

1 STATE OF OKLAHOMA

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

3 SENATE BILL 116

By: Mazzei

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; exempting  
8 sales of certain food and beverages from sales tax;  
9 requiring Oklahoma Tax Commission to promulgate  
10 certain rules; amending 68 O.S. 2001, Sections 1370,  
11 as last amended by Section 1, Chapter 317, O.S.L.  
12 2004 and 2701, as amended by Section 30, Chapter 413,  
13 O.S.L. 2003 (68 O.S. Supp. 2006, Sections 1370 and  
14 2701), which relate to county and municipal taxing  
15 authority; providing exception; clarifying language;  
16 requiring municipalities and counties to exempt  
17 certain sales from local sales tax; amending 68 O.S.  
18 2001, Section 5011, as amended by Section 15, Chapter  
19 322, O.S.L. 2004 (68 O.S. Supp. 2006, Section 5011),  
20 which relates to the Sales Tax Relief Act; limiting  
21 time period during which claim may be filed;  
22 providing for codification; providing an effective  
23 date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1357.10 of Title 68, unless  
there is created a duplication in numbering, reads as follows:

A. The sale of all eligible food and beverages as defined in  
the Streamlined Sales and Use Tax Agreement shall be exempt from the  
tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes.

1 B. The Oklahoma Tax Commission shall promulgate any necessary  
2 rules to implement the provisions of this act.

3 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1370, as  
4 last amended by Section 1, Chapter 317, O.S.L. 2004 (68 O.S. Supp.  
5 2006, Section 1370), is amended to read as follows:

6 Section 1370. A. Any county of this state may levy a sales tax  
7 of not to exceed two percent (2%) upon the gross proceeds or gross  
8 receipts derived from all sales or services in the county upon which  
9 a consumer's sales tax is levied by this state. Before a sales tax  
10 may be levied by the county, the imposition of the tax shall first  
11 be approved by a majority of the registered voters of the county  
12 voting thereon at a special election called by the board of county  
13 commissioners or by initiative petition signed by not less than five  
14 percent (5%) of the registered voters of the county who were  
15 registered at the time of the last general election. However, if a  
16 majority of the registered voters of a county voting fail to approve  
17 such a tax, the board of county commissioners shall not call another  
18 special election for such purpose for six (6) months. Any sales tax  
19 approved by the registered voters of a county shall be applicable  
20 only when the point of sale is within the territorial limits of such  
21 county. Any sales tax levied or any change in the rate of a sales  
22 tax levied pursuant to the provisions of this section shall become  
23 effective on the first day of the calendar quarter following  
24 approval by the voters of the county unless another effective date,

1 which shall also be on the first day of a calendar quarter, is  
2 specified in the ordinance or resolution levying the sales tax or  
3 changing the rate of sales tax.

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

14 C. Initiative petitions calling for a special election  
15 concerning county sales tax proposals shall be in accordance with  
16 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma  
17 Statutes. Petitions shall be submitted to the office of county  
18 clerk for approval as to form prior to circulation. Following  
19 approval, the petitioner shall have ninety (90) days to secure the  
20 required signatures. After securing the requisite number of  
21 signatures, the petitioner shall submit the petition and signatures  
22 to the county clerk. Following the verification of signatures, the  
23 county clerk shall present the petition to the board of county  
24 commissioners. The special election shall be held within sixty (60)

1 days of receiving the petition. The ballot title presented to the  
2 voters at the special election shall be identical to the ballot as  
3 presented in the initiative petition.

4 D. All Subject to the provisions of Section 3 of this act, all  
5 items that are exempt from the state sales tax shall be exempt from  
6 any sales tax levied by a county.

7 E. Any sales tax which may be levied by a county shall be  
8 designated for a particular purpose. Such purposes may include, but  
9 are not limited to, projects owned by the state, any agency or  
10 instrumentality thereof, the county and/or any political subdivision  
11 located in whole or in part within such county, regional  
12 development, economic development, common education, general  
13 operations, capital improvements, county roads, weather modification  
14 or any other purpose deemed, by a majority vote of the county  
15 commissioners or as stated by initiative petition, to be necessary  
16 to promote safety, security and the general well being of the  
17 people. The county shall identify the purpose of the sales tax when  
18 it is presented to the voters pursuant to the provisions of  
19 subsection A of this section. Except as otherwise provided in this  
20 section, the proceeds of any sales tax levied by a county shall be  
21 deposited in the general revenue or sales tax revolving fund of the  
22 county and shall be used only for the purpose for which such sales  
23 tax was designated. If the proceeds of any sales tax levied by a  
24 county pursuant to this section are pledged for the purpose of

1 retiring indebtedness incurred for the specific purpose for which  
2 the sales tax is imposed, the sales tax shall not be repealed until  
3 such time as the indebtedness is retired. However, in no event  
4 shall the life of the tax be extended beyond the duration approved  
5 by the voters of the county.

