

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1158

By: Riley

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 1364, as amended by Section 12,
9 Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2007, Section
10 1364), which relates to sales tax permits; updating
11 reference; clarifying the tax liability for certain
12 fixtures and equipment under specified circumstances;
13 requiring Oklahoma Tax Commission to issue certain
14 permit unless specified conditions are met; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1364, as
18 amended by Section 12, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2007,
19 Section 1364), is amended to read as follows:

20 Section 1364. Permits to do business.

21 A. Every person desiring to engage in a business within this
22 state who would be designated as a Group One or Group Three vendor,
23 pursuant to Section 1363 of this title, shall be required to secure
24 from the Oklahoma Tax Commission every three (3) years a written
permit for a fee of Twenty Dollars (\$20.00) prior to engaging in
such business in this state. Each such person shall file with the

1 Tax Commission an application for a permit to engage in or transact
2 business in this state, setting forth such information as the Tax
3 Commission may require. The application shall be signed by the
4 owner of the business or representative of the business entity and
5 as a natural person, and, in the case of a corporation, as a legally
6 constituted officer thereof.

7 B. Upon receipt of an initial application, the Tax Commission
8 may issue a probationary permit effective for six (6) months which
9 will automatically renew for an additional thirty (30) months unless
10 the applicant receives written notification of the refusal of the
11 Tax Commission to renew the permit. If the applicant receives a
12 notice of refusal, the applicant may request a hearing to show cause
13 why the permit should be renewed. Upon receipt of a request for a
14 hearing, the Tax Commission shall set the matter for hearing and
15 give ten (10) days' notice in writing of the time and place of the
16 hearing. At the hearing, the applicant shall set forth the
17 qualifications of the applicant for a permit and proof of compliance
18 with all state tax laws.

19 C. Holders of a probationary permit as provided in subsection B
20 of this section shall not be permitted to present the permit to
21 obtain a commercial license plate for their motor vehicle as
22 provided in Section 1133.1 of Title 47 of the Oklahoma Statutes.

23 D. Upon verification that the applicant is a Group Three
24 vendor, the Tax Commission may require such applicant to furnish a

1 surety bond or other security as the Tax Commission may deem
2 necessary to secure payment of taxes under this article, prior to
3 issuance of a permit for the place of business set forth in the
4 application for permit. Provided, the Tax Commission is hereby
5 authorized to set guidelines, by adoption of regulations, for the
6 issuance of sales tax permits. Pursuant to said guidelines the Tax
7 Commission may refuse to issue permits to any Group Three vendors,
8 or any class of vendors included in the whole classification of
9 Group Three vendors, if the Tax Commission determines that it is
10 likely this state will lose tax revenue due to the difficulty of
11 enforcing this article for any reasons stated in paragraph 20 of
12 subsection ~~(T)~~ A of Section 1354 of this title.

13 E. A separate permit for each additional place of business to
14 be operated must be obtained from the Tax Commission for a fee of
15 Ten Dollars (\$10.00). Such permit shall be good for a period of
16 three (3) years. The Tax Commission shall grant and issue to each
17 applicant a separate permit for each place of business in this
18 state, upon proper application therefor and verification thereof by
19 the Tax Commission.

20 F. A permit is not assignable and shall be valid only for the
21 person in whose name it is issued and for the transaction of
22 business at the place designated therein. The permit shall at all
23 times be conspicuously displayed at the place of business for which
24 issued in a position where it can be easily seen. The permit shall

1 be in addition to all other permits required by the laws of this
2 state. Provided, if the location of the business is changed, such
3 person shall file with the Tax Commission an application for a
4 permit to engage in or transact business at the new location. Upon
5 issuance of the permit to the new location of such business, no
6 additional permit fee shall be due until the expiration of the
7 permit issued to the previous location of such business.

8 G. It shall be unlawful for any person coming within the class
9 designated as Group One or the class designated as Group Three to
10 engage in or transact a business of reselling tangible personal
11 property or services within this state unless a written permit or
12 permits shall have been issued to such person. Any person who
13 engages in a business subject to the provisions of this section
14 without a permit or permits, or after a permit has been suspended,
15 upon conviction, shall be guilty of a misdemeanor punishable by a
16 fine of not more than One Thousand Dollars (\$1,000.00). Any person
17 convicted of a second or subsequent violation hereof shall be guilty
18 of a felony and punishable by a fine of not more than Five Thousand
19 Dollars (\$5,000.00) or by a term of imprisonment in the State
20 Penitentiary for not more than two (2) years, or both such fine and
21 imprisonment.

