

1 ENGROSSED SENATE
2 BILL NO. 1149

By: Barrington of the Senate
and
Armes of the House

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7 [revenue and taxation - modifying certain exemption
8 - codification -
9 effective date]

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

12 SECTION 1. AMENDATORY Section 3, Chapter 136, O.S.L.
13 2007 (68 O.S. Supp. 2007, Section 1357.10), is amended to read as
14 follows:

15 Section 1357.10 A. The sale of an article of clothing or
16 footwear designed to be worn on or about the human body and, if the
17 State Board of Equalization makes an affirmative determination
18 pursuant to the provisions of Section 4 of this act, the sale of any
19 school supply, school art supply or school instructional material
20 shall be exempt from the tax imposed by Section 1354 of ~~Title 68 of~~
21 ~~the Oklahoma Statutes~~ this title if:

22 1. The sales price of the article, supply or material is less
23 than One Hundred Dollars (\$100.00); and

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1 2. The sale takes place during a period beginning at 12:01 a.m.
2 on the first Friday in August and ending at 12 midnight on the
3 following Sunday, covering a period of three (3) days.

4 B. Subsection A of this section shall not apply to:

5 1. Any special clothing or footwear that is primarily designed
6 for athletic activity or protective use and that is not normally
7 worn except when used for athletic activity or protective use for
8 which it is designed;

9 2. Accessories, including jewelry, handbags, luggage,
10 umbrellas, wallets, watches, and similar items carried on or about
11 the human body, without regard to whether worn on the body in a
12 manner characteristic of clothing; ~~and~~

13 3. The rental of clothing or footwear; and

14 4. Computers or school computer supplies as defined in the
15 Streamlined Sales and Use Tax Agreement.

16 C. For purposes of this section;

17 1. "School supply" means an item commonly used by a student in
18 a course of study;

19 2. "School art supply" means an item commonly used by a student
20 in a course of study for artwork; and

21 3. "School instructional material" means written material
22 commonly used by a student in a course of study as a reference and
23 to learn the subject being taught.

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1 D. The Oklahoma Tax Commission shall promulgate any necessary
2 rules to implement the provisions of this section. Any rules
3 pertaining to the exemption for school supplies, school art supplies
4 and school instructional materials shall be consistent with the
5 Streamlined Sales and Use Tax Agreement.

6 SECTION 2. AMENDATORY Section 5, Chapter 136, O.S.L.
7 2007 (68 O.S. Supp. 2007, Section 1377), is amended to read as
8 follows:

9 Section 1377. The sales tax imposed by any county or authority
10 authorized by law to levy a sales tax shall not be imposed upon the
11 sale of an article of clothing or footwear designed to be worn on or
12 about the human body in accordance with and to the extent set forth
13 in ~~Section 3 of this act~~ 1357.10 of this title. If the State Board
14 of Equalization makes an affirmative determination pursuant to the
15 provisions of Section 4 of this act, the sales tax imposed by any
16 county or authority authorized by law to levy a sales tax shall not
17 be imposed upon the sale of any school supply, school art supply or
18 school instructional material in accordance with and to the extent
19 set forth in Section 1357.10 of this title.

20 SECTION 3. AMENDATORY 68 O.S. 2001, Section 2701, as
21 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.
22 2007, Section 2701), is amended to read as follows:

23 Section 2701. A. Any incorporated city or town in this state
24 is hereby authorized to assess, levy, and collect taxes for general

1 and special purposes of municipal government as the Legislature may
2 levy and collect for purposes of state government, subject to the
3 provisions of subsection F of this section, except ad valorem
4 property taxes. Provided:

5 1. Taxes shall be uniform upon the same class subjects, and any
6 tax, charge, or fee levied upon or measured by income or receipts
7 from the sale of products or services shall be uniform upon all
8 classes of taxpayers;

9 2. Motor vehicles may be taxed by the city or town only when
10 such vehicles are primarily used or located in such city or town for
11 a period of time longer than six (6) months of a taxable year;

12 3. The provisions of this section shall not be construed to
13 authorize imposition of any tax upon persons, firms, or corporations
14 exempted from other taxation under the provisions of Sections 348.1,
15 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of
16 payment of taxes imposed under such sections;

17 4. Cooperatives and communications companies are hereby
18 authorized to pass on to their subscribers in the incorporated city
19 or town involved, the amount of any special municipal fee, charge or
20 tax hereafter assessed or levied on or collected from such
21 cooperatives or communications companies;

22 5. No earnings, payroll or income taxes may be levied on
23 nonresidents of the cities or towns levying such tax;

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1 6. The governing body of any city or town shall be prohibited
2 from proposing taxing ordinances more often than three times in any
3 calendar year, or twice in any six-month period; and

4 7. Any revenues derived from a tax authorized by this
5 subsection not dedicated to a limited purpose shall be deposited in
6 the municipal general fund.

