

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1563

By: Brown

4
5 AS INTRODUCED

6
7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Sections 1352, as last amended by Section
9 64, Chapter 5, O.S.L. 2004, and 1357, as last amended
10 by Section 5, Chapter 44, 2nd Extraordinary Session,
11 O.S.L. 2006 (68 O.S. Supp. 2006, Sections 1352 and
12 1357), which relate to Oklahoma sales tax; defining
13 term; providing sales tax exemption for certain over-
14 the-counter drugs and medicines; providing sales tax
15 exemption for certain eligible food and beverages;
16 amending 68 O.S. 2001, Section 1353, as last amended
17 by Section 17, Chapter 44, 2nd Extraordinary Session,
18 O.S.L. 2006 (68 O.S. Supp. 2006, Section 1353), which
19 relates to sales tax apportionment; decreasing
20 certain apportionment to General Revenue Fund;
21 creating apportionment for counties, cities, and
22 towns; creating Local Government Sales Tax Loss
23 Reimbursement Revolving Fund; providing methodology
24 for reimbursing counties, cities and towns; directing
Tax Commission to reimburse; providing for
codification; providing an effective date; and
declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1352, as
last amended by Section 64, Chapter 5, O.S.L. 2004 (68 O.S. Supp.
2006, Section 1352), is amended to read as follows:

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

1 1. "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. "Commission" or "Tax Commission" means the Oklahoma Tax
5 Commission;

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

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

23 7. "Drug" means a compound, substance or preparation, and any
24 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. "Electronic" means relating to technology having electrical,
10 digital, magnetic, wireless, optical, electromagnetic, or similar
11 capabilities;

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

20 10. "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. "Grooming and hygiene products" are soaps and cleaning
9 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and
10 suntan lotions and screens, regardless of whether the items meet the
11 definition of "over-the-counter drugs";

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

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

12 b. Such term shall not include:

- 13 (1) discounts, including cash, term, or coupons that
14 are not reimbursed by a third party that are
15 allowed by a seller and taken by a purchaser on a
16 sale,
17 (2) interest, financing, and carrying charges from
18 credit extended on the sale of personal property
19 or services, if the amount is separately stated
20 on the invoice, bill of sale or similar document
21 given to the purchaser, and
22 (3) any taxes legally imposed directly on the
23 consumer that are separately stated on the
24

1 invoice, bill of sale or similar document given
2 to the purchaser;

3 ~~12.~~ 13. "Maintaining a place of business in this state" means
4 and includes having or maintaining in this state, directly or by
5 subsidiary, an office, distribution house, sales house, warehouse,
6 or other physical place of business, or having agents operating in
7 this state, whether the place of business or agent is within this
8 state temporarily or permanently or whether the person or subsidiary
9 is authorized to do business within this state;

10 ~~13.~~ 14. "Manufacturing" means and includes the activity of
11 converting or conditioning tangible personal property by changing
12 the form, composition, or quality of character of some existing
13 material or materials, including natural resources, by procedures
14 commonly regarded by the average person as manufacturing,
15 compounding, processing or assembling, into a material or materials
16 with a different form or use. "Manufacturing" does not include
17 extractive industrial activities such as mining, quarrying, logging,
18 and drilling for oil, gas and water, nor oil and gas field
19 processes, such as natural pressure reduction, mechanical
20 separation, heating, cooling, dehydration and compression;

21 ~~14.~~ 15. "Manufacturing operation" means the designing,
22 manufacturing, compounding, processing, assembling, warehousing, or
23 preparing of articles for sale as tangible personal property. A
24 manufacturing operation begins at the point where the materials

1 enter the manufacturing site and ends at the point where a finished
2 product leaves the manufacturing site. "Manufacturing operation"
3 does not include administration, sales, distribution,
4 transportation, site construction, or site maintenance. Extractive
5 activities and field processes shall not be deemed to be a part of a
6 manufacturing operation even when performed by a person otherwise
7 engaged in manufacturing;

8 ~~15.~~ 16. "Manufacturing site" means a location where a
9 manufacturing operation is conducted, including a location
10 consisting of one or more buildings or structures in an area owned,
11 leased, or controlled by a manufacturer;

12 ~~16.~~ 17. "Over-the-counter drug" means a drug that contains a
13 label that identifies the product as a drug as required by 21
14 C.F.R., Section 201.66, excluding "grooming and hygiene products".