22 H. Any person operating under a permit as provided in this
23 article shall, upon discontinuance of business by sale or otherwise,
24 return such permit to the Tax Commission for cancellation, together

1 with a remittance for any unpaid or accrued taxes. In the case of a
2 sale of any business, the tax shall be deemed to be due on the sale
3 of fixtures and equipment. Failure to surrender a permit and pay
4 any and all accrued taxes will be sufficient cause for the Tax
5 Commission to refuse to issue a permit subsequently to such person
6 to engage in or transact any other business in this state. In the
7 case of a sale of any business, ~~the tax shall be deemed to be due on~~
8 ~~the sale of the fixtures and equipment,~~ and the Tax Commission shall
9 ~~not~~ issue a permit to continue or conduct the business to the
10 purchaser ~~until all tax claims due the State of Oklahoma have been~~
11 ~~settled~~ unless the Tax Commission determines that the sale was made
12 for purposes of avoiding remittance of any unpaid or accrued taxes.

13 I. All permits issued under the provisions of this article
14 shall expire three (3) years from the date of issuance at the close
15 of business at each place or location of the business within this
16 state. No refund of the fee shall be made if the business is
17 terminated prior to the expiration of the permit.

18 J. Whenever a holder of a permit fails to comply with any
19 provisions of this article, the Tax Commission, after giving ten
20 (10) days' notice in writing of the time and place of hearing to
21 show cause why the permit should not be revoked, may revoke or
22 suspend the permit, the permit to be renewed upon removal of cause
23 or causes of revocation or suspension. However, if a holder of a
24 permit becomes delinquent for a period of three (3) months or more

1 in reporting or paying of any tax due under this article, any duly
2 authorized agent of the Tax Commission may remove the permit from
3 the taxpayer's premises and it shall be returned or renewed only
4 upon the filing of proper reports and payment of all taxes due under
5 this article.

6 K. Permits are not required of persons coming within the
7 classification designated as Group Two. The ~~Oklahoma~~ Tax Commission
8 shall issue a limited permit to Group Five vendors. The permit
9 shall be in such form as the Tax Commission may prescribe.

10 L. Nothing in this article shall be construed to allow a permit
11 holder to purchase, tax exempt, anything for resale that the permit
12 holder is not regularly in the business of reselling.

13 M. All monies received pursuant to issuance of such permits to
14 do business shall be paid to the State Treasurer and placed to the
15 credit of the General Revenue Fund of the State Treasury.

16 N. Notwithstanding the provisions of Section 205 of this title,
17 the ~~Oklahoma~~ Tax Commission is authorized to release the following
18 information contained in the Master Sales and Use Tax File to
19 vendors:

- 20 1. Permit number;
- 21 2. Name in which permit is issued;
- 22 3. Name of business operation if different from ownership
23 (DBA);
- 24 4. Mailing address;

- 1 5. Business address;
- 2 6. Business class or Standard Industrial Code (SIC); and
- 3 7. Effective date and expiration or cancellation date of
- 4 permit.

5 Release of such information shall be limited to tax remitters
6 for the express purpose of determining the validity of sales permits
7 presented as evidence of purchasers' sales tax resale status under
8 this Code.

9 The provisions of this subsection shall be strictly interpreted
10 and shall not be construed as permitting the disclosure of any other
11 information contained in the records and files of the Tax Commission
12 relating to sales tax or to any other taxes.

13 This information may be provided on a subscription basis, with
14 periodic updates, and sufficient fee charged, not to exceed One
15 Hundred Fifty Dollars (\$150.00) per year, to offset the
16 administrative costs of providing the list. All revenue received by
17 the ~~Oklahoma~~ Tax Commission from such fees shall be deposited to the
18 credit of the Oklahoma Tax Commission Revolving Fund. No liability
19 whatsoever, civil or criminal, shall attach to any member of the Tax
20 Commission or any employee thereof for any error or omission in the
21 disclosure of information pursuant to this subsection.

22 O. If the Tax Commission enters into the Streamlined Sales and
23 Use Tax Agreement under Section 1354.18 of this title, the Tax
24 Commission is authorized to participate in its online sales and use

1 tax registration system and shall not require the payment of the
2 registration fees or other charges provided in this section from a
3 vendor who registers within the online system if the vendor has no
4 legal requirement to register.

5 SECTION 2. This act shall become effective November 1, 2008.

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