6 F. 1. Notwithstanding any other provisions of law, any county  
7 that has approved a sales tax for the construction, support or  
8 operation of a county hospital may continue to collect such tax if  
9 such hospital is subsequently sold. Such collection shall only  
10 continue if the county remains indebted for the past construction,  
11 support or operation of such hospital. The collection may continue  
12 only until the debt is repaid or for the stated term of the sales  
13 tax, whichever period is shorter.

14 2. If the construction, support or operation of a hospital is  
15 funded through the levy of a county sales tax pursuant to this  
16 section and such hospital is subsequently sold, the county levying  
17 the tax may dissolve the governing board of such hospital following  
18 the sale. Upon the sale of the hospital and dissolution of any  
19 governing board, the county is relieved of any future liability for  
20 the operation of such hospital.

21 G. Proceeds from any sales tax levied that is designated to be  
22 used solely by the sheriff for the operation of the office of  
23 sheriff shall be placed in the special revenue account of the  
24 sheriff.

1 H. The life of the tax could be limited or unlimited in  
2 duration. The county shall identify the duration of the tax when it  
3 is presented to the voters pursuant to the provisions of subsections  
4 A and C of this section.

5 I. There are hereby created one or more county sales tax  
6 revolving funds in each county which levies a sales tax under this  
7 section if any or all of the proceeds of such tax are not to be  
8 deposited in the general revenue fund of the county or comply with  
9 the provisions of subsection G of this section. Each such revolving  
10 fund shall be designated for a particular purpose and shall consist  
11 of all monies generated by such sales tax which are designated for  
12 such purpose. Monies in such funds shall only be expended for the  
13 purposes specifically designated as required by this section. A  
14 county sales tax revolving fund shall be a continuing fund, not  
15 subject to fiscal year limitations.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1377 of Title 68, unless there  
18 is created a duplication in numbering, reads as follows:

19 The sales tax imposed by any county or authority authorized by  
20 law to levy a sales tax shall not be imposed on the sale of all  
21 eligible food and beverage as defined in the Streamlined Sales and  
22 Use Tax Agreement in accordance with and as set forth in Section 1  
23 of this act.

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1 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2701, as  
2 amended by Section 30, Chapter 413, O.S.L. 2003 (68 O.S. Supp. 2006,  
3 Section 2701), is amended to read as follows:

4 Section 2701. A. Any incorporated city or town in this state  
5 is hereby authorized to assess, levy, and collect taxes for general  
6 and special purposes of municipal government as the Legislature may  
7 levy and collect for purposes of state government, subject to the  
8 provisions of subsection F of this section, except ad valorem  
9 property taxes. Provided:

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

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

17 3. The provisions of this section shall not be construed to  
18 authorize imposition of any tax upon persons, firms, or corporations  
19 exempted from other taxation under the provisions of Sections 348.1,  
20 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of  
21 payment of taxes imposed under such sections;

22 4. Cooperatives and communications companies are hereby  
23 authorized to pass on to their subscribers in the incorporated city  
24 or town involved, the amount of any special municipal fee, charge or

1 tax hereafter assessed or levied on or collected from such  
2 cooperatives or communications companies;

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

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

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

11 B. A sales tax authorized in subsection A of this section may  
12 be levied for limited purposes specified in the ordinance levying  
13 the tax. Such ordinance shall be submitted to the voters for  
14 approval as provided in Section 2705 of this title. Any sales tax  
15 levied or any change in the rate of a sales tax levied pursuant to  
16 the provisions of this section shall become effective on the first  
17 day of the calendar quarter following approval by the voters of the  
18 city or town unless another effective date, which shall also be on  
19 the first day of a calendar quarter, is specified in the ordinance  
20 levying the sales tax or changing the rate of sales tax. Such  
21 ordinance shall describe with specificity the projects or  
22 expenditures for which the limited-purpose tax levy would be made.  
23 The municipal governing body shall create a limited-purpose fund and  
24 deposit therein any revenue generated by any tax levied pursuant to

1 this subsection. Money in the fund shall be accumulated from year  
2 to year. The fund shall be placed in an insured interest-bearing  
3 account and the interest which accrues on the fund shall be retained  
4 in the fund. The fund shall be nonfiscal and shall not be  
5 considered in computing any levy when the municipality makes its  
6 estimate to the excise board for needed appropriations. Money in  
7 the limited-purpose tax fund shall be expended only as accumulated  
8 and only for the purposes specifically described in the taxing  
9 ordinance as approved by the voters.

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

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

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1 E. If the proceeds of any sales tax levied by a municipality  
2 pursuant to subsection B of this section are being used by the  
3 municipality for the purpose of retiring indebtedness incurred by  
4 the municipality or by a public trust of which the municipality is a  
5 beneficiary for the specific purpose for which the sales tax was  
6 imposed, the sales tax shall not be repealed until such time as the  
7 indebtedness is retired. However, in no event shall the life of the  
8 tax be extended beyond the duration approved by the voters of the  
9 municipality. The provisions of this subsection shall apply to all  
10 sales tax levies imposed by a municipality and being used by the  
11 municipality for the purposes set forth in this subsection prior to  
12 or after July 1, 1995.

