

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 1076

By: Wilson and Mazzei of the  
Senate

6 and

7 Terrill of the House

8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to revenue and taxation; amending 19  
11 O.S. 2001, Section 1414, which relates to county  
12 excise boards; amending statutory reference; amending  
13 47 O.S. 2001, Section 1144, as amended by Section 7,  
14 Chapter 295, O.S.L. 2006 (47 O.S. Supp. 2006, Section  
15 1144), which relates to methods of payment; removing  
16 limitation on certain service charges; amending 68  
17 O.S. 2001, Section 218, as amended by Section 1,  
18 Chapter 327, O.S.L. 2006 (68 O.S. Supp. 2006, Section  
19 218), which relates to methods of payment; removing  
20 limitation on certain service charges; amending 68  
21 O.S. 2001, Section 1352, as last amended by Section  
22 64, Chapter 5, O.S.L. 2004 (68 O.S. Supp. 2006,  
23 Section 1352), which relates to definitions used in  
24 the Sales Tax Code; adding and modifying certain  
definitions; amending 68 O.S. 2001, Section 1354, as  
last amended by Section 12, Chapter 479, O.S.L. 2005  
(68 O.S. Supp. 2006, Section 1354), which levies  
sales tax on certain sales; modifying  
telecommunications services subject to certain  
taxation; modifying definitions relating to  
telecommunications services; amending Section 20,  
Chapter 413, O.S.L. 2003, as amended by Section 4,  
Chapter 327, O.S.L. 2006 (68 O.S. Supp. 2006, Section  
1354.27), which relates to sourcing; extending  
certain application date; amending Section 23,  
Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2006, Section  
1354.30), which relates to definitions for certain  
telecommunications services; adding and modifying

1 certain definitions; modifying types of services  
2 whose sale is according to certain specifications;  
3 amending Section 25, Chapter 413, O.S.L. 2003, as  
4 amended by Section 5, Chapter 535, O.S.L. 2004 (68  
5 O.S. Supp. 2006, Section 1354.32), which relates to  
6 certain databases required to be maintained by the  
7 Oklahoma Tax Commission; modifying provisions  
8 relating to zip code database; providing for address-  
9 based database; providing for certification and use  
10 of certain databases; providing relief from certain  
11 liability; amending 68 O.S. 2001, Section 1357, as  
12 last amended by Section 5, Chapter 44, 2nd  
13 Extraordinary Session, O.S.L. 2006 (68 O.S. Supp.  
14 2006, Section 1357), which relates to exemptions from  
15 the Oklahoma Sales Tax Code; modifying exemption for  
16 sales of telecommunications services; providing for  
17 certain sales taxation of bundled transactions;  
18 amending 68 O.S. 2001, Section 1361, as amended by  
19 Section 39, Chapter 460, O.S.L. 2002 (68 O.S. Supp.  
20 2006, Section 1361), which relates to payment and  
21 collection of sales tax; providing certain relief  
22 from liability for certain sellers or providers in  
23 certain circumstances; providing limitations to such  
24 relief; amending 68 O.S. 2001, Section 2368, as  
amended by Section 12, Chapter 458, O.S.L. 2002 (68  
O.S. Supp. 2006, Section 2368), which relates to  
income tax returns; extending filing date for  
electronic returns; amending 68 O.S. 2001, Section  
2375, as amended by Section 13, Chapter 458, O.S.L.  
2002 (68 O.S. Supp. 2006, Section 2375), which  
relates to electronic income tax returns; modifying  
the date electronic returns are filed; amending 68  
O.S. 2001, Section 3007, which relates to county  
excise boards; modifying certain statutory reference;  
amending 68 O.S. 2001, Section 5013, which relates to  
the Sales Tax Relief Act; providing exception to  
filing date requirement under certain circumstances;  
amending Section 2, Chapter 31, O.S.L. 2002 (68 O.S.  
Supp. 2006, Section 6101), which relates to the  
Multiple Injury Trust Fund; providing penalty for  
late application; repealing Section 21, Chapter 413,  
O.S.L. 2003 (68 O.S. Supp. 2006, Section 1354.28),  
which relates to Multiple Points of Use Exemption  
Form requirements; providing for codification; and  
providing an effective date.

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

2 SECTION 1. AMENDATORY 19 O.S. 2001, Section 1414, is  
3 amended to read as follows:

4 Section 1414. A. The county excise board shall examine the  
5 county budgets. The excise board may take the following actions on  
6 the budgets:

7 1. For any items or amounts which are not authorized by law or  
8 which may be contrary to law, the unlawful amounts or items shall be  
9 stricken and disregarded;

10 2. Any amount which exceeds the lawful amount authorized by law  
11 shall be reduced to the extent authorized by law;

12 3. If any items or amounts are mandated by law and not provided  
13 for the county excise board shall return the budget to the county  
14 budget board to revise the budget to provide for the mandated items  
15 or amounts. The county budget board shall revise or amend the  
16 budget as needed and resubmit the budget within fifteen (15) days of  
17 the return by the excise board;

18 4. If any portion of the budget of revenues to be derived from  
19 ad valorem property tax exceeds the amount of tax which is available  
20 for appropriation, as finally determined and computed by the county  
21 excise board, the excise board shall return the budget to the county  
22 budget board to revise or amend the budget as needed and resubmit  
23 the budget within fifteen (15) days of the return by the excise  
24 board;

1           5. If any reduction or amendment in the budget is required by  
2 the computations of Section ~~2497~~ 3017 of Title 68 of the Oklahoma  
3 Statutes, the county excise board shall note these and return the  
4 budget to the county budget board to revise or amend the budget as  
5 needed and resubmit the budget within fifteen (15) days from the  
6 date of the return by the excise board; and

7           6. If the budget is within the income and revenues lawfully  
8 available, the excise board shall approve the budget and compute the  
9 levy required.

10          B. At the time required by law, the county excise board shall  
11 compute the appropriations and levy the taxes necessary for the  
12 county for the budget year in accordance with this act and Section  
13 ~~2497~~ 3017 of Title 68 of the Oklahoma Statutes.

14          C. The secretary of the county excise board shall certify the  
15 approved budget to the county budget board, the county treasurer and  
16 the State Auditor and Inspector. A copy of the budget as adopted  
17 and approved by the excise board shall be filed in the offices of  
18 the county clerk, the secretary of the county excise board and the  
19 State Auditor and Inspector.

20          SECTION 2.           AMENDATORY           47 O.S. 2001, Section 1144, as  
21 amended by Section 7, Chapter 295, O.S.L. 2006 (47 O.S. Supp. 2006,  
22 Section 1144), is amended to read as follows:

23  
24

1 Section 1144. A. Payments for any required registration fees,  
2 license plates or decals or excise taxes except as otherwise  
3 provided by law, may be made as follows:

4 1. By the applicant's personal or company check if presented  
5 within the period of time required for purchase or renewal of the  
6 registration and license plates or decals. At the time of  
7 presentment, the motor license agent may utilize a check  
8 verification system provided by the Oklahoma Tax Commission to  
9 confirm that there are sufficient funds to pay the check. Upon  
10 notification that there are insufficient funds, the agent shall  
11 refuse to accept the check or deliver the license plate or decal.  
12 If an agent fails to utilize the check verification system and the  
13 check is returned for nonpayment, the agent shall not receive any  
14 fees for the transaction. No motor license agent shall be required  
15 to accept any check from any person during any penalty period  
16 relating to that person's registration; or

17 2. By a nationally recognized credit or debit card issued to  
18 the applicant. The Tax Commission may add an amount equal to the  
19 amount of the service charge incurred, ~~not to exceed four percent~~  
20 ~~(4%) of the amount of such payment~~ as a service charge for the  
21 acceptance of such credit card. For purposes of this paragraph,  
22 "nationally recognized credit or debit card" means any instrument or  
23 device, whether known as a credit card, credit plate, charge plate,  
24 debit card or by any other name, issued with or without fee by an

1 issuer for the use of the cardholder in obtaining goods, services or  
2 anything else of value on credit which is accepted by over one  
3 thousand merchants in this state. The Tax Commission shall  
4 determine which nationally recognized credit or debit cards will be  
5 accepted by a motor license agent as payment for any required motor  
6 vehicle registration fees, license plates or decals or excise taxes.  
7 Provided however the Tax Commission must ensure that no loss of  
8 state revenue will occur by the use of such card.

9       B. Each motor license agent's office shall be open a minimum of  
10 forty (40) hours per week, of which four (4) such hours per week  
11 shall be in the evening hours or on Saturday, subject to the  
12 approval of the Tax Commission, except during such weeks that  
13 contain a legal holiday prescribed by the statutes of this state.  
14 Provided that the Tax Commission may authorize a motor license agent  
15 to stay open a lesser period of time if the Tax Commission is  
16 satisfied that the public is being properly served. Provided  
17 further, that there shall be at least one motor license agent in  
18 each county open the hours designated in this section. All motor  
19 license agents shall post their hours in a conspicuous place for the  
20 public's information.

21       SECTION 3.       AMENDATORY       68 O.S. 2001, Section 218, as  
22 amended by Section 1, Chapter 327, O.S.L. 2006 (68 O.S. Supp. 2006,  
23 Section 218), is amended to read as follows:

24

1 Section 218. A. All remittances of taxes and fees under any  
2 state tax law or this Code, shall be made payable to the Oklahoma  
3 Tax Commission, at Oklahoma City, Oklahoma, by bank draft, check,  
4 cashier's check, money order, money, electronic funds transfer or  
5 nationally recognized credit or debit card. The Tax Commission  
6 shall issue its receipt for cash or money payment to the taxpayer.  
7 If payment is made by a credit or debit card, the Tax Commission may  
8 add an amount equal to the amount of the service charge incurred,  
9 ~~not to exceed four percent (4%) of the amount of such payment~~ as a  
10 service charge for the acceptance of such card. For purposes of  
11 this paragraph, "nationally recognized credit or debit card" means  
12 any instrument or device, whether known as a credit card, credit  
13 plate, charge plate, debit card, or by any other name, issued with  
14 or without fee by an issuer for the use of the cardholder in  
15 obtaining goods, services or anything of value on credit which is  
16 accepted by over one thousand merchants in this state. The Tax  
17 Commission shall determine which nationally recognized cards will be  
18 accepted. However, the Tax Commission must ensure that no loss of  
19 state revenue will occur by the use of such card. The Tax  
20 Commission shall promulgate rules to allow for the orderly  
21 implementation of payment by credit or debit cards.

22 B. No remittance other than cash shall be final discharge of  
23 liability due the Tax Commission unless and until it shall have been  
24 paid in cash. All money collected shall be deposited with the State

1 Treasurer to be distributed as provided by the state tax law under  
2 which the tax was levied.

3 C. There shall be assessed, in addition to any other penalties  
4 provided for by law, an administrative service fee of Twenty-five  
5 Dollars (\$25.00) for each check returned to the Tax Commission or  
6 any agent thereof by reason of the refusal of the bank upon which  
7 such check was drawn to honor the same. However, the fee provided  
8 in this subsection shall not be assessed for any check returned  
9 because of "insufficient funds" unless the check has been presented  
10 to the bank two times and payment declined by the bank.

11 D. Upon the return of any check by reason of the refusal of the  
12 bank upon which such check was drawn to honor the same, the Tax  
13 Commission may file a bogus check complaint with the appropriate  
14 district attorney who shall refer the complaint to the Bogus Check  
15 Restitution Program established by Section 111 of Title 22 of the  
16 Oklahoma Statutes. Funds collected through the program after  
17 collection of the fee authorized by Section 114 of Title 22 of the  
18 Oklahoma Statutes for deposit in the Bogus Check Restitution Program  
19 Fund in the county treasury shall be transmitted to the Tax  
20 Commission and credited to the tax liability for which the returned  
21 check was drawn and to the administrative service fee provided by  
22 this section.

23 E. Any remittances for registration fees, license plates or  
24 decals or excise taxes as required by the provisions of the Oklahoma



1 Vehicle License and Registration Act and Sections 2101 through 2110  
2 of this title may be paid by a nationally recognized credit or debit  
3 card pursuant to the provisions of Section 1144 of Title 47 of the  
4 Oklahoma Statutes.

5 F. For the convenience of taxpayers, the Tax Commission,  
6 through a contract between the State Treasurer and a financial  
7 institution, is authorized to place an automated teller machine in  
8 any facility owned or leased by the State and occupied by the Tax  
9 Commission.

