

3 ENGROSSED

4 House Bill No. 1233

5 As Amended

6 ENGROSSED HOUSE BILL NO. 1233 - By: HASTINGS, COVEY, KIESEL,
7 McCARTER, NANCE and WALKER of the House and FISHER and LAWLER of the
8 Senate.

9 [revenue and taxation - amending 68 O.S., Section 1356 -
10 exemptions from state sales tax - refunds - effective date -
11
12 emergency]

13 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1356, as
14 last amended by Section 6, Chapter 535, O.S.L. 2004 (68 O.S. Supp.
15 2004, Section 1356), is amended to read as follows:

16 Section 1356. Exemptions - Governmental and nonprofit entities.

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

19 1. Sale of tangible personal property or services to the United
20 States government or to the State of Oklahoma, any political
21 subdivision of this state or any agency of a political subdivision
22 of this state; provided, all sales to contractors in connection with
23 the performance of any contract with the United States government,
24 State of Oklahoma or any of its political subdivisions shall not be

1 exempted from the tax levied by Section 1350 et seq. of this title,
2 except as hereinafter provided;

3 2. Sales of property to agents appointed by or under contract
4 with agencies or instrumentalities of the United States government
5 if ownership and possession of such property transfers immediately
6 to the United States government;

7 3. Sales of property to agents appointed by or under contract
8 with a political subdivision of this state if the sale of such
9 property is associated with the development of a qualified federal
10 facility, as provided in the Oklahoma Federal Facilities Development
11 Act, and if ownership and possession of such property transfers
12 immediately to the political subdivision or the state;

13 4. Sales made directly by county, district or state fair
14 authorities of this state, upon the premises of the fair authority,
15 for the sole benefit of the fair authority or sales of admission
16 tickets to such fairs or fair events at any location in the state
17 authorized by county, district or state fair authorities; provided,
18 the exemption provided by this paragraph for admission tickets to
19 fair events shall apply only to any portion of the admission price
20 that is retained by or distributed to the fair authority. As used
21 in this paragraph, "fair event" shall be limited to an event held on
22 the premises of the fair authority in conjunction with and during
23 the time period of a county, district or state fair;

1 5. Sale of food in cafeterias or lunch rooms of elementary
2 schools, high schools, colleges or universities which are operated
3 primarily for teachers and pupils and are not operated primarily for
4 the public or for profit;

5 6. Dues paid to fraternal, religious, civic, charitable or
6 educational societies or organizations by regular members thereof,
7 provided, such societies or organizations operate under what is
8 commonly termed the lodge plan or system, and provided such
9 societies or organizations do not operate for a profit which inures
10 to the benefit of any individual member or members thereof to the
11 exclusion of other members and dues paid monthly or annually to
12 privately owned scientific and educational libraries by members
13 sharing the use of services rendered by such libraries with students
14 interested in the study of geology, petroleum engineering or related
15 subjects;

16 7. Sale of tangible personal property or services to or by
17 churches, except sales made in the course of business for profit or
18 savings, competing with other persons engaged in the same or a
19 similar business or sale of tangible personal property or services
20 by an organization exempt from federal income tax pursuant to
21 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
22 made on behalf of or at the request of a church or churches if the
23 sale of such property is conducted not more than once each calendar

1 year for a period not to exceed three (3) days by the organization
2 and proceeds from the sale of such property are used by the church
3 or churches or by the organization for charitable purposes;

4 8. The amount of proceeds received from the sale of admission
5 tickets which is separately stated on the ticket of admission for
6 the repayment of money borrowed by any accredited state-supported
7 college or university or any public trust of which a county in this
8 state is the beneficiary, for the purpose of constructing or
9 enlarging any facility to be used for the staging of an athletic
10 event, a theatrical production, or any other form of entertainment,
11 edification or cultural cultivation to which entry is gained with a
12 paid admission ticket. Such facilities include, but are not limited
13 to, athletic fields, athletic stadiums, field houses, amphitheaters
14 and theaters. To be eligible for this sales tax exemption, the
15 amount separately stated on the admission ticket shall be a
16 surcharge which is imposed, collected and used for the sole purpose
17 of servicing or aiding in the servicing of debt incurred by the
18 college or university to effect the capital improvements
19 hereinbefore described;

20 9. Sales of tangible personal property or services to the
21 council organizations or similar state supervisory organizations of
22 the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire
23 Boys and Girls;