15 The over-the-counter-drug label includes:

- 16 a. a "Drug Facts" panel, or
17 b. a statement of the "active ingredient(s)" with a list
18 of those ingredients contained in the compound,
19 substance or preparation;

20 ~~17.~~ 18. "Person" means any individual, company, partnership,
21 joint venture, joint agreement, association, mutual or otherwise,
22 limited liability company, corporation, estate, trust, business
23 trust, receiver or trustee appointed by any state or federal court
24 or otherwise, syndicate, this state, any county, city, municipality,

1 school district, any other political subdivision of the state, or
2 any group or combination acting as a unit, in the plural or singular
3 number;

4 ~~18.~~ 19. "Prescription" means an order, formula or recipe issued
5 in any form of oral, written, electronic, or other means of
6 transmission by a duly licensed "practitioner" as defined in Section
7 1357.6 of this title;

8 ~~19.~~ 20. "Prewritten computer software" means "computer
9 software", including prewritten upgrades, which is not designed and
10 developed by the author or other creator to the specifications of a
11 specific purchaser. The combining of two or more prewritten
12 computer software programs or prewritten portions thereof does not
13 cause the combination to be other than prewritten computer software.
14 Prewritten software includes software designed and developed by the
15 author or other creator to the specifications of a specific
16 purchaser when it is sold to a person other than the purchaser.
17 Where a person modifies or enhances computer software of which the
18 person is not the author or creator, the person shall be deemed to
19 be the author or creator only of such person's modifications or
20 enhancements. Prewritten software or a prewritten portion thereof
21 that is modified or enhanced to any degree, where such modification
22 or enhancement is designed and developed to the specifications of a
23 specific purchaser, remains prewritten software; provided, however,
24 that where there is a reasonable, separately stated charge or an

1 invoice or other statement of the price given to the purchaser for
2 such modification or enhancement, such modification or enhancement
3 shall not constitute prewritten computer software;

4 ~~20.~~ 21. "Repairman" means any person who performs any repair
5 service upon tangible personal property of the consumer, whether or
6 not the repairman, as a necessary and incidental part of performing
7 the service, incorporates tangible personal property belonging to or
8 purchased by the repairman into the tangible personal property being
9 repaired;

10 ~~21.~~ 22. "Sale" means the transfer of either title or possession
11 of tangible personal property for a valuable consideration
12 regardless of the manner, method, instrumentality, or device by
13 which the transfer is accomplished in this state, or other
14 transactions as provided by this paragraph, including but not
15 limited to:

- 16 a. the exchange, barter, lease, or rental of tangible
17 personal property resulting in the transfer of the
18 title to or possession of the property,
- 19 b. the disposition for consumption or use in any business
20 or by any person of all goods, wares, merchandise, or
21 property which has been purchased for resale,
22 manufacturing, or further processing,
- 23 c. the sale, gift, exchange, or other disposition of
24 admission, dues, or fees to clubs, places of

1 amusement, or recreational or athletic events or for
2 the privilege of having access to or the use of
3 amusement, recreational, athletic or entertainment
4 facilities,

5 d. the furnishing or rendering of services taxable under
6 the Oklahoma Sales Tax Code, and

7 e. any use of motor fuel or diesel fuel by a supplier, as
8 defined in Section 500.3 of this title, upon which
9 sales tax has not previously been paid, for purposes
10 other than to propel motor vehicles over the public
11 highways of this state. Motor fuel or diesel fuel
12 purchased outside the state and used for purposes
13 other than to propel motor vehicles over the public
14 highways of this state shall not constitute a sale
15 within the meaning of this paragraph;

16 ~~22.~~ 23. "Sale for resale" means:

17 a. a sale of tangible personal property to any purchaser
18 who is purchasing tangible personal property for the
19 purpose of reselling it within the geographical limits
20 of the United States of America or its territories or
21 possessions, in the normal course of business either
22 in the form or condition in which it is purchased or
23 as an attachment to or integral part of other tangible
24 personal property,

1 b. a sale of tangible personal property to a purchaser
2 for the sole purpose of the renting or leasing, within
3 the geographical limits of the United States of
4 America or its territories or possessions, of the
5 tangible personal property to another person by the
6 purchaser, but not if incidental to the renting or
7 leasing of real estate, or

8 c. a sale of tangible goods and products within this
9 state if, simultaneously with the sale, the vendor
10 issues an export bill of lading, or other
11 documentation that the point of delivery of such goods
12 for use and consumption is in a foreign country and
13 not within the territorial confines of the United
14 States;