13 F. The sale of all eligible food and beverages as defined in  
14 the Streamlined Sales and Use Tax Agreement shall be exempt from the  
15 sales tax imposed by any incorporated city or town pursuant to this  
16 section in accordance with and as set forth in Section 1 of this  
17 act.

18 SECTION 5. AMENDATORY 68 O.S. 2001, Section 5011, as  
19 amended by Section 15, Chapter 322, O.S.L. 2004 (68 O.S. Supp. 2006,  
20 Section 5011), is amended to read as follows:

21 Section 5011. A. Except as otherwise provided by this section,  
22 beginning with the calendar year 1990 and for each calendar year  
23 through 1998, and for calendar year 2003, any individual who is a  
24 resident of and is domiciled in this state during the entire

1 calendar year for which the filing is made and whose gross household  
2 income for such year does not exceed Twelve Thousand Dollars  
3 (\$12,000.00) may file a claim for sales tax relief.

4 B. For calendar years 1999, 2002 and 2004, any individual who  
5 is a resident of and is domiciled in this state during the entire  
6 calendar year for which the filing is made may file a claim for  
7 sales tax relief if the gross household income for such year does  
8 not exceed the following amounts:

9 1. For an individual not subject to the provisions of paragraph  
10 2 of this subsection and claiming no allowable personal exemption  
11 other than the allowable personal exemption for that individual or  
12 the spouse of that individual, Fifteen Thousand Dollars  
13 (\$15,000.00); or

14 2. For an individual claiming one or more allowable personal  
15 exemptions other than the allowable personal exemption for that  
16 individual or the spouse of that individual, an individual with a  
17 physical disability constituting a substantial handicap to  
18 employment, or an individual who is sixty-five (65) years of age or  
19 older at the close of the tax year, Thirty Thousand Dollars  
20 (\$30,000.00).

21 C. For calendar years 2000, 2001, 2005 and ~~following~~2006, an  
22 individual who is a resident of and is domiciled in this state  
23 during the entire calendar year for which the filing is made may  
24

1 file a claim for sales tax relief if the gross household income for  
2 such year does not exceed the following amounts:

3 1. For an individual not subject to the provisions of paragraph  
4 2 of this subsection and claiming no allowable personal exemption  
5 other than the allowable personal exemption for that individual or  
6 the spouse of that individual, Twenty Thousand Dollars (\$20,000.00);  
7 or

8 2. For an individual claiming one or more allowable personal  
9 exemptions other than the allowable personal exemption for that  
10 individual or the spouse of that individual, an individual with a  
11 physical disability constituting a substantial handicap to  
12 employment, or an individual who is sixty-five (65) years of age or  
13 older at the close of the tax year, Fifty Thousand Dollars  
14 (\$50,000.00).

15 D. The amount of the claim filed pursuant to the Sales Tax  
16 Relief Act shall be Forty Dollars (\$40.00) multiplied by the number  
17 of allowable personal exemptions. As used in the Sales Tax Relief  
18 Act, "allowable personal exemption" means a personal exemption to  
19 which the taxpayer would be entitled pursuant to the provisions of  
20 the Oklahoma Income Tax Act, except for:

21 1. The exemptions such taxpayer would be entitled to pursuant  
22 to Section 2358 of this title if such taxpayer or spouse is blind or  
23 sixty-five (65) years of age or older at the close of the tax year;

24

1           2. An exemption for a person convicted of a felony if during  
2 all or any part of the calendar year for which the claim is filed  
3 such person was an inmate in the custody of the Department of  
4 Corrections; or

5           3. An exemption for a person if during all or any part of the  
6 calendar year for which the claim is filed such person resided  
7 outside of this state.

8           E. A person convicted of a felony shall not be permitted to  
9 file a claim for sales tax relief pursuant to the provisions of  
10 Sections 5010 through 5016 of this title for the period of time  
11 during which the person is an inmate in the custody of the  
12 Department of Corrections. Such period of time shall include the  
13 entire calendar year if the person is in the custody of the  
14 Department of Corrections during any part of the calendar year. The  
15 provisions of this subsection shall not prohibit all other members  
16 of the household of an inmate from filing a claim based upon the  
17 personal exemptions to which the household members would be entitled  
18 pursuant to the provisions of the Oklahoma Income Tax Act.

19           F. The Department of Corrections shall withhold up to fifty  
20 percent (50%) of any money inmates receive for claims made pursuant  
21 to the Sales Tax Relief Act prior to September 1, 1991, for costs of  
22 incarceration.

23           G. For purposes of Section 139.105 of Title 17 of the Oklahoma  
24 Statutes, the gross household income of any individual who may file

1 a claim for sales tax relief shall not exceed Twelve Thousand  
2 Dollars (\$12,000.00).

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

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

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