

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 1511

By: Wilson of the Senate

and

Terrill and Dorman of the
House

8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to revenue and taxation; amending 47
11 O.S. 2001, Section 1121, which relates to payment for
12 vehicle registrations; providing exemption from
13 certain costs or charges related to dishonored
14 checks; amending 47 O.S. 2001, Section 1128, which
15 relates to motor vehicles; modifying provisions
16 related to in-transit license plates; authorizing
17 certain registration fee for boat trailers and
18 utility-type trailers; amending 68 O.S. 2001, Section
19 118, as last amended by Section 3, Chapter 335,
20 O.S.L. 2007 (68 O.S. Supp. 2007, Section 118), which
21 relates to revenue estimation; making certain date
22 certain; amending 68 O.S. 2001, Section 205, as last
23 amended by Section 2, Chapter 327, O.S.L. 2007 (68
24 O.S. Supp. 2007, Section 205), which relates to tax
records; allowing the providing of information to
certain groups; amending Section 4, Chapter 475,
O.S.L. 2003, as amended by Section 7, Chapter 479,
O.S.L. 2005 (68 O.S. Supp. 2007, Section 312.1),
which relates to records and procedures; modifying
provision related to disclosure of information to law
enforcement officials; amending 68 O.S. 2001, Section
316, as amended by Section 5, Chapter 475, O.S.L.
2003 (68 O.S. Supp. 2007, Section 316), which relates
to certain offenses related to cigarette taxation;
modifying punishment; amending 68 O.S. 2001, Section
305, as amended by Section 3, Chapter 475, O.S.L.
2003 and Section 7, Chapter 266, O.S.L. 2004 (68 O.S.
Supp. 2007, Sections 305 and 360.7), which relate to

1 cigarettes; providing procedure for seizure and
2 forfeiture of certain cigarettes; amending 68 O.S.
3 2001, Section 417, which relates to modifying certain
4 cigarette forfeiture and seizure procedures; amending
5 Section 20, Chapter 413, O.S.L. 2003, as last amended
6 by Section 6, Chapter 155, O.S.L. 2007 (68 O.S. Supp.
7 2007, Section 1354.27), which relates to sourcing;
8 modifying time period during which sourcing rule
9 applies; amending 68 O.S. 2001, Section 1356, as last
10 amended by Section 5, Chapter 353, O.S.L. 2007 (68
11 O.S. Supp. 2007, Section 1356), which relates to
12 sales tax; expanding certain sales tax exemption;
13 amending Section 4, Chapter 42, 2nd Extraordinary
14 Session, O.S.L. 2006, as amended by Section 2,
15 Chapter 346, O.S.L. 2007 (68 O.S. Supp. 2007, Section
16 2355.1A), which relates to certain determinations by
17 State Board of Equalization; modifying method and
18 timing of revenue determinations; providing for
19 codification; providing effective dates; and
20 declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 1121, is amended to read as follows:

Section 1121. A. When, at the time of registration of any vehicle, payment is made by check for fees and taxes and the check is not paid by the bank on which drawn for any reason, after said check has been presented for payment a second time, such certificate of registration and other such instruments issued at the time of registration of such vehicle shall be invalid. The motor license agent shall transmit all documents and the dishonored check to the Oklahoma Tax Commission for credit to the motor license agent's account. The Commission may enter into a contract for the

1 collection of dishonored checks and canceled instruments. In all
2 such cases, such vehicles shall be subject to the license fees and
3 penalties provided in this act as though no attempt to register the
4 vehicle had been made and the motor license agent shall charge the
5 person issuing the check a fee of Twenty-five Dollars (\$25.00) for
6 each check to cover the costs of processing each returned check. An
7 individual who subsequently purchases any such vehicle shall not be
8 required, as a condition for registration of the vehicle, to pay any
9 ~~penalties imposed by this section~~ tax, fee or penalty due resulting
10 from the dishonored check.

11 A mortgagee who repossesses any such vehicle shall not be
12 required, as a condition for registration of said vehicle, to pay
13 the dishonored check penalties which had accrued as of the date of
14 such repossession.

15 B. Whenever payment is made by check for any Oklahoma ~~driver's~~
16 driver license and the check is not paid by the bank on which drawn
17 for any reason, after said check has been presented for payment a
18 second time, such ~~driver's~~ driver license shall be invalid and all
19 driving privileges of the holder of the ~~driver's~~ driver license
20 shall be canceled. The motor license agent shall transmit the
21 dishonored check to the Oklahoma Tax Commission for credit to the
22 motor license agents account. The Commission may enter into a
23 contract for the collection of dishonored checks. The motor license
24 agent shall charge the person issuing the check a fee of Twenty-five

1 Dollars (\$25.00) for each check to cover the cost of processing each
2 returned check. The motor license agent shall transmit a copy of
3 all documents associated with the application and issuance of the
4 ~~driver's~~ driver license and a copy of the dishonored check to the
5 Department of Public Safety.