15 ~~23.~~ 24. "Tangible personal property" means personal property
16 that can be seen, weighed, measured, felt, or touched or that is in
17 any other manner perceptible to the senses. "Tangible personal
18 property" includes electricity, water, gas, steam and prewritten
19 computer software. This definition shall be applicable only for
20 purposes of the Oklahoma Sales Tax Code;

21 ~~24.~~ 25. "Taxpayer" means any person liable to pay a tax imposed
22 by the Oklahoma Sales Tax Code;

23 ~~25.~~ 26. "Tax period" or "taxable period" means the calendar
24 period or the taxpayer's fiscal period for which a taxpayer has

1 obtained a permit from the Tax Commission to use a fiscal period in
2 lieu of a calendar period;

3 ~~26.~~ 27. "Tax remitter" means any person required to collect,
4 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
5 tax remitter who fails, for any reason, to collect, report, or remit
6 the tax shall be considered a taxpayer for purposes of assessment,
7 collection, and enforcement of the tax imposed by the Oklahoma Sales
8 Tax Code; and

9 ~~27.~~ 28. "Vendor" means:

- 10 a. any person making sales of tangible personal property
11 or services in this state, the gross receipts or gross
12 proceeds from which are taxed by the Oklahoma Sales
13 Tax Code,
- 14 b. any person maintaining a place of business in this
15 state and making sales of tangible personal property
16 or services, whether at the place of business or
17 elsewhere, to persons within this state, the gross
18 receipts or gross proceeds from which are taxed by the
19 Oklahoma Sales Tax Code,
- 20 c. any person who solicits business by employees,
21 independent contractors, agents, or other
22 representatives or by distribution of catalogs or
23 other advertising matter, and thereby makes sales to
24 persons within this state of tangible personal

1 property or services, the gross receipts or gross
2 proceeds from which are taxed by the Oklahoma Sales
3 Tax Code, or

- 4 d. any person, pursuant to an agreement with the person
5 with an ownership interest in or title to tangible
6 personal property, who has been entrusted with the
7 possession of any such property and has the power to
8 designate who is to obtain title, to physically
9 transfer possession of, or otherwise make sales of the
10 property.

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

15 Section 1357. Exemptions - General.

16 There are hereby specifically exempted from the tax levied by
17 the Oklahoma Sales Tax Code:

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

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

23 3. Sales for resale to persons engaged in the business of
24 reselling the articles purchased, whether within or without the

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

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

21 5. Sales of programs relating to sporting and entertainment
22 events, and sales of advertising on billboards (including signage,
23 posters, panels, marquees, or on other similar surfaces, whether
24 indoors or outdoors) or in programs relating to sporting and

1 entertainment events, and sales of any advertising, to be displayed
2 at or in connection with a sporting event, via the Internet,
3 electronic display devices, or through public address or broadcast
4 systems. The exemption authorized by this paragraph shall be
5 effective for all sales made on or after January 1, 2001;

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

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

1 benefit of the exemption. Violation hereof by the purchaser or
2 vendor shall be a misdemeanor;

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

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

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

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

21 12. Sales of food or food products for home consumption which
22 are purchased in whole or in part with coupons issued pursuant to
23 the federal food stamp program as authorized by Sections 2011
24 through 2029 of Title 7 of the United States Code, as to that

1 portion purchased with such coupons. The exemption provided for
2 such sales shall be inapplicable to such sales upon the effective
3 date of any federal law that removes the requirement of the
4 exemption as a condition for participation by the state in the
5 federal food stamp program;

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

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

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

22 14. a. Sales of tangible personal property or services to or
23 by organizations which are exempt from taxation
24 pursuant to the provisions of Section 501(c)(3) of the

1 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
2 and:

3 (1) are primarily involved in the collection and
4 distribution of food and other household products
5 to other organizations that facilitate the
6 distribution of such products to the needy and
7 such distributee organizations are exempt from
8 taxation pursuant to the provisions of Section
9 501(c)(3) of the Internal Revenue Code, 26
10 U.S.C., Section 501(c)(3), or

11 (2) facilitate the distribution of such products to
12 the needy.