10 SECTION 4. AMENDATORY 68 O.S. 2001, Section 1352, as  
11 last amended by Section 64, Chapter 5, O.S.L. 2004 (68 O.S. Supp.  
12 2006, Section 1352), is amended to read as follows:

13 Section 1352. As used in the Oklahoma Sales Tax Code:

14 1. "Bundled transaction" means the retail sale of two or more  
15 products, except real property and services to real property, where  
16 the products are otherwise distinct and identifiable, and the  
17 products are sold for one non-itemized price. A "bundled  
18 transaction" does not include the sale of any products in which the  
19 sales price varies, or is negotiable, based on the selection by the  
20 purchaser of the products included in the transaction. As used in  
21 this paragraph:

22 a. "distinct and identifiable products" does not include:  
23 (1) packaging such as containers, boxes, sacks, bags,  
24 and bottles, or other materials such as wrapping,

1 labels, tags, and instruction guides, that  
2 accompany the retail sale of the products and are  
3 incidental or immaterial to the retail sale  
4 thereof, including but not limited to, grocery  
5 sacks, shoeboxes, dry cleaning garment bags and  
6 express delivery envelopes and boxes,

7 (2) a product provided free of charge with the  
8 required purchase of another product. A product  
9 is provided free of charge if the sales price of  
10 the product purchased does not vary depending on  
11 the inclusion of the product provided free of  
12 charge, or

13 (3) items included in the definition of gross  
14 receipts or sales price, pursuant to this  
15 section,

16 b. "one nonitemized price" does not include a price that  
17 is separately identified by product on binding sales  
18 or other supporting sales-related documentation made  
19 available to the customer in paper or electronic form  
20 including, but not limited to an invoice, bill of  
21 sale, receipt, contract, service agreement, lease  
22 agreement, periodic notice of rates and services, rate  
23 card, or price list,

1 A transaction that otherwise meets the definition of a bundled  
2 transaction shall not be considered a bundled transaction if it is:

3 (1) the retail sale of tangible personal property and  
4 a service where the tangible personal property is  
5 essential to the use of the service, and is  
6 provided exclusively in connection with the  
7 service, and the true object of the transaction  
8 is the service,

9 (2) the retail sale of services where one service is  
10 provided that is essential to the use or receipt  
11 of a second service and the first service is  
12 provided exclusively in connection with the  
13 second service and the true object of the  
14 transaction is the second service, or

15 (3) a transaction that includes taxable products and  
16 nontaxable products and the purchase price or  
17 sales price of the taxable products is de  
18 minimis. For purposes of this subdivision, "de  
19 minimis" means the seller's purchase price or  
20 sales price of taxable products is ten percent  
21 (10%) or less of the total purchase price or  
22 sales price of the bundled products. Sellers  
23 shall use either the purchase price or the sales  
24 price of the products to determine if the taxable

1 products are de minimis. Sellers may not use a  
2 combination of the purchase price and sales price  
3 of the products to determine if the taxable  
4 products are de minimis. Sellers shall use the  
5 full term of a service contract to determine if  
6 the taxable products are de minimis, or  
7 (4) the retail sale of exempt tangible personal  
8 property and taxable tangible personal property  
9 where:

10 (a) the transaction includes food and food  
11 ingredients, drugs, durable medical  
12 equipment, mobility enhancing equipment,  
13 over-the-counter drugs, prosthetic devices  
14 or medical supplies, and

15 (b) the seller's purchase price or sales price  
16 of the taxable tangible personal property is  
17 fifty percent (50%) or less of the total  
18 purchase price or sales price of the bundled  
19 tangible personal property. Sellers may not  
20 use a combination of the purchase price and  
21 sales price of the tangible personal  
22 property when making the fifty percent (50%)  
23 determination for a transaction;  
24

1        2. "Business" means any activity engaged in or caused to be  
2 engaged in by any person with the object of gain, benefit, or  
3 advantage, either direct or indirect;

4        ~~2.~~ 3. "Commission" or "Tax Commission" means the Oklahoma Tax  
5 Commission;

6        ~~3.~~ 4. "Computer" means an electronic device that accepts  
7 information in digital or similar form and manipulates it for a  
8 result based on a sequence of instructions;

9        ~~4.~~ 5. "Computer software" means a set of coded instructions  
10 designed to cause a "computer" or automatic data processing  
11 equipment to perform a task;

12        ~~5.~~ 6. "Consumer" or "user" means a person to whom a taxable  
13 sale of tangible personal property is made or to whom a taxable  
14 service is furnished. "Consumer" or "user" includes all contractors  
15 to whom a taxable sale of materials, supplies, equipment, or other  
16 tangible personal property is made or to whom a taxable service is  
17 furnished to be used or consumed in the performance of any contract;

18        ~~6.~~ 7. "Contractor" means any person who performs any  
19 improvement upon real property and who, as a necessary and  
20 incidental part of performing such improvement, incorporates  
21 tangible personal property belonging to or purchased by the person  
22 into the real property being improved;

23        ~~7.~~ 8. "Drug" means a compound, substance or preparation, and  
24 any component of a compound, substance or preparation:

- 1 a. recognized in the official United States  
2 Pharmacopoeia, official Homeopathic Pharmacopoeia of  
3 the United States, or official National Formulary, and  
4 supplement to any of them,  
5 b. intended for use in the diagnosis, cure, mitigation,  
6 treatment, or prevention of disease, or  
7 c. intended to affect the structure or any function of  
8 the body;

9 ~~8.~~ 9. "Electronic" means relating to technology having  
10 electrical, digital, magnetic, wireless, optical, electromagnetic,  
11 or similar capabilities;

12 ~~9.~~ 10. "Established place of business" means the location at  
13 which any person regularly engages in, conducts, or operates a  
14 business in a continuous manner for any length of time, that is open  
15 to the public during the hours customary to such business, in which  
16 a stock of merchandise for resale is maintained, and which is not  
17 exempted by law from attachment, execution, or other species of  
18 forced sale barring any satisfaction of any delinquent tax liability  
19 accrued under the Oklahoma Sales Tax Code;

20 ~~10.~~ 11. "Fair authority" means:

- 21 a. any county, municipality, school district, public  
22 trust or any other political subdivision of this  
23 state, or  
24

1           b. any not-for-profit corporation acting pursuant to an  
2           agency, operating or management agreement which has  
3           been approved or authorized by the governing body of  
4           any of the entities specified in subparagraph a of  
5           this paragraph which conduct, operate or produce a  
6           fair commonly understood to be a county, district or  
7           state fair;

8       ~~11.~~ 12. a. "Gross receipts", "gross proceeds" or "sales  
9           price" means the total amount of consideration,  
10           including cash, credit, property and services, for  
11           which personal property or services are sold, leased  
12           or rented, valued in money, whether received in money  
13           or otherwise, without any deduction for the following:  
14           (1) the seller's cost of the property sold,  
15           (2) the cost of materials used, labor or service  
16           cost,  
17           (3) interest, losses, all costs of transportation to  
18           the seller, all taxes imposed on the seller, and  
19           any other expense of the seller,  
20           (4) charges by the seller for any services necessary  
21           to complete the sale, other than delivery and  
22           installation charges,  
23  
24

- 1 (5) delivery charges and installation charges, unless  
2 separately stated on the invoice, billing or  
3 similar document given to the purchaser, and  
4 ~~(6) the value of exempt personal property given to~~  
5 ~~the purchaser where taxable and exempt personal~~  
6 ~~property have been bundled together and sold by~~  
7 ~~the seller as a single product or piece of~~  
8 ~~merchandise credit for any trade-in.~~

9 b. Such term shall not include:

- 10 (1) discounts, including cash, term, or coupons that  
11 are not reimbursed by a third party that are  
12 allowed by a seller and taken by a purchaser on a  
13 sale,  
14 (2) interest, financing, and carrying charges from  
15 credit extended on the sale of personal property  
16 or services, if the amount is separately stated  
17 on the invoice, bill of sale or similar document  
18 given to the purchaser, and  
19 (3) any taxes legally imposed directly on the  
20 consumer that are separately stated on the  
21 invoice, bill of sale or similar document given  
22 to the purchaser,

23 c. Such term shall include consideration received by the  
24 seller from third parties if:



1           (1) the seller actually receives consideration from a  
2           party other than the purchaser and the  
3           consideration is directly related to a price  
4           reduction or discount on the sale,

5           (2) the seller has an obligation to pass the price  
6           reduction or discount through to the purchaser,

7           (3) the amount of the consideration attributable to  
8           the sale is fixed and determinable by the seller  
9           at the time of the sale of the item to the  
10           purchaser, and

11           (4) one of the following criteria is met:

12           (a) the purchaser presents a coupon, certificate  
13           or other documentation to the seller to  
14           claim a price reduction or discount where  
15           the coupon, certificate or documentation is  
16           authorized, distributed or granted by a  
17           third party with the understanding that the  
18           third party will reimburse any seller to  
19           whom the coupon, certificate or  
20           documentation is presented,

21           (b) the purchaser identifies himself or herself  
22           to the seller as a member of a group or  
23           organization entitled to a price reduction  
24           or discount; provided, a "preferred

1                   customer" card that is available to any  
2                   patron does not constitute membership in  
3                   such a group, or

4                   (c) the price reduction or discount is  
5                   identified as a third party price reduction  
6                   or discount on the invoice received by the  
7                   purchaser or on a coupon, certificate or  
8                   other documentation presented by the  
9                   purchaser;

10       ~~12.~~ 13. "Maintaining a place of business in this state" means  
11 and includes having or maintaining in this state, directly or by  
12 subsidiary, an office, distribution house, sales house, warehouse,  
13 or other physical place of business, or having agents operating in  
14 this state, whether the place of business or agent is within this  
15 state temporarily or permanently or whether the person or subsidiary  
16 is authorized to do business within this state;

17       ~~13.~~ 14. "Manufacturing" means and includes the activity of  
18 converting or conditioning tangible personal property by changing  
19 the form, composition, or quality of character of some existing  
20 material or materials, including natural resources, by procedures  
21 commonly regarded by the average person as manufacturing,  
22 compounding, processing or assembling, into a material or materials  
23 with a different form or use. "Manufacturing" does not include  
24 extractive industrial activities such as mining, quarrying, logging,

1 and drilling for oil, gas and water, nor oil and gas field  
2 processes, such as natural pressure reduction, mechanical  
3 separation, heating, cooling, dehydration and compression;

4 ~~14.~~ 15. "Manufacturing operation" means the designing,  
5 manufacturing, compounding, processing, assembling, warehousing, or  
6 preparing of articles for sale as tangible personal property. A  
7 manufacturing operation begins at the point where the materials  
8 enter the manufacturing site and ends at the point where a finished  
9 product leaves the manufacturing site. "Manufacturing operation"  
10 does not include administration, sales, distribution,  
11 transportation, site construction, or site maintenance. Extractive  
12 activities and field processes shall not be deemed to be a part of a  
13 manufacturing operation even when performed by a person otherwise  
14 engaged in manufacturing;

15 ~~15.~~ 16. "Manufacturing site" means a location where a  
16 manufacturing operation is conducted, including a location  
17 consisting of one or more buildings or structures in an area owned,  
18 leased, or controlled by a manufacturer;

19 ~~16.~~ 17. "Over-the-counter drug" means a drug that contains a  
20 label that identifies the product as a drug as required by 21  
21 C.F.R., Section 201.66. The over-the-counter-drug label includes:

22 a. a "Drug Facts" panel, or  
23  
24

1           b.    a statement of the "active ingredient(s)" with a list  
2                   of those ingredients contained in the compound,  
3                   substance or preparation;

4       ~~17.~~ 18. "Person" means any individual, company, partnership,  
5 joint venture, joint agreement, association, mutual or otherwise,  
6 limited liability company, corporation, estate, trust, business  
7 trust, receiver or trustee appointed by any state or federal court  
8 or otherwise, syndicate, this state, any county, city, municipality,  
9 school district, any other political subdivision of the state, or  
10 any group or combination acting as a unit, in the plural or singular  
11 number;

12       ~~18.~~ 19. "Prescription" means an order, formula or recipe issued  
13 in any form of oral, written, electronic, or other means of  
14 transmission by a duly licensed "practitioner" as defined in Section  
15 1357.6 of this title;

16       ~~19.~~ 20. "Prewritten computer software" means "computer  
17 software", including prewritten upgrades, which is not designed and  
18 developed by the author or other creator to the specifications of a  
19 specific purchaser. The combining of two or more prewritten  
20 computer software programs or prewritten portions thereof does not  
21 cause the combination to be other than prewritten computer software.  
22 Prewritten software includes software designed and developed by the  
23 author or other creator to the specifications of a specific  
24 purchaser when it is sold to a person other than the purchaser.

1 Where a person modifies or enhances computer software of which the  
2 person is not the author or creator, the person shall be deemed to  
3 be the author or creator only of such person's modifications or  
4 enhancements. Prewritten software or a prewritten portion thereof  
5 that is modified or enhanced to any degree, where such modification  
6 or enhancement is designed and developed to the specifications of a  
7 specific purchaser, remains prewritten software; provided, however,  
8 that where there is a reasonable, separately stated charge or an  
9 invoice or other statement of the price given to the purchaser for  
10 such modification or enhancement, such modification or enhancement  
11 shall not constitute prewritten computer software;

12 ~~20.~~ 21. "Repairman" means any person who performs any repair  
13 service upon tangible personal property of the consumer, whether or  
14 not the repairman, as a necessary and incidental part of performing  
15 the service, incorporates tangible personal property belonging to or  
16 purchased by the repairman into the tangible personal property being  
17 repaired;

18 ~~21.~~ 22. "Sale" means the transfer of either title or possession  
19 of tangible personal property for a valuable consideration  
20 regardless of the manner, method, instrumentality, or device by  
21 which the transfer is accomplished in this state, or other  
22 transactions as provided by this paragraph, including but not  
23 limited to:

24

- 1 a. the exchange, barter, lease, or rental of tangible  
2 personal property resulting in the transfer of the  
3 title to or possession of the property,
- 4 b. the disposition for consumption or use in any business  
5 or by any person of all goods, wares, merchandise, or  
6 property which has been purchased for resale,  
7 manufacturing, or further processing,
- 8 c. the sale, gift, exchange, or other disposition of  
9 admission, dues, or fees to clubs, places of  
10 amusement, or recreational or athletic events or for  
11 the privilege of having access to or the use of  
12 amusement, recreational, athletic or entertainment  
13 facilities,
- 14 d. the furnishing or rendering of services taxable under  
15 the Oklahoma Sales Tax Code, and
- 16 e. any use of motor fuel or diesel fuel by a supplier, as  
17 defined in Section 500.3 of this title, upon which  
18 sales tax has not previously been paid, for purposes  
19 other than to propel motor vehicles over the public  
20 highways of this state. Motor fuel or diesel fuel  
21 purchased outside the state and used for purposes  
22 other than to propel motor vehicles over the public  
23 highways of this state shall not constitute a sale  
24 within the meaning of this paragraph;

1        ~~22.~~ 23. "Sale for resale" means:

- 2            a.    a sale of tangible personal property to any purchaser  
3                    who is purchasing tangible personal property for the  
4                    purpose of reselling it within the geographical limits  
5                    of the United States of America or its territories or  
6                    possessions, in the normal course of business either  
7                    in the form or condition in which it is purchased or  
8                    as an attachment to or integral part of other tangible  
9                    personal property,
- 10           b.    a sale of tangible personal property to a purchaser  
11                    for the sole purpose of the renting or leasing, within  
12                    the geographical limits of the United States of  
13                    America or its territories or possessions, of the  
14                    tangible personal property to another person by the  
15                    purchaser, but not if incidental to the renting or  
16                    leasing of real estate, ~~or~~
- 17           c.    a sale of tangible goods and products within this  
18                    state if, simultaneously with the sale, the vendor  
19                    issues an export bill of lading, or other  
20                    documentation that the point of delivery of such goods  
21                    for use and consumption is in a foreign country and  
22                    not within the territorial confines of the United  
23                    States, or

1           d. a sales of any carrier access services, right of  
2           access services, telecommunications services to be  
3           resold, or telecommunications used in the subsequent  
4           provision of, use as a component part of, or  
5           integrated into, end-to-end telecommunications  
6           service;

7           ~~23.~~ 24. "Tangible personal property" means personal property  
8 that can be seen, weighed, measured, felt, or touched or that is in  
9 any other manner perceptible to the senses. "Tangible personal  
10 property" includes electricity, water, gas, steam and prewritten  
11 computer software. This definition shall be applicable only for  
12 purposes of the Oklahoma Sales Tax Code;

13           ~~24.~~ 25. "Taxpayer" means any person liable to pay a tax imposed  
14 by the Oklahoma Sales Tax Code;

15           ~~25.~~ 26. "Tax period" or "taxable period" means the calendar  
16 period or the taxpayer's fiscal period for which a taxpayer has  
17 obtained a permit from the Tax Commission to use a fiscal period in  
18 lieu of a calendar period;

19           ~~26.~~ 27. "Tax remitter" means any person required to collect,  
20 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A  
21 tax remitter who fails, for any reason, to collect, report, or remit  
22 the tax shall be considered a taxpayer for purposes of assessment,  
23 collection, and enforcement of the tax imposed by the Oklahoma Sales  
24 Tax Code; and



1        ~~27.~~ 28. "Vendor" means:

- 2            a.    any person making sales of tangible personal property  
3                    or services in this state, the gross receipts or gross  
4                    proceeds from which are taxed by the Oklahoma Sales  
5                    Tax Code,
- 6            b.    any person maintaining a place of business in this  
7                    state and making sales of tangible personal property  
8                    or services, whether at the place of business or  
9                    elsewhere, to persons within this state, the gross  
10                  receipts or gross proceeds from which are taxed by the  
11                  Oklahoma Sales Tax Code,
- 12          c.    any person who solicits business by employees,  
13                    independent contractors, agents, or other  
14                    representatives or by distribution of catalogs or  
15                    other advertising matter, and thereby makes sales to  
16                    persons within this state of tangible personal  
17                    property or services, the gross receipts or gross  
18                    proceeds from which are taxed by the Oklahoma Sales  
19                    Tax Code, or
- 20          d.    any person, pursuant to an agreement with the person  
21                    with an ownership interest in or title to tangible  
22                    personal property, who has been entrusted with the  
23                    possession of any such property and has the power to  
24                    designate who is to obtain title, to physically

1 transfer possession of, or otherwise make sales of the  
2 property.

3 SECTION 5. AMENDATORY 68 O.S. 2001, Section 1354, as  
4 last amended by Section 12, Chapter 479, O.S.L. 2005 (68 O.S. Supp.  
5 2006, Section 1354), is amended to read as follows:

6 Section 1354. A. There is hereby levied upon all sales, not  
7 otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of  
8 four and one-half percent (4.5%) of the gross receipts or gross  
9 proceeds of each sale of the following:

10 1. Tangible personal property, except newspapers and  
11 periodicals;

12 2. Natural or artificial gas, electricity, ice, steam, or any  
13 other utility or public service, except water, sewage and refuse.  
14 Provided, the rate of four and one-half percent (4.5%) shall not  
15 apply to sales subject to the provisions of paragraph 6 of Section  
16 1357 of this title;

17 3. Transportation for hire to persons by common carriers,  
18 including railroads both steam and electric, motor transportation  
19 companies, pullman car companies, airlines, and other means of  
20 transportation for hire, excluding:

21 a. transportation services provided by a tourism service  
22 broker which are incidental to the rendition of  
23 tourism brokerage services by such broker to a  
24 customer regardless of whether or not such

1 transportation services are actually owned and  
2 operated by the tourism service broker. For purposes  
3 of this subsection, "tourism service broker" means any  
4 person, firm, association or corporation or any  
5 employee of such person, firm, association or  
6 corporation which, for a fee, commission or other  
7 valuable consideration, arranges or offers to arrange  
8 trips, tours or other vacation or recreational travel  
9 plans for a customer, and

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

13 4. ~~Telecommunications~~ Intrastate, interstate and international  
14 telecommunications services ~~that originate and terminate in this~~  
15 ~~state and that originate or terminate in this state and are charged~~  
16 ~~to the consumer's telephone number or account in this state~~  
17 ~~regardless of where the billing for such service is made, all mobile~~  
18 ~~telecommunications services that are sourced to this state pursuant~~  
19 ~~to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C.,~~  
20 ~~Sections 116-126, and all local telecommunications service and~~  
21 ~~rental charges, including all installation and construction charges~~  
22 ~~and all service and rental charges having any connection with~~  
23 ~~transmission of any message or image~~ sourced to this state in  
24

1 accordance with Section 1354.30 of this title and ancillary  
2 services. Provided:

3 a. the term "telecommunications services" shall mean the  
4 ~~transmission of any interactive, two way~~  
5 ~~electromagnetic communications, including voice,~~  
6 ~~image, data and information, through the use of any~~  
7 ~~medium such as wires, cables, microwaves, cellular~~  
8 ~~radio, radio waves, light waves, or any combination of~~  
9 ~~these or similar media, but shall not include the~~  
10 ~~following:~~

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

18 ~~(2) any interstate telecommunications service which~~  
19 ~~is:~~

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

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

24

1           ~~(3) sales of any carrier access services, right of~~  
2           ~~access services, telecommunications services to~~  
3           ~~be resold, or telecommunications services used in~~  
4           ~~the subsequent provision of, use as a component~~  
5           ~~part of, or integrated into end-to-end~~  
6           ~~telecommunications service,~~

7           ~~(4) labor charges for the construction, installation,~~  
8           ~~movement, servicing repair or maintenance of any~~  
9           ~~equipment such as antennas or dishes that have a~~  
10           ~~connection with the transmission of a message or~~  
11           ~~image from cellular towers that are used for the~~  
12           ~~transmission of telecommunications, or~~

13           ~~(5) regulatory assessments and charges, including~~  
14           ~~charges to fund the Oklahoma Universal Service~~  
15           ~~Fund, the Oklahoma Lifeline Fund and the Oklahoma~~  
16           ~~High Cost Fund, and~~

17       ~~b. the term "telecommunications services" shall include,~~  
18       ~~but not be limited to sales of any interstate~~  
19       ~~telecommunications services which:~~

20           ~~(1) entitle the subscriber to inward or outward~~  
21           ~~calling respectively between a station associated~~  
22           ~~with an access line in the local telephone system~~  
23           ~~area or a station directly connected to any~~  
24           ~~interexchange carrier's facilities and telephone~~

1                   ~~or radiotelephone stations in diverse~~  
2                   ~~geographical locations specified by the~~  
3                   ~~subscriber, or~~

4       (2) ~~entitle the subscriber to private communications~~  
5       ~~services which allow exclusive or priority use of a~~  
6       ~~communications channel or group of channels between~~  
7       ~~exchanges, and electronic transmission, conveyance, or~~  
8       ~~routing of voice, data, audio, video, or any other~~  
9       ~~information or signals to a point, or between or among~~  
10       ~~points. The term "telecommunications services"~~  
11       ~~includes such transmission, conveyance, or routing in~~  
12       ~~which computer processing applications are used to act~~  
13       ~~on the form, code or protocol of the content for~~  
14       ~~purposes of transmission, conveyance or routing~~  
15       ~~without regard to whether such service is referred to~~  
16       ~~as voice over Internet protocol services or is~~  
17       ~~classified by the Federal Communications Commission as~~  
18       ~~enhanced or value added. "Telecommunications~~  
19       ~~services" do not include:~~

20       (1) data processing and information services that  
21       allow data to be generated, acquired, stored,  
22       processed, or retrieved and delivered by an  
23       electronic transmission to a purchaser where such  
24

purchaser's primary purpose for the underlying transaction is the processed data or information,  
(2) installation or maintenance of wiring or equipment on a customer's premises,  
(3) tangible personal property,  
(4) advertising, including but not limited to directory advertising,  
(5) billing and collection services provided to third parties,  
(6) Internet access services,  
(7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;  
(8) ancillary services, or  
(9) digital products delivered electronically, including but not limited to, software, music, video, reading materials or ring tones,

1 e. b. the term "interstate" ~~includes any international~~  
2 ~~service that either originates or terminates outside~~  
3 ~~of the fifty (50) United States and the District of~~  
4 ~~Columbia , and~~

5 d. ~~if charges for taxable telecommunications services are~~  
6 ~~aggregated with and not separately stated from charges~~  
7 ~~for nontaxable services or products, the nontaxable~~  
8 ~~charges will be subject to taxation unless the~~  
9 ~~provider can reasonably identify charges not subject~~  
10 ~~to the tax, charge or fee from the provider's books~~  
11 ~~and records kept in the regular course of business~~  
12 means a "telecommunications service" that originates  
13 in one United States state, or a United States  
14 territory or possession, and terminates in a different  
15 United States state or a United States territory or  
16 possession,

17 c. the term "intrastate" means a telecommunications  
18 service that originates in one United States state or  
19 a United States territory or possession, and  
20 terminates in the same United States state or a United  
21 States territory or possession,

22 d. the term "ancillary services" means services that are  
23 associated with or incidental to the provision of  
24 telecommunications services, including but not limited



1           to "detailed telecommunications billing", "directory  
2           assistance", "vertical service", and "voice mail  
3           services".

4           e. in the case of a bundled transaction that includes  
5           telecommunication service, ancillary service, internet  
6           access or audio or video programming service:

7           (1) if the price is attributable to products that are  
8           taxable and products that are nontaxable, the  
9           portion of the price attributable to the  
10           nontaxable products may be subject to tax unless  
11           the provider can identify by reasonable and  
12           verifiable standards such portion for its books  
13           and records kept in the regular course of  
14           business for other purposes, including, but not  
15           limited to, nontax purposes, and

16           (2) the provisions of this paragraph shall apply  
17           unless otherwise provided by federal law,

18           f. a sale of prepaid calling service or prepaid wireless  
19           calling service shall be taxable at the time of sale  
20           to the customer;

21           5. Telecommunications nonrecurring charges, which means an  
22           amount billed for the installation, connection, change or initiation  
23           of telecommunications services received by a customer;

1        6. Printing or printed matter of all types, kinds, or character  
2 and, except for services of printing, copying or photocopying  
3 performed by a privately owned scientific and educational library  
4 sustained by monthly or annual dues paid by members sharing the use  
5 of such services with students interested in the study of geology,  
6 petroleum engineering or related subjects, any service of printing  
7 or overprinting, including the copying of information by mimeograph,  
8 multigraph, or by otherwise duplicating written or printed matter in  
9 any manner, or the production of microfiche containing information  
10 from magnetic tapes or other media furnished by customers;

11        ~~6.~~ 7. Service of furnishing rooms by hotel, apartment hotel,  
12 public rooming house, motel, public lodging house, or tourist camp;

13        ~~7.~~ 8. Service of furnishing storage or parking privileges by  
14 auto hotels or parking lots;

15        ~~8.~~ 9. Computer hardware, software, coding sheets, cards,  
16 magnetic tapes or other media on which prewritten programs have been  
17 coded, punched, or otherwise recorded, including the gross receipts  
18 from the licensing of software programs;

19        ~~9.~~ 10. Foods, confections, and all drinks sold or dispensed by  
20 hotels, restaurants, or other dispensers, and sold for immediate  
21 consumption upon the premises or delivered or carried away from the  
22 premises for consumption elsewhere;

23        ~~10.~~ 11. Advertising of all kinds, types, and characters,  
24 including any and all devices used for advertising purposes except

1 those specifically exempt pursuant to the provisions of Section 1357  
2 of this title;

3 ~~11.~~ 12. Dues or fees to clubs including free or complimentary  
4 dues or fees which have a value equivalent to the charge that would  
5 have otherwise been made, including any fees paid for the use of  
6 facilities or services rendered at a health spa or club or any  
7 similar facility or business;

8 ~~12.~~ 13. Tickets for admission to or voluntary contributions  
9 made to places of amusement, sports, entertainment, exhibition,  
10 display, or other recreational events or activities, including free  
11 or complimentary admissions which have a value equivalent to the  
12 charge that would have otherwise been made;

13 ~~13.~~ 14. Charges made for the privilege of entering or engaging  
14 in any kind of activity, such as tennis, racquetball, or handball,  
15 when spectators are charged no admission fee;

16 ~~14.~~ 15. Charges made for the privilege of using items for  
17 amusement, sports, entertainment, or recreational activity, such as  
18 trampolines or golf carts;

19 ~~15.~~ 16. The rental of equipment for amusement, sports,  
20 entertainment, or other recreational activities, such as bowling  
21 shoes, skates, golf carts, or other sports or athletic equipment;

