.

President of the Senate

Passed the House of Representatives the 26th day of May, 2000.

Speaker of the House of Representatives