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

17 15. Sales of tangible personal property or services to
18 children's homes which are located on church-owned property and are
19 operated by organizations exempt from taxation pursuant to the
20 provisions of the Internal Revenue Code, 26 U.S.C., Section
21 501(c)(3);

22 16. Sales of computers, data processing equipment, related
23 peripherals and telephone, telegraph or telecommunications service
24 and equipment for use in a qualified aircraft maintenance or

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

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

22 18. Sales of any interstate telecommunications services which:
23 a. entitle the subscriber to inward or outward calling
24 respectively between a station associated with an

1 access line in the local telephone system area or a
2 station directly connected to any interexchange
3 carrier's facilities and telephone or radiotelephone
4 stations in diverse geographical locations specified
5 by the subscriber, or

6 b. entitle the subscriber to private communications
7 services which allow exclusive or priority use of a
8 communications channel or group of channels between
9 exchanges;

10 19. Sales of railroad track spikes manufactured and sold for
11 use in this state in the construction or repair of railroad tracks,
12 switches, sidings and turnouts;

13 20. Sales of aircraft and aircraft parts provided such sales
14 occur at a qualified aircraft maintenance facility. As used in this
15 paragraph, "qualified aircraft maintenance facility" means a
16 facility operated by an air common carrier at which there were
17 employed at least two thousand (2,000) full-time-equivalent
18 employees in the preceding year as certified by the Oklahoma
19 Employment Security Commission and which is primarily related to the
20 fabrication, repair, alteration, modification, refurbishing,
21 maintenance, building or rebuilding of commercial aircraft or
22 aircraft parts used in air common carriage. For purposes of this
23 paragraph, "air common carrier" shall also include members of an
24

1 affiliated group as defined by Section 1504 of the Internal Revenue
2 Code, 26 U.S.C., Section 1504;

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

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

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

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

1 22. Sales of prosthetic devices to an individual for use by
2 such individual. For purposes of this paragraph, "prosthetic
3 device" shall have the same meaning as provided in Section 1357.6 of
4 this title, but shall not include corrective eye glasses, contact
5 lenses or hearing aids;

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

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

23 25. Sales of tangible personal property or services to tax-
24 exempt independent nonprofit biomedical research foundations that

1 provide educational programs for Oklahoma science students and
2 teachers and to tax-exempt independent nonprofit community blood
3 banks headquartered in this state;

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

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

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

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

21 a. are loaded on the ship, motor vessel or barge and used
22 in the maintenance and operation of the ship, motor
23 vessel or barge, or
24

1 b. enter into and become component parts of the ship,
2 motor vessel or barge;

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

10 a. such sale or event may not be held for a period
11 exceeding three (3) consecutive days,

12 b. the sale must be conducted within six (6) months of
13 the date of death of the decedent, and

14 c. the exemption allowed by this paragraph shall not be
15 allowed for property that was not part of the
16 decedent's estate;

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

1 32. Sales of prewritten computer software that is delivered
2 electronically. For purposes of this paragraph, "delivered
3 electronically" means delivered to the purchaser by means other than
4 tangible storage media;

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

14 34. Sales of tangible personal property or services to persons
15 who are residents of Oklahoma and have been honorably discharged
16 from active service in any branch of the Armed Forces of the United
17 States or Oklahoma National Guard and who have been certified by the
18 United States Department of Veterans Affairs or its successor to be
19 in receipt of disability compensation at the one-hundred-percent
20 rate and the disability shall be permanent and have been sustained
21 through military action or accident or resulting from disease
22 contracted while in such active service; provided, sales for the
23 benefit of the person to a spouse of the eligible person or to a
24 member of the household in which the eligible person resides and who

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

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

1 tax exemption authorized by this paragraph, the oil well production
2 shall not exceed ten (10) barrels per day prior to the use of
3 enhanced recovery methods and the total content of oil recovered
4 prior to the use of enhanced recovery methods shall not exceed one
5 percent (1%) by volume. The exemption authorized by this paragraph
6 shall be applicable only to the state sales tax rate and shall not
7 be applicable to any county or municipal sales tax rate;

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

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

24

1 38. Sales of goods, wares, merchandise, tangible personal
2 property, machinery and equipment to a web search portal located in
3 this state which derives at least eighty percent (80%) of its annual
4 gross revenue from the sale of a product or service to an out-of-
5 state buyer or consumer. For purposes of this paragraph, "web
6 search portal" means an establishment classified under NAICS code
7 518112 which operates web sites that use a search engine to generate
8 and maintain extensive databases of Internet addresses and content
9 in an easily searchable format; and

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

18 40. Sales of all over-the-counter drugs as defined in Section
19 1352 of this title; and

20 41. Sales of all eligible food and beverages as defined in the
21 federal Food Stamp Act, 7 U.S.C., Section 2011 et seq., as the act
22 existed on January 1, 2007.