22 ~~16.~~ 17. The gross receipts from sales from any vending machine  
23 without any deduction for rental to locate the vending machine on  
24

1 the premises of a person who is not the owner or any other  
2 deductions therefrom;

3 ~~17.~~ 18. The gross receipts or gross proceeds from the rental or  
4 lease of tangible personal property, including rental or lease of  
5 personal property when the rental or lease agreement requires the  
6 vendor to launder, clean, repair, or otherwise service the rented or  
7 leased property on a regular basis, without any deduction for the  
8 cost of the service rendered. If the rental or lease charge is  
9 based on the retail value of the property at the time of making the  
10 rental or lease agreement and the expected life of the property, and  
11 the rental or lease charge is separately stated from the service  
12 cost in the statement, bill, or invoice delivered to the consumer,  
13 the cost of services rendered shall be deducted from the gross  
14 receipts or gross proceeds;

15 ~~18.~~ 19. Flowers, plants, shrubs, trees, and other floral items,  
16 whether or not produced by the vendor, sold by persons engaged in  
17 florist or nursery business in this state, including all orders  
18 taken by an Oklahoma business for delivery in another state. All  
19 orders taken outside this state for delivery within this state shall  
20 not be subject to the taxes levied in this section;

21 ~~19.~~ 20. Tangible personal property sold to persons, peddlers,  
22 solicitors, or other salesmen, for resale when there is likelihood  
23 that this state will lose tax revenue due to the difficulty of  
24 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
- 5 permit or keep records,
- 6 e. lack of adequate records,
- 7 f. the fact that the persons are minors or transients,
- 8 g. the fact that the persons are engaged in service
- 9 businesses, or
- 10 h. any other reasonable reason;

11 ~~20.~~ 21. Any taxable services and tangible personal property  
12 including materials, supplies, and equipment sold to contractors for  
13 the purpose of developing and improving real estate even though said  
14 real estate is intended for resale as real property, hereby declared  
15 to be sales to consumers or users, however, taxable materials,  
16 supplies and equipment sold to contractors as provided by this  
17 subsection which are purchased as a result of and subsequent to the  
18 date of a contract entered into either prior to the effective date  
19 of any law increasing the rate of sales tax imposed by this article,  
20 or entered into prior to the effective date of an ordinance or other  
21 measure increasing the sales tax levy of a political subdivision  
22 shall be subject to the rate of sales tax applicable, as of the date  
23 such contract was entered into, to sales of such materials, supplies  
24 and equipment if such purchases are required in order to complete

1 the contract. Such rate shall be applicable to purchases made  
2 pursuant to the contract or any change order under the contract  
3 until the contract or any change order has been completed, accepted  
4 and the contractor has been discharged from any further obligation  
5 under the contract or change order or until two (2) years from the  
6 date on which the contract was entered into whichever occurs first.  
7 The increased sales tax rate shall be applicable to all such  
8 purchases at the time of sale and the contractor shall file a claim  
9 for refund before the expiration of three (3) years after the date  
10 of contract completion or five (5) years after the contract was  
11 entered into, whichever occurs earlier. However, the Oklahoma Tax  
12 Commission shall prescribe rules and regulations and shall provide  
13 procedures for the refund to a contractor of sales taxes collected  
14 on purchases eligible for the lower sales tax rate authorized by  
15 this subsection; and

16 ~~21.~~ 22. Any taxable services and tangible personal property  
17 sold to persons who are primarily engaged in selling their services,  
18 such as repairmen, hereby declared to be sales to consumers or  
19 users.

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

1 SECTION 6. AMENDATORY Section 20, Chapter 413, O.S.L.  
2 2003, as amended by Section 4, Chapter 327, O.S.L. 2006 (68 O.S.  
3 Supp. 2006, Section 1354.27), is amended to read as follows:

4 Section 1354.27 A. The retail sale, excluding lease or rental,  
5 of a product shall be sourced as follows:

6 1. When the product is received by the purchaser at a business  
7 location of the seller, the sale is sourced to that business  
8 location;

9 2. When the product is not received by the purchaser at a  
10 business location of the seller, the sale is sourced to the location  
11 where receipt by the purchaser, or the purchaser's donee, designated  
12 as such by the purchaser, occurs, including the location indicated  
13 by instructions for delivery to the purchaser or donee, known to the  
14 seller. Provided, this subsection shall not apply to florists until  
15 January 1, ~~2008~~ 2009. Prior to that date, all sales by florists  
16 shall be sourced to its business location;

17 3. When the provisions of paragraphs 1 and 2 of this subsection  
18 do not apply, the sale is sourced to the location indicated by an  
19 address for the purchaser that is available from the business  
20 records of the seller that are maintained in the ordinary course of  
21 the seller's business when use of this address does not constitute  
22 bad faith;

23 4. When the provisions of paragraphs 1, 2 and 3 of this  
24 subsection do not apply, the sale is sourced to the location

1 indicated by an address for the purchaser obtained during the  
2 consummation of the sale, including the address of a purchaser's  
3 payment instrument, if no other address is available, when use of  
4 this address does not constitute bad faith; and

5       5. When none of the previous rules of paragraphs 1, 2, 3 and 4  
6 of this subsection apply, including the circumstance in which the  
7 seller is without sufficient information to apply the previous  
8 rules, then the location will be determined by the address from  
9 which tangible personal property was shipped, from which the digital  
10 good or the computer software delivered electronically was first  
11 available for transmission by the seller, or from which the service  
12 was provided, disregarding for these purposes any location that  
13 merely provided the digital transfer of the product sold. In the  
14 case of a sale of mobile telecommunications service that is a  
15 prepaid telecommunications service, the location will be that which  
16 is associated with the mobile telephone number.

17       B. The lease or rental of tangible personal property, other  
18 than property identified in subsection C or D of this section, shall  
19 be sourced as follows:

20       1. For a lease or rental that requires recurring periodic  
21 payments, the first periodic payment is sourced the same as a retail  
22 sale in accordance with the provisions of subsection A of this  
23 section. Periodic payments made subsequent to the first payment are  
24 sourced to the primary property location for each period covered by



1 the payment. The primary property location shall be as indicated by  
2 an address for the property provided by the lessee that is available  
3 to the lessor from its records maintained in the ordinary course of  
4 business, when use of this address does not constitute bad faith.

5 The property location shall not be altered by intermittent use at  
6 different locations, such as use of business property that  
7 accompanies employees on business trips and service calls; and

8 2. For a lease or rental that does not require recurring  
9 periodic payments, the payment is sourced the same as a retail sale  
10 in accordance with the provisions of subsection A of this section.

11 This subsection does not affect the imposition or computation of  
12 sales or use tax on leases or rentals based on a lump sum or  
13 accelerated basis, or on the acquisition of property for lease.

14 C. The lease or rental of motor vehicles, trailers,  
15 semitrailers, or aircraft that do not qualify as transportation  
16 equipment, as defined in subsection D of this section, shall be  
17 sourced as follows:

18 1. For a lease or rental that requires recurring periodic  
19 payments, each periodic payment is sourced to the primary property  
20 location. The primary property location shall be as indicated by an  
21 address for the property provided by the lessee that is available to  
22 the lessor from its records maintained in the ordinary course of  
23 business, when use of this address does not constitute bad faith.

24

1 This location shall not be altered by intermittent use at different  
2 locations; and

3 2. For a lease or rental that does not require recurring  
4 periodic payments, the payment is sourced the same as a retail sale  
5 in accordance with the provisions of subsection A of this section.

6 This subsection does not affect the imposition or computation of  
7 sales or use tax on leases or rentals based on a lump sum or  
8 accelerated basis, or on the acquisition of property for lease.

9 D. The retail sale, including lease or rental, of  
10 transportation equipment shall be sourced the same as a retail sale  
11 in accordance with the provisions of subsection A of this section,  
12 notwithstanding the exclusion of lease or rental in subsection A of  
13 this section. "Transportation equipment" means any of the following:

14 1. Locomotives and railcars that are utilized for the carriage  
15 of persons or property in interstate commerce;

16 2. Trucks and truck-tractors with a Gross Vehicle Weight Rating  
17 (GVWR) of ten thousand one (10,001) pounds or greater, trailers,  
18 semitrailers, or passenger buses that are:

19 a. registered through the International Registration  
20 Plan, and

21 b. operated under authority of a carrier authorized and  
22 certificated by the United States Department of  
23 Transportation or another federal authority to engage  
24

1                   in the carriage of persons or property in interstate  
2                   commerce;

3           3.   Aircraft that are operated by air carriers authorized and  
4   certificated by the United States Department of Transportation or  
5   another federal or a foreign authority to engage in the carriage of  
6   persons or property in interstate or foreign commerce; and

7           4.   Containers designed for use on and component parts attached  
8   or secured on the items set forth in paragraphs 1, 2 and 3 of this  
9   subsection.

10          E.   For the purposes of this section, the terms "receive" and  
11   "receipt" mean:

- 12           1.   Taking possession of tangible personal property;  
13           2.   Making first use of services; or  
14           3.   Taking possession or making first use of digital goods,  
15   whichever comes first.

16          The terms "receive" and "receipt" do not include possession by a  
17   shipping company on behalf of the purchaser.

18          SECTION 7.        AMENDATORY        Section 23, Chapter 413, O.S.L.  
19   2003 (68 O.S. Supp. 2006, Section 1354.30), is amended to read as  
20   follows:

21          Section 1354.30   A.   For the purpose of this section, the  
22   following definitions apply:

- 23           1.   "Air-to-ground radiotelephone service" means a radio  
24   service, as that term is defined in 47 CFR 22.99, in which common

1 carriers are authorized to offer and provide radio  
2 telecommunications service for hire to subscribers in aircraft;

3 2. "Call-by-call basis" means any method of charging for  
4 telecommunications services where the price is measured by  
5 individual calls;

6 3. "Communications channel" means a physical or virtual path of  
7 communications over which signals are transmitted between or among  
8 customer channel termination points;

9 4. "Customer" means the person or entity that contracts with  
10 the seller of telecommunications services. If the end user of  
11 telecommunications services is not the contracting party, the end  
12 user of the telecommunications service is the customer of the  
13 telecommunications service. "Customer" does not include a reseller  
14 of telecommunications service or for mobile telecommunications  
15 service of a serving carrier under an agreement to serve the  
16 customer outside the home service provider's licensed service area;

17 5. "Customer channel termination point" means the location  
18 where the customer either inputs or receives the communications;

19 6. "End user" means the person who utilizes the  
20 telecommunications service. In the case of an entity, "end user"  
21 means the individual who utilizes the service on behalf of the  
22 entity;

23

24

1       7. "Home service provider" means the same as that term is  
2 defined in Section 124(5) of Public Law 106-252, the Mobile  
3 Telecommunications Sourcing Act;

4       8. "Mobile telecommunications service" means the same as that  
5 term is defined in Section 124(5) of Public Law 106-252, the Mobile  
6 Telecommunications Sourcing Act;

7       9. "Place of primary use" means the street address  
8 representative of where the customer's use of the telecommunications  
9 service primarily occurs, which must be the residential street  
10 address or the primary business street address of the customer. In  
11 the case of mobile telecommunications services, "place of primary  
12 use" must be within the licensed service area of the home service  
13 provider;

14       10. "Post-paid calling service" means the telecommunications  
15 service obtained by making a payment on a call-by-call basis either  
16 through the use of a credit card or payment mechanism such as a bank  
17 card, travel card, credit card, or debit card, or by charge made to  
18 which a telephone number which is not associated with the  
19 origination or termination of the telecommunications service. A  
20 post-paid calling service includes a telecommunications service,  
21 except a prepaid wireless calling service, that would be a prepaid  
22 calling service except it is not exclusively a telecommunications  
23 service;

24

1 11. "Prepaid calling service" means the right to access  
2 exclusively telecommunications services, which must be paid for in  
3 advance and which enables the origination of calls using an access  
4 number or authorization code, whether manually or electronically  
5 dialed, and that is sold in predetermined units or dollars of which  
6 the number declines with use in a known amount;

7 12. "Prepaid wireless calling service" means a  
8 telecommunications wireless service that provides the right to  
9 utilize mobile wireless service as well as other  
10 nontelecommunications services, including the download of digital  
11 products delivered electronically, content and ancillary services,  
12 which must be paid for in advance that is sold in predetermined  
13 units or dollars of which the number declines with use in a known  
14 amount;

15 13. "Private communication service" means a telecommunication  
16 service that entitles the customer to exclusive or priority use of a  
17 communications channel or group of channels between or among  
18 termination points, regardless of the manner in which such channel  
19 or channels are connected, and includes switching capacity,  
20 extension lines, stations, and any other associated services that  
21 are provided in connection with the use of such channel or channels;  
22 and

23 ~~13.~~ 14. "Service address" means:  
24

1 a. the location of the telecommunications equipment to  
2 which a customer's call is charged and from which the  
3 call originates or terminates, regardless of where the  
4 call is billed or paid,

5 b. if the location in subparagraph a of this paragraph is  
6 not known, "service address" means the origination  
7 point of the signal of the telecommunications services  
8 first identified by either the seller's  
9 telecommunications system or in information received  
10 by the seller from its service provider, where the  
11 system used to transport such signals is not that of  
12 the seller, and

13 c. if the locations in subparagraphs a and b of this  
14 paragraph are not known, "service address" means the  
15 location of the customer's place of primary use.

16 B. Except for the defined telecommunications services in  
17 subsection D of this section, the sale of telecommunications  
18 services sold on a call-by-call basis shall be sourced to:

19 1. Each level of taxing jurisdiction where the call originates  
20 and terminates in that jurisdiction; or

21 2. Each level of taxing jurisdiction where the call either  
22 originates or terminates and in which the service address is also  
23 located.