1 10. Sale of tangible personal property or services to any
2 county, municipality, rural water district, public school district,
3 the institutions of The Oklahoma State System of Higher Education,
4 the Grand River Dam Authority, the Northeast Oklahoma Public
5 Facilities Authority, the Oklahoma Municipal Power Authority, City
6 of Tulsa-Rogers County Port Authority, Muskogee City-County Port
7 Authority, the Oklahoma Department of Veterans Affairs, the Broken
8 Bow Economic Development Authority or to any person with whom any of
9 the above-named subdivisions or agencies of this state has duly
10 entered into a public contract pursuant to law, necessary for
11 carrying out such public contract or to any subcontractor to such a
12 public contract. Any person making purchases on behalf of such
13 subdivision or agency of this state shall certify, in writing, on
14 the copy of the invoice or sales ticket to be retained by the vendor
15 that the purchases are made for and on behalf of such subdivision or
16 agency of this state and set out the name of such public subdivision
17 or agency. Any person who wrongfully or erroneously certifies that
18 purchases are for any of the above-named subdivisions or agencies of
19 this state or who otherwise violates this section shall be guilty of
20 a misdemeanor and upon conviction thereof shall be fined an amount
21 equal to double the amount of sales tax involved or incarcerated for
22 not more than sixty (60) days or both;

1 11. Sales of tangible personal property or services to private
2 institutions of higher education and private elementary and
3 secondary institutions of education accredited by the State
4 Department of Education or registered by the State Board of
5 Education for purposes of participating in federal programs or
6 accredited as defined by the Oklahoma State Regents for Higher
7 Education which are exempt from taxation pursuant to the provisions
8 of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
9 including materials, supplies, and equipment used in the
10 construction and improvement of buildings and other structures owned
11 by the institutions and operated for educational purposes.

12 Any person, firm, agency or entity making purchases on behalf of
13 any institution, agency or subdivision in this state, shall certify
14 in writing, on the copy of the invoice or sales ticket the nature of
15 the purchases, and violation of this paragraph shall be a
16 misdemeanor as set forth in paragraph 10 of this section;

17 12. Tuition and educational fees paid to private institutions
18 of higher education and private elementary and secondary
19 institutions of education accredited by the State Department of
20 Education or registered by the State Board of Education for purposes
21 of participating in federal programs or accredited as defined by the
22 Oklahoma State Regents for Higher Education which are exempt from

1 taxation pursuant to the provisions of the Internal Revenue Code, 26
2 U.S.C., Section 501(c) (3);

- 3 13. a. Sales of tangible personal property made by:
- 4 (1) a public school,
 - 5 (2) a private school offering instruction for grade
6 levels kindergarten through twelfth grade,
 - 7 (3) a public school district,
 - 8 (4) a public or private school board,
 - 9 (5) a public or private school student group or
10 organization,
 - 11 (6) a parent-teacher association or organization
12 other than as specified in subparagraph b of this
13 paragraph, or
 - 14 (7) public or private school personnel for purposes
15 of raising funds for the benefit of a public or
16 private school, public school district, public or
17 private school board or public or private school
18 student group or organization, or
- 19 b. Sales of tangible personal property made by or to
20 nonprofit parent-teacher associations or organizations
21 exempt from taxation pursuant to the provisions of the
22 Internal Revenue Code, 26 U.S.C., Section 501 (c) (3).

1 The exemption provided by this paragraph for sales made by a
2 public or private school shall be limited to those public or private
3 schools accredited by the State Department of Education or
4 registered by the State Board of Education for purposes of
5 participating in federal programs. Sale of tangible personal
6 property in this paragraph shall include sale of admission tickets
7 and concessions at athletic events;

8 14. Sales of tangible personal property by:

- 9 a. local 4-H clubs,
- 10 b. county, regional or state 4-H councils,
- 11 c. county, regional or state 4-H committees,
- 12 d. 4-H leader associations,
- 13 e. county, regional or state 4-H foundations, and
- 14 f. authorized 4-H camps and training centers.