7 B. A sales tax authorized in subsection A of this section may
8 be levied for limited purposes specified in the ordinance levying
9 the tax. Such ordinance shall be submitted to the voters for
10 approval as provided in Section 2705 of this title. Any sales tax
11 levied or any change in the rate of a sales tax levied pursuant to
12 the provisions of this section shall become effective on the first
13 day of the calendar quarter following approval by the voters of the
14 city or town unless another effective date, which shall also be on
15 the first day of a calendar quarter, is specified in the ordinance
16 levying the sales tax or changing the rate of sales tax. Such
17 ordinance shall describe with specificity the projects or
18 expenditures for which the limited-purpose tax levy would be made.
19 The municipal governing body shall create a limited-purpose fund and
20 deposit therein any revenue generated by any tax levied pursuant to
21 this subsection. Money in the fund shall be accumulated from year
22 to year. The fund shall be placed in an insured interest-bearing
23 account and the interest which accrues on the fund shall be retained
24 in the fund. The fund shall be nonfiscal and shall not be

1 considered in computing any levy when the municipality makes its
2 estimate to the excise board for needed appropriations. Money in
3 the limited-purpose tax fund shall be expended only as accumulated
4 and only for the purposes specifically described in the taxing
5 ordinance as approved by the voters.

6 C. The Oklahoma Tax Commission shall give notice to all vendors
7 of a rate change at least sixty (60) days prior to the effective
8 date of the rate change. Provided, for purchases from printed
9 catalogs wherein the purchaser computed the tax based upon local tax
10 rates published in the catalog, the rate change shall not be
11 effective until the first day of a calendar quarter after a minimum
12 of one hundred twenty (120) days' notice to vendors. Failure to
13 give notice as required by this section shall delay the effective
14 date of the rate change to the first day of the next calendar
15 quarter.

16 D. The change in the boundary of a municipality shall be
17 effective, for sales and use tax purposes only, on the first day of
18 a calendar quarter after a minimum of sixty (60) days' notice to
19 vendors.

20 E. If the proceeds of any sales tax levied by a municipality
21 pursuant to subsection B of this section are being used by the
22 municipality for the purpose of retiring indebtedness incurred by
23 the municipality or by a public trust of which the municipality is a
24 beneficiary for the specific purpose for which the sales tax was

1 imposed, the sales tax shall not be repealed until such time as the
2 indebtedness is retired. However, in no event shall the life of the
3 tax be extended beyond the duration approved by the voters of the
4 municipality. The provisions of this subsection shall apply to all
5 sales tax levies imposed by a municipality and being used by the
6 municipality for the purposes set forth in this subsection prior to
7 or after July 1, 1995.

8 F. The sale of an article of clothing or footwear designed to
9 be worn on or about the human body shall be exempt from the sales
10 tax imposed by any incorporated city or town, in accordance with and
11 to the extent set forth in ~~Section 3 of this act~~ 1357.10 of this
12 title. If the State Board of Equalization makes an affirmative
13 determination pursuant to the provisions of Section 4 of this act,
14 the sale of any school supply, school art supply or school
15 instructional material shall be exempt from the sales tax imposed by
16 any incorporated city or town, in accordance with and to the extent
17 set forth in Section 1357.10 of this title.

18 SECTION 4. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2355.1C of Title 68, unless
20 there is created a duplication in numbering, reads as follows:

21 A. In addition to any other duties prescribed by law, at the
22 meeting required by paragraph 3 of Section 23 of Article X of the
23 Oklahoma Constitution to be held in February 2009, the State Board
24 of Equalization shall determine if the final itemized estimate of

1 the amount of sales tax revenue for the fiscal year 2010 is at least
2 three percent (3%) greater than the final itemized estimate of the
3 amount of sales tax revenue for the fiscal year 2009. Such
4 determination shall be made after the determinations required by
5 Section 1521 of Title 69 and Section 2355.1A of Title 68 of the
6 Oklahoma Statutes have been made.

7 B. If the Board makes an affirmative determination pursuant to
8 the provisions of subsection A of this section, it shall make a
9 finding that applicable revenue growth will authorize the
10 implementation of the provisions of Sections 1357.10, 1377 and 2701
11 of Title 68 of the Oklahoma Statutes which relate to the sale of any
12 school supply, school art supply or school instructional material,
13 beginning during the next period specified in paragraph 2 of
14 subsection A of Section 1357.10 of Title 68 of the Oklahoma
15 Statutes.

16 C. If the Board makes a negative determination pursuant to the
17 provisions of subsection A of this section, it shall make a finding
18 that applicable revenue growth will not authorize the implementation
19 of the provisions of Sections 1357.10, 1377 and 2701 of Title 68 of
20 the Oklahoma Statutes which relate to the sale of any school supply,
21 school art supply or school instructional material. In such case,
22 the procedures prescribed by this section shall be repeated by the
23 Board for each successive two-year comparison.

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1 D. Once the provisions of Sections 1357.10, 1377 and 2701 of
2 Title 68 of the Oklahoma Statutes which relate to the sale of any
3 school supply, school art supply or school instructional material
4 have been implemented pursuant this section, such provisions shall
5 be in effect for all subsequent tax years.

6 SECTION 5. This act shall become effective July 1, 2009.

7 Passed the Senate the 5th day of March, 2008.

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Presiding Officer of the Senate

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11 Passed the House of Representatives the ____ day of _____,

12 2008.

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Presiding Officer of the House
of Representatives

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