1 C. Except for the defined telecommunications services in  
2 subsection D of this section, a sale of telecommunications services  
3 sold on a basis other than a call-by-call basis, is sourced to the  
4 customer's place of primary use.

5 D. The sale of the following telecommunications services shall  
6 be sourced to each level of taxing jurisdiction as follows:

7 1. A sale of mobile telecommunications services other than air-  
8 to-ground radiotelephone service and prepaid calling service, is  
9 sourced to the customer's place of primary use as required by the  
10 provisions of Section 55001 of ~~Title 68 of the Oklahoma Statutes~~  
11 this title;

12 2. A sale of post-paid calling service is sourced to the  
13 origination point of the telecommunications signal as first  
14 identified by either:

- 15 a. the seller's telecommunications system, or
- 16 b. information received by the seller from its service  
17 provider, where the system used to transport such  
18 signals is not that of the seller;

19 3. A sale of prepaid calling service or a sale of a prepaid  
20 wireless calling service is sourced in accordance with Section ~~20~~  
21 1354.27 of this ~~act~~ title. Provided, in the case of a sale of  
22 ~~mobile telecommunications service that is~~ a prepaid  
23 ~~telecommunications~~ wireless calling service, the provisions of  
24



1 paragraph 5 of subsection A of Section ~~20~~ 1354.27 of this ~~act~~ title  
2 shall apply; and

3 4. A sale of a private communication service is sourced as  
4 follows:

5 a. service for a separate charge related to a customer  
6 channel termination point is sourced to each level of  
7 jurisdiction in which such customer channel  
8 termination point is located,

9 b. service where all customer termination points are  
10 located entirely within one jurisdiction or levels of  
11 jurisdiction is sourced in such jurisdiction in which  
12 the customer channel termination points are located,

13 c. service for segments of a channel between two customer  
14 channel termination points located in different  
15 jurisdictions and which segment of channel are  
16 separately charged is sourced fifty percent (50%) in  
17 each level of jurisdiction in which the customer  
18 channel termination points are located, and

19 d. service for segments of a channel located in more than  
20 one jurisdiction or levels of jurisdiction and which  
21 segments are not separately billed is sourced in each  
22 jurisdiction based on the percentage determined by  
23 dividing the number of customer channel termination  
24

1 points in such jurisdiction by the total number of  
2 customer channel termination points.

3 SECTION 8. AMENDATORY Section 25, Chapter 413, O.S.L.  
4 2003, as amended by Section 5, Chapter 535, O.S.L. 2004 (68 O.S.  
5 Supp. 2006, Section 1354.32), is amended to read as follows:

6 Section 1354.32 The Oklahoma Tax Commission shall:

7 1. Provide and maintain a database that describes boundary  
8 changes for all taxing jurisdictions within this state for sales and  
9 use tax purposes. This database shall include a description of the  
10 change and the effective date of the change for sales and use tax  
11 purposes;

12 2. Provide and maintain a database of all sales and use tax  
13 rates for all of the jurisdictions levying taxes within the state.  
14 For the identification of the state, counties, and cities, codes  
15 corresponding to the rates must be provided according to Federal  
16 Information Processing Standards (FIPS) as developed by the National  
17 Institute of Standards and Technology;

18 3. Provide and maintain a database that assigns each five-digit  
19 and nine-digit zip code within the state to the proper tax rates and  
20 jurisdictions. The lowest combined tax rate imposed in the zip code  
21 area shall apply if the area includes more than one tax rate in any  
22 level of taxing jurisdictions. The collections from an area that  
23 includes more than one jurisdiction in a level shall be allocated  
24 between the jurisdictions according to the pro rata population of

1 each jurisdiction in the area. If a nine-digit zip code designation  
2 is not available for a street address or if a seller or certified  
3 service provider (CSP) is unable to determine the nine-digit zip  
4 code designation ~~of~~ applicable to a purchaser after exercising due  
5 diligence to determine the designation, the seller or CSP may apply  
6 the rate for the five-digit zip code area. For the purposes of this  
7 section, there is a rebuttable presumption that a seller has  
8 exercised due diligence if the seller or CSP has attempted to  
9 determine the nine-digit zip code designation by utilizing software  
10 approved by the Tax Commission that makes this designation from the  
11 street address and the five-digit zip code ~~of~~ applicable to the  
12 purchaser;

13 4. ~~Participate with other states in the Streamlined Sales and~~  
14 ~~Use Tax Agreement in the development of an~~ Have the option of  
15 providing address-based ~~system~~ database records for assigning taxing  
16 jurisdictions and their associated rates which shall be in addition  
17 to the requirements of paragraph 3 of this section. The ~~system~~  
18 database records must be in the same approved format as the database  
19 records pursuant to paragraph 3 of this section and must meet the  
20 requirements developed pursuant to the federal Mobile  
21 Telecommunications Sourcing Act, 4 U.S.C. Sec. ~~119~~ 119(a). If the  
22 Tax Commission develops and adopts ~~an address-based assignment~~  
23 ~~system~~ address-based assignment database records pursuant to the  
24 ~~Mobile Telecommunications Sourcing Act~~ Agreement, a seller or CSP

1 may use ~~that system~~ those database records in place of the ~~system~~  
2 five- and nine-digit zip code database records provided for in  
3 paragraph 3 of this section. If a seller or CSP is unable to  
4 determine the applicable rate and jurisdiction using an address-  
5 based database record after exercising due diligence, the seller or  
6 CSP may apply the nine-digit zip code designation applicable to a  
7 purchase. If a nine-digit zip code designation is not available for  
8 a street address or if a seller or CSP is unable to determine the  
9 nine-digit zip code designation applicable to a purchase after  
10 exercising due diligence to determine the designation, the seller or  
11 CSP may apply the rate for the five-digit zip code area. For the  
12 purposes of this section, there is a rebuttable presumption that a  
13 seller or CSP has exercised due diligence if the seller or CSP has  
14 attempted to determine the tax rate and jurisdiction by utilizing  
15 software approved by the governing board that makes this assignment  
16 from the address and zip code information applicable to the  
17 purchase;

18 5. Have the option, upon meeting the requirements of paragraph  
19 4 of this section, to certify vendor provided address-based  
20 databases for assigning tax rates and jurisdictions. The databases  
21 must be in the same approved format as the database records pursuant  
22 to paragraph 4 of this section and must meet the requirements  
23 developed pursuant to the federal Mobile Telecommunications Sourcing  
24 Act, 4 U.S.C.A. Sec. 119(a). If the Tax Commission certifies a

1 vendor address-based database, a seller or CSP may use that database  
2 in place of the database provided for in paragraph 3 or 4 of this  
3 section;

4 6. Review software submitted for certification as a certified  
5 automated system (CAS). The review shall include a review to  
6 determine that the program adequately classifies that state's  
7 product-based exemptions. The Tax Commission shall certify its  
8 acceptance of the classifications made by the system;

9 7. Relieve vendors and certified service providers from  
10 liability for having charged and collected the incorrect amount of  
11 sales or use tax resulting from the seller of the certified service  
12 provider relying on erroneous data provided by the Tax Commission on  
13 tax rates, boundaries, or taxing jurisdiction assignments.  
14 Provided, the vendor or certified service provider shall not be  
15 relieved from liability for errors resulting from the reliance on  
16 the information provided pursuant to paragraph 3 of this section if  
17 the Tax Commission has provided or certified an address-based system  
18 pursuant to paragraph 4 or 5 of this section; ~~and~~

19 ~~6.~~ 8. Be authorized to provide relief from liability to vendors  
20 and certified service providers who are participating with the Tax  
21 Commission in the use of a sales and use tax collection system that  
22 incorporates one or more databases provided or certified by the Tax  
23 Commission under this section if the Tax Commission has reviewed and  
24 approved such sales and use tax collection system; and

1       9. Relieve CSPs and Model 2 sellers from liability for not  
2 collecting sales or use taxes resulting from the CSP or Model 2  
3 seller relying on the certification provided by the Tax Commission  
4 pursuant to paragraph 6 of this section. If the Tax Commission  
5 determines that an item or transaction is incorrectly classified as  
6 to its taxability, it shall notify the CSP or Model 2 seller of the  
7 incorrect classification. The CSP or Model 2 seller shall have ten  
8 (10) days to revise the classification after receipt of notice from  
9 the Tax Commission of the determination.

10       SECTION 9.       AMENDATORY       68 O.S. 2001, Section 1357, as  
11 last amended by Section 5, Chapter 44, 2nd Extraordinary Session,  
12 O.S.L. 2006 (68 O.S. Supp. 2006, Section 1357), is amended to read  
13 as follows:

14       Section 1357. There are hereby specifically exempted from the  
15 tax levied by the Oklahoma Sales Tax Code:

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

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

21       3. Sales for resale to persons engaged in the business of  
22 reselling the articles purchased, whether within or without the  
23 state, provided that such sales to residents of this state are made  
24 to persons to whom sales tax permits have been issued as provided in

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

18 4. Sales of advertising space in newspapers and periodicals;

19 5. Sales of programs relating to sporting and entertainment  
20 events, and sales of advertising on billboards (including signage,  
21 posters, panels, marquees, or on other similar surfaces, whether  
22 indoors or outdoors) or in programs relating to sporting and  
23 entertainment events, and sales of any advertising, to be displayed  
24 at or in connection with a sporting event, via the Internet,

1 electronic display devices, or through public address or broadcast  
2 systems. The exemption authorized by this paragraph shall be  
3 effective for all sales made on or after January 1, 2001;

4 6. Sales of any advertising, other than the advertising  
5 described by paragraph 5 of this section, via the Internet,  
6 electronic display devices, or through the electronic media,  
7 including radio, public address or broadcast systems, television  
8 (whether through closed circuit broadcasting systems or otherwise),  
9 and cable and satellite television, and the servicing of any  
10 advertising devices;

11 7. Eggs, feed, supplies, machinery and equipment purchased by  
12 persons regularly engaged in the business of raising worms, fish,  
13 any insect or any other form of terrestrial or aquatic animal life  
14 and used for the purpose of raising same for marketing. This  
15 exemption shall only be granted and extended to the purchaser when  
16 the items are to be used and in fact are used in the raising of  
17 animal life as set out above. Each purchaser shall certify, in  
18 writing, on the invoice or sales ticket retained by the vendor that  
19 the purchaser is regularly engaged in the business of raising such  
20 animal life and that the items purchased will be used only in such  
21 business. The vendor shall certify to the Oklahoma Tax Commission  
22 that the price of the items has been reduced to grant the full  
23 benefit of the exemption. Violation hereof by the purchaser or  
24 vendor shall be a misdemeanor;



1 8. Sale of natural or artificial gas and electricity, and  
2 associated delivery or transmission services, when sold exclusively  
3 for residential use. Provided, this exemption shall not apply to  
4 any sales tax levied by a city or town, or a county, or any other  
5 jurisdiction in this state;

6 9. In addition to the exemptions authorized by Section 1357.6  
7 of this title, sales of drugs sold pursuant to a prescription  
8 written for the treatment of human beings by a person licensed to  
9 prescribe the drugs, and sales of insulin and medical oxygen.  
10 Provided, this exemption shall not apply to over-the-counter drugs;

11 10. Transfers of title or possession of empty, partially  
12 filled, or filled returnable oil and chemical drums to any person  
13 who is not regularly engaged in the business of selling, reselling  
14 or otherwise transferring empty, partially filled, or filled  
15 returnable oil drums;

16 11. Sales of one-way utensils, paper napkins, paper cups,  
17 disposable hot containers and other one-way carry out materials to a  
18 vendor of meals or beverages;

19 12. Sales of food or food products for home consumption which  
20 are purchased in whole or in part with coupons issued pursuant to  
21 the federal food stamp program as authorized by Sections 2011  
22 through 2029 of Title 7 of the United States Code, as to that  
23 portion purchased with such coupons. The exemption provided for  
24 such sales shall be inapplicable to such sales upon the effective

1 date of any federal law that removes the requirement of the  
2 exemption as a condition for participation by the state in the  
3 federal food stamp program;

4 13. Sales of food or food products, or any equipment or  
5 supplies used in the preparation of the food or food products to or  
6 by an organization which:

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

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

20 14. a. Sales of tangible personal property or services to or  
21 by organizations which are exempt from taxation  
22 pursuant to the provisions of Section 501(c)(3) of the  
23 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),  
24 and:

1 (1) are primarily involved in the collection and  
2 distribution of food and other household products  
3 to other organizations that facilitate the  
4 distribution of such products to the needy and  
5 such distributee organizations are exempt from  
6 taxation pursuant to the provisions of Section  
7 501(c)(3) of the Internal Revenue Code, 26  
8 U.S.C., Section 501(c)(3), or

9 (2) facilitate the distribution of such products to  
10 the needy.