15 The exemption provided by this paragraph shall be limited to
16 sales for the purpose of raising funds for the benefit of such
17 organizations. Sale of tangible personal property exempted by this
18 paragraph shall include sale of admission tickets;

19 15. The first Seventy-five Thousand Dollars (\$75,000.00) each
20 year from sale of tickets and concessions at athletic events by each
21 organization exempt from taxation pursuant to the provisions of the
22 Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

1 16. Items or services which are subsequently given away by the
2 Oklahoma Tourism and Recreation Department as promotional items
3 pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

4 17. Sales of tangible personal property or services to fire
5 departments organized pursuant to Section 592 of Title 18 of the
6 Oklahoma Statutes which items are to be used for the purposes of the
7 fire department. Any person making purchases on behalf of any such
8 fire department shall certify, in writing, on the copy of the
9 invoice or sales ticket to be retained by the vendor that the
10 purchases are made for and on behalf of such fire department and set
11 out the name of such fire department. Any person who wrongfully or
12 erroneously certifies that the purchases are for any such fire
13 department or who otherwise violates the provisions of this section
14 shall be deemed guilty of a misdemeanor and upon conviction thereof,
15 shall be fined an amount equal to double the amount of sales tax
16 involved or incarcerated for not more than sixty (60) days, or both;

17 18. Complimentary or free tickets for admission to places of
18 amusement, sports, entertainment, exhibition, display or other
19 recreational events or activities which are issued through a box
20 office or other entity which is operated by a state institution of
21 higher education with institutional employees or by a municipality
22 with municipal employees;

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

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

14 21. Sales of tangible personal property or services to any
15 organization, which takes court-adjudicated juveniles for purposes
16 of rehabilitation, and which is exempt from taxation pursuant to the
17 provisions of the Internal Revenue Code, 26 U.S.C., Section
18 501(c) (3), provided that at least fifty percent (50%) of the
19 juveniles served by such organization are court adjudicated and the
20 organization receives state funds in an amount less than ten percent
21 (10%) of the annual budget of the organization;

22 22. Sales of tangible personal property or services to:

- 1 a. any federally qualified community health center as
2 defined in Section 254c of Title 42 of the United
3 States Code,
4 b. any migrant health center as defined in Section 254b
5 of Title 42 of the United States Code,
6 c. any clinic receiving disbursements of state monies
7 from the Indigent Health Care Revolving Fund pursuant
8 to the provisions of Section 66 of Title 56 of the
9 Oklahoma Statutes, and
10 d. any community based health center which meets all of
11 the following criteria:
12 (1) provides primary care services at no cost to the
13 recipient, and
14 (2) is exempt from taxation pursuant to the
15 provisions of Section 501(c)(3) of the Internal
16 Revenue Code, 26 U.S.C., Section 501(c)(3);

17 23. Dues or fees, including free or complimentary dues or fees
18 which have a value equivalent to the charge that could have
19 otherwise been made, to YMCAs, YWCAs or municipally-owned recreation
20 centers for the use of facilities and programs;

21 24. The first Fifteen Thousand Dollars (\$15,000.00) each year
22 from sales of tangible personal property or services to or by a
23 cultural organization established to sponsor and promote

1 educational, charitable and cultural events for disadvantaged
2 children, and which organization is exempt from taxation pursuant to
3 the provisions of the Internal Revenue Code, 26 U.S.C., Section
4 501(c)(3);

5 25. Sales of tangible personal property or services to museums
6 or other entities which have been accredited by the American
7 Association of Museums. Any person making purchases on behalf of
8 any such museum or other entity shall certify, in writing, on the
9 copy of the invoice or sales ticket to be retained by the vendor
10 that the purchases are made for and on behalf of such museum or
11 other entity and set out the name of such museum or other entity.
12 Any person who wrongfully or erroneously certifies that the
13 purchases are for any such museum or other entity or who otherwise
14 violates the provisions of this paragraph shall be deemed guilty of
15 a misdemeanor and, upon conviction thereof, shall be fined an amount
16 equal to double the amount of sales tax involved or incarcerated for
17 not more than sixty (60) days, or by both such fine and
18 incarceration;

19 26. Sales of tickets for admission by any museum accredited by
20 the American Association of Museums. In order to be eligible for
21 the exemption provided by this paragraph, an amount equivalent to
22 the amount of the tax which would otherwise be required to be
23 collected pursuant to the provisions of Section 1350 et seq. of this

1 title shall be separately stated on the admission ticket and shall
2 be collected and used for the sole purpose of servicing or aiding in
3 the servicing of debt incurred by the museum to effect the
4 construction, enlarging or renovation of any facility to be used for
5 entertainment, edification or cultural cultivation to which entry is
6 gained with a paid admission ticket;

