

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1889

By: Ellis, Askins, Blackburn,  
Bonny, Boren, Braddock,  
Brannon, Carey,  
Deutschendorf, Easley,  
Eddins, Gilbert, Hamilton,  
Harrison, Hefner,  
Hutchison, Lamons, Mass,  
McCarter, McClain,  
McIntyre, Miller (Ray),  
Morgan (Danny), Nations,  
Piatt, Plunk, Pope, Roan,  
Roberts, Smith, Smithson,  
Staggs, Sweeden, Taylor,  
Turner, Tyler, Walker,  
Wells, Wilson, Covey and  
Kirby of the House

and

Rabon, Helton and Gumm of  
the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Charity Games Act; amending 3A O.S. 2001, Sections 421 and 422, which relate to taxes levied pursuant to the Oklahoma Charity Games Act; exempting items purchased by certain organizations from taxation; requiring distributors to submit to the Oklahoma Tax Commission copies of invoices to exempt organizations; amending 68 O.S. 2001, Section 1355, which relates to sales tax exemptions; modifying exemption for sales of charity game equipment; and providing an effective date.

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

SECTION 1. AMENDATORY 3A O.S. 2001, Section 421, is amended to read as follows:

Section 421. A. ~~There~~ Except as provided in subsection D of this section, there is hereby levied a tax in the amount of one cent (\$0.01) upon each bingo face and each U-PIK-EM bingo game set sold in this state to be paid by the distributor.

B. ~~There~~ Except as provided in subsection D of this section,  
there is hereby levied upon each breakopen ticket game sold in this  
state a tax in the amount of ten percent (10%) on the gross receipts  
of the retail sales value to be paid by the distributor. For  
purposes of this subsection, "gross receipts of the retail sales  
value" means the stated retail per breakopen ticket price multiplied  
by the number of tickets in each packaging container of breakopen  
tickets.

C. ~~There~~ Except as provided in subsection D of this section,  
there is hereby levied upon all charity game equipment except bingo  
faces, U-PIK-EM bingo game sets, and breakopen ticket games a tax in  
the amount of ten percent (10%) of the price paid for such equipment  
as shown on the purchase invoice.

D. There shall be no tax levied on any item provided for in  
this section if the item is sold to an organization that is a  
veterans' organization exempt from taxation pursuant to the  
provisions of paragraph (4), (7), (8), (10) or (19) of subsection  
(c) of Section 501 of the United States Internal Revenue Code of  
1986, as amended, 26 U.S.C., Section 501(c) et seq.

SECTION 2. AMENDATORY 3A O.S. 2001, Section 422, is  
amended to read as follows:

Section 422. A. All taxes levied pursuant to the provisions of  
Section 421 of this title shall be collected and remitted by the  
distributor to the Oklahoma Tax Commission.

B. The distributor shall submit a copy of each invoice from the  
manufacturer from which the distributor obtained the charity game  
equipment stating the amount and price of each item obtained.

C. The distributor shall submit a copy of each invoice  
submitted for payment to a purchaser of charity game equipment. The  
provisions of this subsection shall apply to invoices to all  
purchasers whether or not items sold to the purchaser are subject to  
or are exempt from the taxes levied pursuant to Section 421 of this

title. The distributor shall indicate on the invoice if the sale is exempt from taxation.

D. The taxes shall be due and paid monthly, and shall be deemed delinquent if not paid on or before the last day of the month following the month during which the items were sold to an organization.

E. The distributor shall not require a payment of the taxes levied pursuant to Section 421 of this title from any organization sooner than the fifteenth day of the month following the month during which items were sold to the organization. The distributor may require payment of the tax at the time of purchase from an organization if the organization does not make timely payments to the distributor as required by this section.

F. In computing the amount of charity games tax due, the distributor shall be entitled to a credit against the tax payable in the amount of tax paid by the distributor that has become uncollectible from an organization. The credit shall be claimed on the first or second return following the date on which the distributor was entitled to collect the tax as provided in this section if the payment remains unpaid as of the filing date of that return or the credit shall be disallowed.

G. An organization that fails to pay the tax to a distributor which has claimed a credit for the uncollectible taxes shall be liable for the remittance of the tax, interest and penalty due thereon and the Tax Commission may pursue collection thereof from the organization. Such a distributor shall be prohibited from making further sales to such an organization until the organization has paid all taxes due. Notwithstanding the provisions of Section 205 of Title 68 of the Oklahoma Statutes, the Tax Commission shall notify the ABLE Commission of any organization which fails to remit the charity games tax to its distributor.

H. The Tax Commission shall adopt rules establishing the evidence a distributor must provide to receive the credit. The claim for credit shall identify the defaulting organization and any tax liability that remains unpaid.

I. Charity game equipment taxed pursuant to the provisions of the Oklahoma Charity Games Act, Section 401 et seq. of this title, shall be exempt from taxation pursuant to any other law of this state levying a sales tax, consumers tax, or use tax.

J. A licensed distributor shall be allowed a discount of one percent (1%) of the taxes due pursuant to the provisions of the Oklahoma Charity Games Act as remuneration for establishing and maintaining the records required by the ABLE Commission and the Oklahoma Tax Commission and for collecting such tax for the benefit of the state, if such tax is timely reported and remitted; provided, the discount provided by this section shall be limited to Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed distributor and any amount in excess of Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed distributor shall be retained by the state as an administrative expense and deposited to the General Revenue Fund. If the tax becomes delinquent, the licensed distributor forfeits any claim to the remuneration.

K. The Oklahoma Tax Commission shall, by rule, establish a procedure by which a licensed distributor shall be allowed a credit against subsequent tax liability for damaged bingo faces, U-PIK-EM bingo game sets, breakopen ticket games or charity game equipment upon which the tax required by the Oklahoma Charity Games Act has been paid and by which the distributor shall reimburse the organization which purchased such damaged bingo faces, U-PIK-EM bingo game sets, breakopen ticket games or charity game equipment for the tax paid by such organization.

L. The Oklahoma Tax Commission shall devise only such tax reporting forms as necessary for tax collection pursuant to the Oklahoma Charity Games Act and shall promulgate and enforce only such rules as are necessary to provide for the collection, remitting and verification of payment of taxes by distributors as required by this section.

M. The Oklahoma Tax Commission shall have the authority to enter the licensed premises of any licensee to verify compliance with the taxation provisions of the Oklahoma Charity Games Act.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 1355, is amended to read as follows:

Section 1355. Exemptions - Subject to other tax.

There are hereby specifically exempted from the tax levied pursuant to the provisions of this article:

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Article 5, 6, or 7 of this title has been, or will be paid;

2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of this title has been, or will be paid;

3. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax pursuant to the provisions of Articles 10 and 11 of this title. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of

oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state;

4. Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6004 of this title has been, or will be paid or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of this title;

5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of this title has been paid;

6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of this title;

7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3A of the Oklahoma Statutes, or which is sold to an organization that is a veterans' organization exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended;

8. Sales of cigarettes or tobacco products to:

- a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of this title or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or
- b. a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349 or Section 426 of this title has been paid;

9. Leases of aircraft upon which the owners have paid the aircraft excise tax levied by Section 6001 et seq. of this title or

which are specifically exempt from such tax pursuant to the provisions of Section 6003 of this title; and

10. The sale of low-speed electrical vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of this title has been or will be paid.

SECTION 4. This act shall become effective January 1, 2005.

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