11 b. Sales made in the course of business for profit or  
12 savings, competing with other persons engaged in the  
13 same or similar business shall not be exempt under  
14 this paragraph;

15 15. Sales of tangible personal property or services to  
16 children's homes which are located on church-owned property and are  
17 operated by organizations exempt from taxation pursuant to the  
18 provisions of the Internal Revenue Code, 26 U.S.C., Section  
19 501(c)(3);

20 16. Sales of computers, data processing equipment, related  
21 peripherals and telephone, telegraph or telecommunications service  
22 and equipment for use in a qualified aircraft maintenance or  
23 manufacturing facility. For purposes of this paragraph, "qualified  
24 aircraft maintenance or manufacturing facility" means a new or

1 expanding facility primarily engaged in aircraft repair, building or  
2 rebuilding whether or not on a factory basis, whose total cost of  
3 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)  
4 and which employs at least two hundred fifty (250) new full-time-  
5 equivalent employees, as certified by the Oklahoma Employment  
6 Security Commission, upon completion of the facility. In order to  
7 qualify for the exemption provided for by this paragraph, the cost  
8 of the items purchased by the qualified aircraft maintenance or  
9 manufacturing facility shall equal or exceed the sum of Two Million  
10 Dollars (\$2,000,000.00);

11 17. Sales of tangible personal property consumed or  
12 incorporated in the construction or expansion of a qualified  
13 aircraft maintenance or manufacturing facility as defined in  
14 paragraph 16 of this section. For purposes of this paragraph, sales  
15 made to a contractor or subcontractor that has previously entered  
16 into a contractual relationship with a qualified aircraft  
17 maintenance or manufacturing facility for construction or expansion  
18 of such a facility shall be considered sales made to a qualified  
19 aircraft maintenance or manufacturing facility;

20 18. Sales of ~~any interstate~~ the following telecommunications  
21 services ~~which~~:

22 a. ~~entitle the subscriber to inward or outward calling~~  
23 ~~respectively between a station associated with an~~  
24 ~~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 Interstate and International "800~~  
5 ~~service". "800 service" means a "telecommunications~~  
6 ~~service" that allows a caller to dial a toll-free~~  
7 ~~number without incurring a charge for the call. The~~  
8 ~~service is typically marketed under the name "800",~~  
9 ~~"855", "866", "877", and "888" toll-free calling, and~~  
10 ~~any subsequent numbers designated by the Federal~~  
11 ~~Communications Commission, or~~

- 12 b. ~~entitle the subscriber to private communications~~  
13 ~~services which allow exclusive or priority use of a~~  
14 ~~communications channel or group of channels between~~  
15 ~~exchanges Interstate and International "900 service".~~  
16 ~~"900 service" means an inbound toll~~  
17 ~~"telecommunications service" purchased by a subscriber~~  
18 ~~that allows the subscriber's customers to call in to~~  
19 ~~the subscriber's prerecorded announcement or live~~  
20 ~~service. "900 service" does not include the charge~~  
21 ~~for: collection services provided by the seller of the~~  
22 ~~"telecommunications services" to the subscriber, or~~  
23 ~~service or product sold by the subscriber to the~~  
24 ~~subscriber's customer. The service is typically~~

1 marketed under the name "900" service, and any  
2 subsequent numbers designated by the Federal  
3 Communications Commission,

4 c. Interstate and International "private communications  
5 service". "Private communications service" means a  
6 "telecommunications service" that entitles the  
7 customer to exclusive or priority use of a  
8 communications channel or group of channels between or  
9 among termination points, regardless of the manner in  
10 which such channel or channels are connected, and  
11 includes switching capacity, extension lines,  
12 stations, and any other associated services that are  
13 provided in connection with the use of such channel or  
14 channels,

15 d. "Value-added nonvoice data service". "Value-added  
16 nonvoice data service" means a service that otherwise  
17 meets the definition of "telecommunications services"  
18 in which computer processing applications are used to  
19 act on the form, content, code, or protocol of the  
20 information or data primarily for a purpose other than  
21 transmission, conveyance or routing,

22 e. Interstate and International telecommunications  
23 service which is:  
24

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

3                    (2) used, allocated, or distributed by a company to  
4                    its affiliated group, and

5                    f. regulatory assessments and charges, including charges  
6                    to fund the Oklahoma Universal Service Fund, the  
7                    Oklahoma Lifeline Fund and the Oklahoma High Cost  
8                    Fund;

9                    19. 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                    20. 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;

1        21. Sales of machinery and equipment purchased and used by  
2 persons and establishments primarily engaged in computer services  
3 and data processing:

4            a. as defined under Industrial Group Numbers 7372 and  
5                7373 of the Standard Industrial Classification (SIC)  
6                Manual, latest version, which derive at least fifty  
7                percent (50%) of their annual gross revenues from the  
8                sale of a product or service to an out-of-state buyer  
9                or consumer, and

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

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

23        22. Sales of prosthetic devices to an individual for use by  
24 such individual. For purposes of this paragraph, "prosthetic



1 device" shall have the same meaning as provided in Section 1357.6 of  
2 this title, but shall not include corrective eye glasses, contact  
3 lenses or hearing aids;

4 23. Sales of tangible personal property or services to a motion  
5 picture or television production company to be used or consumed in  
6 connection with an eligible production. For purposes of this  
7 paragraph, "eligible production" means a documentary, special, music  
8 video, or a television commercial or television program that will  
9 serve as a pilot for or be a segment of an ongoing dramatic or  
10 situation comedy series filmed or taped for network or national or  
11 regional syndication or a feature-length motion picture intended for  
12 theatrical release or for network or national or regional  
13 syndication or broadcast. The provisions of this paragraph shall  
14 apply to sales occurring on or after July 1, 1996. In order to  
15 qualify for the exemption, the motion picture or television  
16 production company shall file any documentation and information  
17 required to be submitted pursuant to rules promulgated by the Tax  
18 Commission;

19 24. Sales of diesel fuel sold for consumption by commercial  
20 vessels, barges and other commercial watercraft;

21 25. Sales of tangible personal property or services to tax-  
22 exempt independent nonprofit biomedical research foundations that  
23 provide educational programs for Oklahoma science students and  
24

1 teachers and to tax-exempt independent nonprofit community blood  
2 banks headquartered in this state;

3 26. Effective May 6, 1992, sales of wireless telecommunications  
4 equipment to a vendor who subsequently transfers the equipment at no  
5 charge or for a discounted charge to a consumer as part of a  
6 promotional package or as an inducement to commence or continue a  
7 contract for wireless telecommunications services;

8 27. Effective January 1, 1991, leases of rail transportation  
9 cars to haul coal to coal-fired plants located in this state which  
10 generate electric power;

11 28. Beginning July 1, 2005, sales of aircraft engine repairs,  
12 modification, and replacement parts, sales of aircraft frame repairs  
13 and modification, aircraft interior modification, and paint, and  
14 sales of services employed in the repair, modification and  
15 replacement of parts of aircraft engines, aircraft frame and  
16 interior repair and modification, and paint;

17 29. Sales of materials and supplies to the owner or operator of  
18 a ship, motor vessel or barge that is used in interstate or  
19 international commerce if the materials and supplies:

- 20 a. are loaded on the ship, motor vessel or barge and used  
21 in the maintenance and operation of the ship, motor  
22 vessel or barge, or  
23 b. enter into and become component parts of the ship,  
24 motor vessel or barge;

1       30. Sales of tangible personal property made at estate sales at  
2 which such property is offered for sale on the premises of the  
3 former residence of the decedent by a person who is not required to  
4 be licensed pursuant to the Transient Merchant Licensing Act, or who  
5 is not otherwise required to obtain a sales tax permit for the sale  
6 of such property pursuant to the provisions of Section 1364 of this  
7 title; provided:

- 8           a. such sale or event may not be held for a period  
9                exceeding three (3) consecutive days,
- 10          b. the sale must be conducted within six (6) months of  
11                the date of death of the decedent, and
- 12          c. the exemption allowed by this paragraph shall not be  
13                allowed for property that was not part of the  
14                decedent's estate;

15       31. Beginning January 1, 2004, sales of electricity and  
16 associated delivery and transmission services, when sold exclusively  
17 for use by an oil and gas operator for reservoir dewatering projects  
18 and associated operations commencing on or after July 1, 2003, in  
19 which the initial water-to-oil ratio is greater than or equal to  
20 five-to-one water-to-oil, and such oil and gas development projects  
21 have been classified by the Corporation Commission as a reservoir  
22 dewatering unit;

23       32. Sales of prewritten computer software that is delivered  
24 electronically. For purposes of this paragraph, "delivered

1 electronically" means delivered to the purchaser by means other than  
2 tangible storage media;

3 33. Sales of modular dwelling units when built at a production  
4 facility and moved in whole or in parts, to be assembled on-site,  
5 and permanently affixed to the real property and used for  
6 residential or commercial purposes. The exemption provided by this  
7 paragraph shall equal forty-five percent (45%) of the total sales  
8 price of the modular dwelling unit. For purposes of this paragraph,  
9 "modular dwelling unit" means a structure that is not subject to the  
10 motor vehicle excise tax imposed pursuant to Section 2103 of this  
11 title;

12 34. Sales of tangible personal property or services to persons  
13 who are residents of Oklahoma and have been honorably discharged  
14 from active service in any branch of the Armed Forces of the United  
15 States or Oklahoma National Guard and who have been certified by the  
16 United States Department of Veterans Affairs or its successor to be  
17 in receipt of disability compensation at the one-hundred-percent  
18 rate and the disability shall be permanent and have been sustained  
19 through military action or accident or resulting from disease  
20 contracted while in such active service; provided, sales for the  
21 benefit of the person to a spouse of the eligible person or to a  
22 member of the household in which the eligible person resides and who  
23 is authorized to make purchases on the person's behalf, when such  
24 eligible person is not present at the sale, shall also be exempt for

1 purposes of this paragraph. Sales qualifying for the exemption  
2 authorized by this paragraph shall not exceed Twenty-five Thousand  
3 Dollars (\$25,000.00) per year per individual. Upon request of the  
4 Tax Commission, a person asserting or claiming the exemption  
5 authorized by this paragraph shall provide a statement, executed  
6 under oath, that the total sales amounts for which the exemption is  
7 applicable have not exceeded Twenty-five Thousand Dollars  
8 (\$25,000.00) per year. If the amount of such exempt sales exceeds  
9 such amount, the sales tax in excess of the authorized amount shall  
10 be treated as a direct sales tax liability and may be recovered by  
11 the Tax Commission in the same manner provided by law for other  
12 taxes, including penalty and interest;

13 35. Sales of electricity to the operator, specifically  
14 designated by the Oklahoma Corporation Commission, of a spacing unit  
15 or lease from which oil is produced or attempted to be produced  
16 using enhanced recovery methods, including, but not limited to,  
17 increased pressure in a producing formation through the use of water  
18 or saltwater if the electrical usage is associated with and  
19 necessary for the operation of equipment required to inject or  
20 circulate fluids in a producing formation for the purpose of forcing  
21 oil or petroleum into a wellbore for eventual recovery and  
22 production from the wellhead. In order to be eligible for the sales  
23 tax exemption authorized by this paragraph, the oil well production  
24 shall not exceed ten (10) barrels per day prior to the use of

1 enhanced recovery methods and the total content of oil recovered  
2 prior to the use of enhanced recovery methods shall not exceed one  
3 percent (1%) by volume. The exemption authorized by this paragraph  
4 shall be applicable only to the state sales tax rate and shall not  
5 be applicable to any county or municipal sales tax rate;

6 36. Sales of intrastate charter and tour bus transportation.  
7 As used in this paragraph, "intrastate charter and tour bus  
8 transportation" means the transportation of persons from one  
9 location in this state to another location in this state in a motor  
10 vehicle which has been constructed in such a manner that it may  
11 lawfully carry more than eighteen persons, and which is ordinarily  
12 used or rented to carry persons for compensation. Provided, this  
13 exemption shall not apply to regularly scheduled bus transportation  
14 for the general public;

15 37. Sales of vitamins, minerals and dietary supplements by a  
16 licensed chiropractor to a person who is the patient of such  
17 chiropractor at the physical location where the chiropractor  
18 provides chiropractic care or services to such patient. The  
19 provisions of this paragraph shall not be applicable to any drug,  
20 medicine or substance for which a prescription by a licensed  
21 physician is required;

22 38. Sales of goods, wares, merchandise, tangible personal  
23 property, machinery and equipment to a web search portal located in  
24 this state which derives at least eighty percent (80%) of its annual

1 gross revenue from the sale of a product or service to an out-of-  
2 state buyer or consumer. For purposes of this paragraph, "web  
3 search portal" means an establishment classified under NAICS code  
4 518112 which operates web sites that use a search engine to generate  
5 and maintain extensive databases of Internet addresses and content  
6 in an easily searchable format; and

7 39. Sales of tangible personal property consumed or  
8 incorporated in the construction or expansion of a facility for a  
9 corporation organized under Section 437 et seq. of Title 18 of the  
10 Oklahoma Statutes as a rural electric cooperative. For purposes of  
11 this paragraph, sales made to a contractor or subcontractor that has  
12 previously entered into a contractual relationship with a rural  
13 electric cooperative for construction or expansion of a facility  
14 shall be considered sales made to a rural electric cooperative.

15 SECTION 10. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 1354.35 of Title 68, unless  
17 there is created a duplication in numbering, reads as follows:

18 The total gross receipts or sales price of a "bundled  
19 transaction", as the term is defined in Section 1352 of Title 68 of  
20 the Oklahoma Statutes, shall be subject to the tax levied by Section  
21 1350 et seq. of Title 68 of the Oklahoma Statutes, without any  
22 deduction for the value of the nontaxable products or service.

23

24

1 SECTION 11. AMENDATORY 68 O.S. 2001, Section 1361, as  
2 amended by Section 39, Chapter 460, O.S.L. 2002 (68 O.S. Supp. 2006,  
3 Section 1361), is amended to read as follows:

4 Section 1361. A. 1. Except as otherwise provided by  
5 subsection C of this section, the tax levied by Section 1350 et seq.  
6 of this title shall be paid by the consumer or user to the vendor as  
7 trustee for and on account of this state. Except as otherwise  
8 provided by subsection C of this section, each and every vendor in  
9 this state shall collect from the consumer or user the full amount  
10 of the tax levied by Section 1350 et seq. of this title, or an  
11 amount equal as nearly as possible or practicable to the average  
12 equivalent thereof. Every person required to collect any tax  
13 imposed by Section 1350 et seq. of this title, and in the case of a  
14 corporation, each principal officer thereof, shall be personally  
15 liable for the tax. In the case of a limited liability company, all  
16 managers and members under a duty to collect and remit taxes for the  
17 limited liability company shall be liable for the tax. If no  
18 managers or members have been specified to be under the duty of  
19 withholding and remitting taxes, then all managers and members shall  
20 be liable for the tax.