23 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1353, as
24 last amended by Section 17, Chapter 44, 2nd Extraordinary Session,

1 O.S.L. 2006 (68 O.S. Supp. 2006, Section 1353), is amended to read
2 as follows:

3 Section 1353. Purpose of Article - Apportionment of Revenues.

4 It is hereby declared to be the purpose of the Oklahoma Sales
5 Tax Code to provide funds for the financing of the program provided
6 for by the Oklahoma Social Security Act and to provide revenues for
7 the support of the functions of the state government of Oklahoma,
8 and for this purpose it is hereby expressly provided that, revenues
9 derived pursuant to the provisions of the Oklahoma Sales Tax Code
10 shall be apportioned as follows:

11 1. The following amounts shall be paid to the State Treasurer
12 to be placed to the credit of the General Revenue Fund to be paid
13 out pursuant to direct appropriation by the Legislature:

14 Fiscal Year	Amount
15 FY 2003 and FY 2004	86.04%
16 FY 2005	85.83%
17 FY 2006	85.54%
18 FY 2007	85.04%
19 FY 2008 and each fiscal	
20 year thereafter	83.61% <u>68.70%</u>

21 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-
22 hundredths percent (10.42%), shall be paid to the State Treasurer to
23 be placed to the credit of the Education Reform Revolving Fund of
24 the State Department of Education and for FY 2006 and each fiscal

1 year thereafter, ten and forty-six one hundredths percent (10.46%)
2 shall be paid to the State Treasurer to be placed to the credit of
3 the Education Reform Revolving Fund of the State Department of
4 Education;

5 3. The following amounts shall be paid to the State Treasurer
6 to be placed to the credit of the Teachers' Retirement System
7 Dedicated Revenue Revolving Fund:

8	Fiscal Year	Amount
9	FY 2003 and FY 2004	3.54%
10	FY 2005	3.75%
11	FY 2006	4.0%
12	FY 2007	4.5%
13	FY 2008 and each fiscal	
14	year thereafter	5.0%

15 4. The following amounts shall be paid to the State Treasurer
16 to be placed to the credit of the Local Government Sales Tax Loss
17 Reimbursement Revolving Fund to be paid out pursuant to Section 5 of
18 this act:

19	<u>Fiscal Year</u>	<u>Amount</u>
20	<u>FY 2008 and each fiscal</u>	
21	<u>year thereafter</u>	<u>14.91%</u>

22 5. For the fiscal year beginning July 1, 2007, and for each
23 fiscal year thereafter, ninety-three one hundredths percent (0.93%)
24

1 shall be paid to the State Treasurer to be further apportioned as
2 follows:

- 3 a. thirty-six percent (36%) shall be placed to the credit
4 of the Oklahoma Tourism Promotion Revolving Fund, and
- 5 b. sixty-four percent (64%) shall be placed to the credit
6 of the Oklahoma Tourism Capital Improvement Revolving
7 Fund.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1357.10 of Title 68, unless
10 there is created a duplication in numbering, reads as follows:

11 There is hereby created in the State Treasury a revolving fund
12 for the Oklahoma Tax Commission to be designated the "Local
13 Government Sales Tax Loss Reimbursement Revolving Fund". The fund
14 shall be a continuing fund, not subject to fiscal year limitations,
15 and shall consist of all monies received by the Oklahoma Tax
16 Commission from paragraph 4 of Section 1353 of Title 68 of the
17 Oklahoma Statutes. All monies accruing to the credit of said fund
18 are hereby appropriated and may be budgeted and expended by the
19 Oklahoma Tax Commission for the purpose of reimbursing counties,
20 cities, and towns as provided in Section 5 of this act.

21 Expenditures from said fund shall be made upon warrants issued by
22 the State Treasurer against claims filed as prescribed by law with
23 the Director of State Finance for approval and payment.

24

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1357.11 of Title 68, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Tax Commission shall determine the revenue loss
5 to counties, cities, and towns attributable to the exemption
6 provided by paragraphs 40 and 41 of Section 1357 of Title 68 of the
7 Oklahoma Statutes.

8 B. The Tax Commission shall develop and implement a methodology
9 to distribute the revenue generated under Section 1353 of Title 68
10 of the Oklahoma Statutes, and deposited in the Local Government
11 Sales Tax Loss Reimbursement Revolving Fund created in Section 4 of
12 this act, to the counties, cities, and towns levying a consumer
13 sales tax pursuant to a duly adopted resolution or ordinance.

14 SECTION 6. This act shall become effective July 1, 2007.

15 SECTION 7. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

19

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