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

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

14 29. Sales of tangible personal property or services to youth
15 camps which are supported or sponsored by one or more churches,
16 members of which serve as trustees of the organization;

17 30. Transfer of tangible personal property made pursuant to
18 Section 3226 of Title 63 of the Oklahoma Statutes by the University
19 Hospitals Trust;

20 31. Sales of tangible personal property or services to a
21 municipality, county or school district pursuant to a lease or
22 lease-purchase agreement executed between the vendor and a

1 municipality, county or school district. A copy of the lease or
2 lease-purchase agreement shall be retained by the vendor;

3 32. Sales of tangible personal property or services to any
4 spaceport user, as defined in the Oklahoma Space Industry
5 Development Act;

6 33. The sale, use, storage, consumption, or distribution in
7 this state, whether by the importer, exporter, or another person, of
8 any satellite or any associated launch vehicle, including components
9 of, and parts and motors for, any such satellite or launch vehicle,
10 imported or caused to be imported into this state for the purpose of
11 export by means of launching into space. This exemption provided by
12 this paragraph shall not be affected by:

- 13 a. the destruction in whole or in part of the satellite
- 14 or launch vehicle,
- 15 b. the failure of a launch to occur or be successful, or
- 16 c. the absence of any transfer or title to, or possession
- 17 of, the satellite or launch vehicle after launch;

18 34. The sale, lease, use, storage, consumption, or distribution
19 in this state of any space facility, space propulsion system or
20 space vehicle, satellite, or station of any kind possessing space
21 flight capacity, including components thereof;

22 35. The sale, lease, use, storage, consumption, or distribution
23 in this state of tangible personal property, placed on or used

1 aboard any space facility, space propulsion system or space vehicle,
2 satellite, or station possessing space flight capacity, which is
3 launched into space, irrespective of whether such tangible property
4 is returned to this state for subsequent use, storage, or
5 consumption in any manner;

6 36. The sale, lease, use, storage, consumption, or distribution
7 in this state of tangible personal property meeting the definition
8 of "section 38 property" as defined in Sections 48(a)(1)(A) and
9 (B)(i) of the Internal Revenue Code of 1986, that is an integral
10 part of and used primarily in support of space flight; however,
11 section 38 property used in support of space flight shall not
12 include general office equipment, any boat, mobile home, motor
13 vehicle, or other vehicle of a class or type required to be
14 registered, licensed, titled, or documented in this state or by the
15 United States government, or any other property not specifically
16 suited to supporting space activity. The term "in support of space
17 flight", for purposes of this paragraph, means the altering,
18 monitoring, controlling, regulating, adjusting, servicing, or
19 repairing of any space facility, space propulsion systems or space
20 vehicle, satellite, or station possessing space flight capacity,
21 including the components thereof;

22 37. The purchase or lease of machinery and equipment for use at
23 a fixed location in this state, which is used exclusively in the

1 manufacturing, processing, compounding, or producing of any space
2 facility, space propulsion system or space vehicle, satellite, or
3 station of any kind possessing space flight capacity. Provided, the
4 exemption provided for in this paragraph shall not be allowed unless
5 the purchaser or lessee signs an affidavit stating that the item or
6 items to be exempted are for the exclusive use designated herein.
7 Any person furnishing a false affidavit to the vendor for the
8 purpose of evading payment of any tax imposed by Section 1354 of
9 this title shall be subject to the penalties provided by law. As
10 used in this paragraph, "machinery and equipment" means "section 38
11 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the
12 Internal Revenue Code of 1986, which is used as an integral part of
13 the manufacturing, processing, compounding, or producing of items of
14 tangible personal property. Such term includes parts and
15 accessories only to the extent that the exemption thereof is
16 consistent with the provisions of this paragraph;

17 38. The amount of a surcharge or any other amount which is
18 separately stated on an admission ticket which is imposed, collected
19 and used for the sole purpose of constructing, remodeling or
20 enlarging facilities of a public trust having a municipality or
21 county as its sole beneficiary;

22 39. Sales of tangible personal property or services which are
23 directly used in or for the benefit of a state park in this state,

1 which are made to an organization which is exempt from taxation
2 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
3 Section 501(c)(3) and which is organized primarily for the purpose
4 of supporting one or more state parks located in this state;

5 40. The sale, lease or use of parking privileges by an
6 institution of The Oklahoma State System of Higher Education;