21 2. However, ~~if the Oklahoma Tax Commission finds that a~~  
22 ~~consumer or user improperly presented a sales tax permit or other~~  
23 ~~certification or used the property purchased exempt from tax in a~~  
24 ~~manner that would not have qualified for exemption, shall relieve~~



1 sellers or certified service providers that follow the requirements  
2 of this section from the tax otherwise applicable if it is  
3 determined that the purchaser improperly claimed an exemption and to  
4 hold the purchaser liable for the nonpayment of tax. This relief  
5 from liability does not apply to:

6 a. a seller or certified service provider (CSP) who  
7 fraudulently fails to collect tax,

8 b. a seller who solicits purchasers to participate in the  
9 unlawful claim of an exemption, or

10 c. a seller who accepts an exemption certificate when the  
11 purchaser claims an entity-based exemption when:

12 (1) the subject of the transaction sought to be  
13 covered by the exemption certificate is actually  
14 received by the purchaser at a location operated  
15 by the seller, and

16 (2) the Tax Commission provides an exemption  
17 certificate that clearly and affirmatively  
18 indicates that the claimed exemption is not  
19 available in this state.

20 3. The Tax Commission shall relieve a seller or CSP of the tax  
21 otherwise applicable if the seller obtains a fully completed  
22 exemption certificate or captures the relevant data elements  
23 required by the Tax Commission within ninety (90) days subsequent to  
24 the date of sale.

1 If the seller or CSP has not obtained an exemption certificate  
2 or all relevant data elements as provided by the Tax Commission, the  
3 seller may, within one hundred twenty (120) days subsequent to a  
4 request for substantiation, either prove that the transaction was  
5 not subject to tax by other means or obtain a fully completed  
6 exemption certificate from the purchaser, taken in good faith.

7 The Tax Commission shall relieve a seller or CSP of the tax  
8 otherwise applicable if it obtains a blanket exemption certificate  
9 for a purchaser with which the seller has a recurring business  
10 relationship. The Tax Commission shall not request from the seller  
11 or CSP renewal of blanket certificates or updates of exemption  
12 certificate information or data elements when there is a recurring  
13 business relationship between the buyer and seller. For purposes of  
14 this section, a recurring business relationship exists when a period  
15 of no more than twelve (12) months elapses between sales  
16 transactions.

17 4. Upon the granting of relief from liability to the vendor as  
18 provided in this section, the purchaser shall be liable for the  
19 remittance of the tax, interest and penalty due thereon and the Tax  
20 Commission shall pursue collection thereof from the purchaser in any  
21 manner in which sales tax may be collected from a vendor. ~~Upon such~~  
22 ~~determination, the vendor shall be relieved of any liability for any~~  
23 ~~sales tax imposed by the provisions of this section upon such vendor~~  
24 ~~with respect to such sale.~~

1 B. Except as otherwise provided by subsection C of this  
2 section, vendors shall add the tax imposed by Section 1350 et seq.  
3 of this title, or the average equivalent thereof, to the sales  
4 price, charge, consideration, gross receipts or gross proceeds of  
5 the sale of tangible personal property or services taxed by Section  
6 1350 et seq. of this title, and when added such tax shall constitute  
7 a part of such price or charge, shall be a debt from the consumer or  
8 user to vendor until paid, and shall be recoverable at law in the  
9 same manner as other debts.

10 C. A person who has obtained a direct payment permit as  
11 provided in Section 1364.1 of this title shall accrue all taxes  
12 imposed pursuant to ~~Sections~~ Section 1354 or 1402 of this title on  
13 all purchases made by the person pursuant to the permit at the time  
14 the purchased items are first used or consumed in a taxable manner  
15 and pay the accrued tax directly to the Oklahoma Tax Commission on  
16 reports as required by Section 1365 of this title.

17 D. Except as otherwise provided by subsection C of this  
18 section, a vendor who willfully or intentionally fails, neglects or  
19 refuses to collect the full amount of the tax levied by Section 1350  
20 et seq. of this title, or willfully or intentionally fails, neglects  
21 or refuses to comply with the provisions of Section 1350 et seq. of  
22 this title, or remits or rebates to a consumer or user, either  
23 directly or indirectly, and by whatsoever means, all or any part of  
24 the tax levied by Section 1350 et seq. of this title, or makes in

1 any form of advertising, verbally or otherwise, any statement which  
2 implies that the vendor is absorbing the tax, or paying the tax for  
3 the consumer or user by an adjustment of prices or at a price  
4 including the tax, or in any manner whatsoever, shall be deemed  
5 guilty of a misdemeanor, and upon conviction thereof shall be fined  
6 not more than Five Hundred Dollars (\$500.00), and upon conviction  
7 for a second or other subsequent offense shall be fined not more  
8 than One Thousand Dollars (\$1,000.00), or incarcerated for not more  
9 than sixty (60) days, or both. Provided, sales by vending machines  
10 may be made at a stated price which includes state and any municipal  
11 sales tax.

12 E. A consumer or user who willfully or intentionally fails,  
13 neglects or refuses to pay the full amount of tax levied by Section  
14 1350 et seq. of this title or willfully or intentionally uses a  
15 sales tax permit or direct payment permit which is invalid, expired,  
16 revoked, canceled or otherwise limited to a specific line of  
17 business or willfully or intentionally issues a resale certificate  
18 to a vendor to evade the tax levied by Section 1350 et seq. of this  
19 title shall be subject to a penalty in the amount of Five Hundred  
20 Dollars (\$500.00) per reporting period upon determination thereof,  
21 which shall be apportioned as provided for the apportionment of the  
22 tax.

23 F. Any sum or sums collected or accrued or required to be  
24 collected or accrued in Section 1350 et seq. of this title shall be

1 deemed to be held in trust for the State of Oklahoma, and, as  
2 trustee, the collecting vendor or holder of a direct payment permit  
3 as provided for in Section 1364.1 of this title shall have a  
4 fiduciary duty to the State of Oklahoma in regards to such sums and  
5 shall be subject to the trust laws of this state.

6 SECTION 12. AMENDATORY 68 O.S. 2001, Section 2368, as  
7 amended by Section 12, Chapter 458, O.S.L. 2002 (68 O.S. Supp. 2006,  
8 Section 2368), is amended to read as follows:

9 Section 2368. A. The following individuals shall each make a  
10 return stating specifically the taxable income and, where necessary,  
11 the adjusted gross income and the adjustments provided in Section  
12 2351 et seq. of this title to arrive at Oklahoma taxable income and,  
13 where necessary, Oklahoma adjusted gross income:

14 1. Every resident individual having a gross income, or gross  
15 receipts, for the taxable year in an amount sufficient to require  
16 the filing of a federal income tax return, if single, or if married  
17 and not living with husband or wife; and

18 2. Every resident individual having a gross income, or gross  
19 receipts, for the taxable year in an amount sufficient to require  
20 the filing of a federal income tax return, if married and living  
21 with husband or wife.

22 Provided however, every resident individual who does not meet  
23 the requirements sufficient to file a federal return, but has  
24 Oklahoma withholding, may file a claim for refund for all Oklahoma

1 income taxes withheld and shall not be subject to the provisions of  
2 Section 2358 of this title; and

3 3. Every nonresident individual having Oklahoma gross income  
4 for the taxable year of One Thousand Dollars (\$1,000.00) or more.

5 B. If a husband and wife, living together, have an aggregate  
6 gross income or gross receipts, for such year, in an amount  
7 sufficient to require the filing of a federal income tax return:

8 1. Each shall make a return; or

9 2. The income of each shall be included in a single joint  
10 return, in which case the tax shall be computed on the aggregate net  
11 income.

12 C. If an individual is unable to make his or her own return,  
13 the return shall be made by a duly authorized agent or by the  
14 guardian or other person charged with the care of the person or  
15 property of such individual.

16 D. Every partnership shall make a return for each taxable year,  
17 stating the taxable income and the adjustments to arrive at Oklahoma  
18 income. The Oklahoma return shall include a schedule showing the  
19 distribution to partners of the various items of income as per the  
20 federal return and the adjustments required by Section 2351 et seq.  
21 of this title for Oklahoma. The return shall be signed by one of  
22 the partners. If a partnership has elected pursuant to the  
23 provisions of Section 761 of the Internal Revenue Code, or any  
24 provision comparable thereto, not to file partnership income tax

1 returns, that partnership shall not be required to file an Oklahoma  
2 partnership return. The Oklahoma Tax Commission shall promulgate  
3 rules for purposes of partnership returns when multiple partners  
4 would otherwise be required to file a nonresident return. The rules  
5 shall provide a specific number of partners in a partnership above  
6 which a composite return may be filed. The return shall be in such  
7 form as prescribed by the Tax Commission.

8 E. Every corporation shall make a return for each taxable year  
9 stating the taxable income and the adjustments provided in Section  
10 2351 et seq. of this title to arrive at Oklahoma taxable income. In  
11 addition, corporations electing subchapter S treatment pursuant to  
12 the Internal Revenue Code and Section 2351 et seq. of this title,  
13 shall include a schedule showing the distribution to shareholders of  
14 the various items of income as per the federal return and the  
15 adjustments for Oklahoma. All corporation returns shall be signed  
16 by the president, vice president, or other principal officer and the  
17 corporate seal impressed. In cases where receivers, trustees in  
18 bankruptcy, or assignees are operating the property or business of  
19 corporations, such receivers, trustees, or assignees shall make a  
20 return for such corporations in the same manner and form as  
21 corporations are required to make returns. Any tax due on the basis  
22 of such returns made by receivers, trustees, or assignees shall be  
23 collected in the same manner as if collected from the corporations  
24 of whose business or property they have custody and control.

1 F. Every resident estate and trust shall make a return for each  
2 taxable year stating the taxable income and the adjustments to  
3 arrive at Oklahoma taxable income. Every nonresident estate or  
4 trust having Oklahoma taxable income as provided in Section 2362 of  
5 this title, shall make a return for each taxable year stating the  
6 taxable income and the adjustments to arrive at Oklahoma taxable  
7 income. The Oklahoma return shall include a schedule showing the  
8 distribution to beneficiaries, if any, of the various items of  
9 income as per the federal return and the adjustments for Oklahoma.  
10 The fiduciary shall be responsible for making the return and the  
11 return shall be signed by the fiduciary, or by one fiduciary if  
12 there is more than one. The Tax Commission shall promulgate rules  
13 for purposes of estate and trust returns when multiple returns would  
14 otherwise be required of nonresident beneficiaries of estates or  
15 trusts. The return shall be in such form as prescribed by the Tax  
16 Commission.

17 G. 1. All returns, except corporate returns and individual  
18 returns filed electronically, made on the basis of the calendar year  
19 shall be made on or before the fifteenth day of April following the  
20 close of the taxable year. Provided, if the Internal Revenue Code  
21 provides for a later due date for returns of individuals ~~which are~~  
22 ~~filed electronically~~, the Tax Commission shall accept returns  
23 ~~electronically~~ filed by individuals by such date and such returns  
24 shall be considered as timely filed.



1        2. All individual returns filed electronically, made on the  
2 basis of the calendar year, shall be due on or before the twentieth  
3 day of April following the close of the taxable year.

4        3. Calendar year corporation returns shall be due on or before  
5 the fifteenth day of March following the close of the taxable year.

6        ~~3.~~ 4. All returns, except corporation returns, made on the  
7 basis of a fiscal year shall be made on or before the fifteenth day  
8 of the fourth month following the close of the fiscal year.

9        ~~4.~~ 5. Fiscal year corporation returns shall be made on or  
10 before the fifteenth day of the third month following the close of  
11 the fiscal year.

12        ~~5.~~ 6. In the case of complete liquidation, or the dissolution,  
13 of a corporation the return of such corporation shall be made on or  
14 before the fifteenth day of the fourth month following the month in  
15 which the corporation is completely liquidated. A corporation which  
16 has terminated its business activities, satisfied or made provision  
17 for all of its liabilities or has distributed all of its assets,  
18 even though not formally dissolved under state law, is deemed to  
19 have completely liquidated for purposes of this subsection.

20        H. Returns by individuals, fiduciaries, partnerships,  
21 corporations or any other person or entity required, or that may  
22 hereafter be required to file a return, shall contain or be verified  
23 by a written declaration that such return is made under the  
24 penalties of perjury and the fact that any individual's name is

1 signed to a filed return shall be prima facie evidence for all  
2 purposes that the return was actually signed by that individual.  
3 Provided, the Tax Commission shall promulgate rules to provide  
4 procedures for verification of signatures on returns which are filed  
5 electronically.

6 I. Every return required by Section 2351 et seq. of this title  
7 shall be in such form as the Tax Commission may, from time to time,  
8 prescribe. Each return shall be filed with the Tax Commission and  
9 forms shall be furnished by the Tax Commission on application  
10 therefor, but failure to secure or receive the form of a return  
11 prescribed shall not relieve any taxpayer from the obligation of  
12 making and filing any return herein required.

13 SECTION 13. AMENDATORY 68 O.S. 2001, Section 2375, as  
14 amended by Section 13, Chapter 458, O.S.L. 2002 (68 O.S. Supp. 2006,  
15 Section 2375), is amended to read as follows:

16 Section 2375. A. At the time of transmitting the return  
17 required hereunder to the Oklahoma Tax Commission, the taxpayer  
18 shall remit therewith to the Tax Commission the amount of tax due  
19 under the applicable provisions of Section 2351 et seq. of this  
20 title. Failure to pay such tax on or before the date the return is  
21 due shall cause the tax to become delinquent. If the return is  
22 filed electronically, the amount of the tax due pursuant to the  
23 provisions of this article shall be due on or before the ~~fifteenth~~  
24 twentieth day of April following the close of the taxable year

1 regardless of when the return is electronically filed. The tax  
2 shall be deemed delinquent if unpaid after the ~~fifteenth~~ twentieth  
3 day of April if the return is electronically filed. Provided, if  
4 the Internal Revenue Code provides for a later due date for returns  
5 of individuals ~~which are filed electronically~~, the Tax Commission  
6 shall accept payments made with returns ~~electronically~~ filed by  
7 individuals by such date and such payments shall be considered as  
8 timely paid.

9 B. If any tax due under Section 2351 et seq. of this title,  
10 except a deficiency determined under Section 221 of this title, is  
11 not paid on or before the date such tax becomes delinquent, a  
12 penalty of five percent (5%) of the total amount of the tax due  
13 shall be added thereto, collected and paid. However, the Tax  
14 Commission shall not collect the penalty assessed if the taxpayer  
15 remits the tax within thirty (30) days of the mailing of a proposed  
16 assessment or voluntarily pays the tax upon the filing of an amended  
17 return.

18 C. If any part of deficiency, arbitrary or jeopardy assessment  
19 made by the Tax Commission is based upon or occasioned by the  
20 refusal of any taxpayer to file with the Tax Commission any return  
21 as required by Section 2351 et seq. of this title, within ten (10)  
22 days after a written demand for such report or return has been  
23 served upon any taxpayer by the Tax Commission by registered letter  
24 with a return receipt attached, the Tax Commission may assess and

1 collect, as a penalty, twenty-five percent (25%) of the amount of  
2 the assessment. In the exercise of the authority granted by  
3 subsection C of Section 223 and Section 224 of this title, the Tax  
4 Commission shall assess the tax as an estimated tax on the basis of  
5 its own determination of the Oklahoma taxable income of the  
6 taxpayer, to be adjusted if and when Oklahoma taxable income is  
7 ascertained under the provisions of Section 2351 et seq. of this  
8 title.

9 D. If any part of any deficiency was due to negligence or  
10 intentional disregard, without the intent to defraud, then ten  
11 percent (10%) of the total amount of the deficiency, in addition to  
12 such deficiency, including interest as authorized by law, shall be  
13 added, collected and paid.

14 E. If any part of any deficiency was due to fraud with intent  
15 to evade tax, then fifty percent (50%) of the total amount of the  
16 deficiency, in addition to such deficiency, including interest as  
17 herein provided, shall be added, collected and paid.

18 F. The provisions in this section for penalties shall supersede  
19 all other provisions for penalties on income taxes. The provisions  
20 in this section for penalties shall supersede the provisions in the  
21 Uniform Tax Procedure Code, Section 201 et seq. of this title, only  
22 to the extent of conflict between such provisions and the penalty  
23 provisions in this section.

24

1 G. All taxes, penalties and interest levied under Section 2351  
2 et seq. of this title must be paid to the Tax Commission at Oklahoma  
3 City, in the form or remittance required by and payable to it.

4 H. 1. The period of time prescribed in Section 223 of this  
5 title, in which the procedures for the assessment of income tax may  
6 be commenced by the Tax Commission, shall be tolled and extended  
7 until the amount of taxable income for any year of a taxpayer under  
8 the Internal Revenue Code has been finally determined under  
9 applicable federal law and for the additional period of time  
10 hereinafter provided in this subsection.

11 2. If, in such final determination, the amount of taxable  
12 income for any year of a taxpayer under the Internal Revenue Code is  
13 changed or corrected from the amounts included in the federal return  
14 of the taxpayer for such year and such change or correction affects  
15 the Oklahoma taxable income of the taxpayer for such year, the  
16 taxpayer, within one (1) year after such final determination of the  
17 corrected taxable income, shall file an amended return under Section  
18 2351 et seq. of this title reporting the corrected Oklahoma taxable  
19 income, and the Tax Commission shall make assessment or refund  
20 within two (2) years from the date the return required by this  
21 paragraph is filed and not thereafter, unless a waiver is agreed to  
22 and signed by the Tax Commission and the taxpayer.

23 3. In the event of failure by a taxpayer to comply with the  
24 provisions of paragraph 2 of this subsection, the statute of

1 limitations shall be tolled for a period of time equal to the time  
2 between the date the amended return under this subsection is  
3 required until such return is actually furnished.

4 4. In administering the provisions of this subsection, the Tax  
5 Commission shall have the authority to audit each and every item of  
6 income, deduction, credit or any other matter related to the return  
7 where such items or matters relate to allocation or apportionment  
8 between the State of Oklahoma and some other state or the federal  
9 government even if such items or matters were not affected by  
10 revisions made in such final determination. Where such items or  
11 matters do not relate to allocation or apportionment between the  
12 State of Oklahoma and some other state or the federal government,  
13 the Tax Commission shall be bound by the revisions made in such  
14 final determination.

15 5. The provisions of this subsection shall be effective on  
16 September 1, 1993, and except in the case of tax years which are the  
17 subject of closing, settlement or resolution agreements entered into  
18 by taxpayers and the Tax Commission, keep open all tax years  
19 beginning after June 30, 1988, and all tax years beginning on or  
20 before June 30, 1988, for which extensions of the statute of  
21 limitations have been executed by the taxpayer, but only to the  
22 extent such extensions remain open on the date of enactment hereof.

23 SECTION 14. AMENDATORY 68 O.S. 2001, Section 3007, is  
24 amended to read as follows:

1 Section 3007. As to each budget, original or supplemental, the  
2 county excise board shall proceed in the following order:

3 (1) Examine the financial statements contained therein for the  
4 purpose of ascertaining the true fiscal condition of each of the  
5 several fund accounts of the municipality as of the close of the  
6 previous fiscal year, or as of the date reported for supplemental  
7 purposes; and it may require such additional statistics or financial  
8 statements from the municipal officers as will enable it to make  
9 such determination, and correct such statements if need be.

10 (2) Examine specifically the several items and amounts stated in  
11 the estimate of needs, and if any be contained therein not  
12 authorized by law or that may be contrary to law, or in excess of  
13 needs, as determined by the excise board, said item shall be ordered  
14 stricken and disregarded. If the amount as to any lawful item  
15 exceeds the amount authorized by law, it shall be ordered reduced to  
16 that extent; otherwise, the excise board joins in responsibility  
17 therefor.

18 (3) Examine the content of the estimate of needs, and if the  
19 governing board has failed to make provision for mandatory  
20 governmental functions, whether such mandate be of the Constitution  
21 or of the Legislature, or if the provision submitted by estimate be  
22 deemed inadequate, the county excise board shall, whether on request  
23 in writing by the officer charged with a mandatory duty or of its  
24 own volition, prepare an estimate by items and amounts, either by

1 the items submitted or by additional items, and cause publication  
2 thereof in some newspaper of general circulation in the county, in  
3 one issue if published in a weekly paper, and in two consecutive  
4 issues if published in a daily paper, and thereafter attach such  
5 estimate, together with affidavit and proof of publication, to that  
6 submitted by the governing board, for further consideration.  
7 However, nothing herein contained shall prevent any governing board,  
8 upon a timely finding that its estimate of needs as first filed is  
9 inadequate, from filing a written request with the excise board to  
10 increase such estimate as to any item or items, whether mandatory or  
11 not; whereupon the excise board shall cause publication thereof, as  
12 aforesaid, at the expense of the municipality.

13 (4) Compute the total means available to each fund, except the  
14 sinking fund, by the converse of the formula provided by law for  
15 computing the tax levy, as provided in Section ~~2497~~ 3017 of this  
16 Code.

17 (5) If the total of the several items of estimated needs for  
18 lawful purposes as heretofore ascertained is within the income and  
19 revenue lawfully available, the excise board shall approve the same  
20 by items and compute the levy required. If said total exceeds the  
21 means provided to finance the same, the excise board will proceed to  
22 revise the same by reducing items, in whole or in part, in the  
23 following order: (a) first apply such revision by reduction of  
24 items for governmental functions merely authorized but not required;



1 (b) if further reduction be necessary, second, by reduction of items  
2 required by the Legislature but not within Constitutional  
3 requirement; (c) if still further reduction be necessary and no  
4 other items remain, third, by reduction of items for Constitutional  
5 governmental functions until the total thereof be within the income  
6 and revenue provided. At the option of the excise board, the  
7 governing board may collaborate in such reductions; but the final  
8 order shall be that of the county excise board.

9 SECTION 15. AMENDATORY 68 O.S. 2001, Section 5013, is  
10 amended to read as follows:

11 Section 5013. A. All claims for relief authorized by the Sales  
12 Tax Relief Act shall be received by and in the possession of the  
13 Oklahoma Tax Commission on or before June 30 of each year for sales  
14 taxes paid for the preceding calendar year. Claimants shall be  
15 allowed a direct credit against income taxes owed by such claimant  
16 to the State of Oklahoma for the amount of such claim, in which case  
17 such claim shall be filed with the ~~claimant's~~ income tax return of  
18 the claimant on or before April 15 following the close of the  
19 taxable year, unless the claimant has been granted an extension of  
20 time in order to file an income tax return, in which case the claim  
21 may be filed with the return filed pursuant to the extension. In  
22 all cases where claimants have no income tax liability or where the  
23 sales tax relief authorized by this section exceeds the ~~claimant's~~  
24 income tax liability of the claimant, such claim, or any balance

1 thereof, shall be paid out in the same manner and out of the same  
2 fund as refunds of income taxes are paid and so much of said fund as  
3 is necessary for such purposes is hereby appropriated.

4 B. 1. Sales tax relief for families receiving assistance  
5 pursuant to the federal program of Temporary Aid to Needy Families  
6 shall be transferred from the Oklahoma Tax Commission to the  
7 Department of Human Services as provided in this subsection for  
8 purposes of obtaining federal matching funds to increase the  
9 payments to recipients of Temporary Aid to Needy Families. The  
10 determination of the amount to be transferred by the Oklahoma Tax  
11 Commission shall be based on a statistical report prepared monthly  
12 by the Department of Human Services which identifies the number of  
13 recipients of Temporary Aid to Needy Families. The amount  
14 transferred shall equal one-twelfth (1/12) of the annual sales tax  
15 relief for all persons receiving assistance during the month of the  
16 report. The amount transferred shall be paid out of the Income Tax  
17 Withholding Refund Account of the Tax Commission.

18 2. Monies received from the Tax Commission shall be deposited  
19 in the Human Services Fund. Recipients of assistance pursuant to  
20 the federal program of Temporary Aid to Needy Families shall receive  
21 sales tax relief as a part of their monthly Temporary Aid to Needy  
22 Families.

23 C. All duties of the Tax Commission to make sales tax relief  
24 payments to recipients since January 1, 1992, of state supplemental

1 payments or medical assistance as patients in long-term care  
2 facilities who have received such supplemental payments or medical  
3 assistance throughout the calendar year are hereby transferred to  
4 the Department of Human Services. Receipt of such supplemental  
5 payments or medical assistance shall constitute automatic  
6 eligibility for sales tax relief under the provisions of the Sales  
7 Tax Relief Act. Sales tax relief payments to persons identified in  
8 this subsection shall be made as soon as practicable after the  
9 commencement of each calendar year. The Department of Human  
10 Services shall notify the Tax Commission of the total amount of the  
11 sales tax relief payments made in order that such sum may be  
12 transferred from the Income Tax Withholding Refund Account of the  
13 Tax Commission to the Department.

14 D. For those individuals receiving assistance or state  
15 supplemental payments as provided in subsections B and C of this  
16 section, the Department of Human Services shall make the sales tax  
17 relief payment without the requirement of an additional application  
18 form.

19 E. To avoid duplication of payment, at the end of each calendar  
20 year, the Department of Human Services shall provide the Tax  
21 Commission with a list of the individuals who received sales tax  
22 relief from the Department. Persons receiving sales tax relief  
23 payments directly from the Department of Human Services shall not be  
24

1 entitled to additional sales tax relief payments from the Tax  
2 Commission.

3 F. The Department of Human Services and the Tax Commission  
4 shall work jointly to notify individuals receiving assistance or  
5 state supplemental payments from the Department of Human Services of  
6 their possible entitlement and right to apply for sales tax relief  
7 as provided for in the Sales Tax Relief Act.

8 SECTION 16. AMENDATORY Section 2, Chapter 31, O.S.L.  
9 2002 (68 O.S. Supp. 2006, Section 6101), is amended to read as  
10 follows:

11 Section 6101. A. All parties required to pay an assessment  
12 pursuant to Section 173 of Title 85 of the Oklahoma Statutes shall  
13 be entitled to receive a rebate equal to two-thirds (2/3) of the  
14 amount of the assessment actually paid, subject to application to  
15 and approval of the same by the Oklahoma Tax Commission. This  
16 rebate shall only apply to assessments due after January 15, 2002.  
17 This rebate shall not be considered in determining tax liability of  
18 an insurer pursuant to Section 629 of Title 36 of the Oklahoma  
19 Statutes.

20 B. Beginning January 1, 2003, the Oklahoma Tax Commission shall  
21 accept applications for rebates from all eligible parties for  
22 assessments paid pertaining to the previous calendar year. ~~Failure~~  
23 If any party fails to apply for a rebate on or before May 31 of each  
24 year, the Tax Commission shall result in forfeiture reduce the

1 amount of the rebate in the application by ten percent (10%). No  
2 rebates shall be paid until after July 1 of each year.

3 C. The Oklahoma Tax Commission may promulgate rules as  
4 necessary to effectuate the provisions of this act.

5 SECTION 17. REPEALER Section 21, Chapter 413, O.S.L.  
6 2003 (68 O.S. Supp. 2006, Section 1354.28), is hereby repealed.

7 SECTION 18. This act shall become effective November 1, 2007.

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