7 41. Sales of tangible personal property or services for use on
8 campus or school construction projects for the benefit of
9 institutions of The Oklahoma State System of Higher Education,
10 private institutions of higher education accredited by the Oklahoma
11 State Regents for Higher Education or any public school or school
12 district when such projects are financed by or through the use of
13 nonprofit entities which are exempt from taxation pursuant to the
14 provisions of the Internal Revenue Code, 26 U.S.C., Section
15 501(c)(3);

16 42. Sales of tangible personal property or services by an
17 organization which is exempt from taxation pursuant to the
18 provisions of the Internal Revenue Code, 26 U.S.C., Section
19 501(c)(3), in the course of conducting a national championship
20 sports event, but only if all or a portion of the payment in
21 exchange therefor would qualify as the receipt of a qualified
22 sponsorship payment described in Internal Revenue Code, 26 U.S.C.,
23 Section 513(i). Sales exempted pursuant to this paragraph shall be

1 exempt from all Oklahoma sales, use, excise and gross receipts
2 taxes;

3 43. Sales of tangible personal property or services to or by an
4 organization which:

5 a. is exempt from taxation pursuant to the provisions of
6 the Internal Revenue Code, 26 U.S.C., Section
7 501(c)(3),

8 b. is affiliated with a comprehensive university within
9 The Oklahoma State System of Higher Education, and

10 c. has been organized primarily for the purpose of
11 providing education and teacher training and
12 conducting events relating to robotics;

13 44. The first Fifteen Thousand Dollars (\$15,000.00) each year
14 from sales of tangible personal property by youth athletic teams
15 which are part of an athletic organization exempt from taxation
16 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
17 Section 501(c)(4), for the purposes of raising funds for the benefit
18 of the team;

19 45. Sales of tickets for admission to a collegiate athletic
20 event that is held in a facility owned or operated by a municipality
21 or a public trust of which the municipality is the sole beneficiary
22 and that actually determines or is part of a tournament or

1 tournament process for determining a conference tournament
2 championship, a conference championship, or a national championship;

3 46. Sales of tangible personal property or services to or by an
4 organization which is exempt from taxation pursuant to the
5 provisions of the Internal Revenue Code, 26 U.S.C., Section
6 501(c)(3) and is operating the Oklahoma City National Memorial and
7 Museum, an affiliate of the National Park System;

8 47. Sales of tangible personal property or services to
9 organizations which are exempt from federal taxation pursuant to the
10 provisions of Section 501(c)(3) of the Internal Revenue Code, 26
11 U.S.C., Section 501(c)(3), the memberships of which are limited to
12 honorably discharged veterans, and which furnish financial support
13 to area veterans' organizations to be used for the purpose of
14 constructing a memorial or museum; ~~and~~

15 48. Sales of tangible personal property or services on or after
16 January 1, 2003, to an organization which is exempt from taxation
17 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
18 Section 501(c)(3) that is expending monies received from a private
19 foundation grant in conjunction with expenditures of local sales tax
20 revenue to construct a local public library; and

21 49. Sales of tangible personal property or services to any
22 organization which assists, trains, educates, and provides housing
23 for physically and mentally handicapped persons and which is exempt

1 from taxation pursuant to the provisions of the Internal Revenue
2 Code, 26 U.S.C., Section 501(c)(3) and that receives at least
3 eighty-five percent (85%) of its annual budget from state or federal
4 funds. In order to receive the benefit of the exemption authorized
5 by this paragraph, the taxpayer shall be required to make payment of
6 the applicable sales tax at the time of sale to the vendor in the
7 manner otherwise required by law. Notwithstanding any other
8 provision of the Oklahoma Uniform Tax Procedure Code to the
9 contrary, the taxpayer shall be authorized to file a claim for
10 refund of sales taxes paid that qualify for the exemption authorized
11 by this paragraph for a period of one (1) year after the date of the
12 sale transaction. The taxpayer shall be required to provide
13 documentation as may be prescribed by the Oklahoma Tax Commission in
14 support of the refund claim. The total amount of sales tax
15 qualifying for exempt treatment pursuant to this paragraph shall not
16 exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00) each
17 fiscal year. Claims for refund shall be processed in the order in
18 which such claims are received by the Oklahoma Tax Commission. If a
19 claim otherwise timely filed exceeds the total amount of refunds
20 payable for a fiscal year, such claim shall be barred.

21 SECTION 2. This act shall become effective July 1, 2005.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-22-05 - DO PASS,
4 As Amended and Coauthored.-