6 SECTION 2. AMENDATORY 47 O.S. 2001, Section 1128, is
7 amended to read as follows:

8 Section 1128. A. Every person manufacturing or having a
9 contract to sell new vehicles in this state shall file a verified
10 application for a general distinctive number for all new vehicles
11 owned or controlled by the manufacturer or dealer; provided, the
12 Oklahoma Tax Commission shall issue a license to sell such new motor
13 vehicles only for those types of new vehicles for which the
14 applicant has a sales contract or franchise; provided, further, that
15 no license shall be issued to any applicant that has not complied
16 with the provisions of Sections 561 through 568 of this title and
17 does not hold a current license issued by the Oklahoma Motor Vehicle
18 Commission pursuant thereto. A separate manufacturer's or dealer's
19 license shall be required for each separate county within which such
20 manufacturer or dealer has an established place of business and upon
21 payment of a license fee of Ten Dollars (\$10.00) there shall be
22 assigned and issued to such manufacturer or dealer a Certificate of
23 Registration and one license plate which shall be displayed upon
24 each vehicle of such manufacturer or dealer when same is operated,

1 driven, or displayed on any street, road, or highway, in the same
2 manner as hereinbefore provided for vehicles owned by other persons.
3 Such a manufacturer or dealer in new vehicles may obtain as many
4 additional license plates as may be desired, upon the payment of the
5 sum of Ten Dollars (\$10.00) for each additional plate; provided that
6 no such license plate issued to any manufacturer or dealer shall be
7 used or displayed upon any secondhand or used vehicle, or upon any
8 new vehicle which is used for a service car, or private use, or for
9 hire. Any person, with consent of the dealer, may operate a motor
10 vehicle, with the dealer's tag affixed, while contemplating
11 purchase, so long as this intent is limited to a consecutive
12 seventy-two-hour period, or a weekend. An individual holding a
13 valid salesman's license issued by the Oklahoma Motor Vehicle
14 Commission shall not be subject to this limitation. If such person
15 also buys and sells used vehicles, he shall, after obtaining his new
16 motor vehicle dealer's license from the Oklahoma Motor Vehicle
17 Commission, also obtain a used motor vehicle dealer's license, from
18 the Used Motor Vehicle and Parts Commission, the cost of which shall
19 be as prescribed in Section 1101 et seq. of this title.

20 B. Each dealer and used motor vehicle dealer shall keep a
21 record of the purchase and sale of each motor vehicle he buys or
22 sells, which shall show the name of the seller or buyer as the case
23 may be, and a complete description of the vehicle purchased or sold,
24 and such other information as the Commission may prescribe.

1 C. Application for manufacturer's or dealer's license must show
2 that such dealer or manufacturer has not violated any of the
3 provisions of this section; and such license shall be nonassignable;
4 and any such license may be suspended temporarily or revoked by the
5 Commission for violation or failure to comply with this section,
6 provided, the holder of such license shall be given ten (10) days'
7 notice of hearing to suspend or cancel such license. If any such
8 person subject to any of the licenses required in this section fails
9 to obtain it when due, a penalty of twenty-five cents (\$0.25) per
10 day on each such license shall be charged in the same manner as is
11 now provided on delinquent motor vehicle registrations, and after a
12 period of thirty (30) days such penalty shall be equal to the
13 license fee. It shall be the duty of every person licensed to sell
14 new or used motor vehicles to advise each purchaser in writing about
15 his title requirements and payment of any taxes due. Each used
16 motor vehicle must display a proper Oklahoma license plate or a used
17 dealer's license plate. Dealers failing to comply with provisions
18 of this section shall be responsible for all taxes due on such sales
19 or on such vehicles.

20 D. Every person engaged in the business of transporting and
21 delivering new or used vehicles by driving, either singly or by
22 towbar, saddle mount or full mount method, engaging in drive-away
23 operations as defined in Section 3 of Title 85 of the Oklahoma
24 Statutes, or any combination thereof, from the manufacturer or

1 shipper to the dealer or consignee and using the public highways of
2 this state shall file with the Commission a verified application for
3 in-transit license plates to identify such vehicles. The
4 application shall provide for a general distinctive number for all
5 vehicles so transported. Upon payment of a license fee of Ten
6 Dollars (\$10.00) there shall be assigned and issued to such person
7 one in-transit plate. Such in-transit plate shall be used by such
8 person only on vehicles when so transported. Such person may obtain
9 as many additional in-transit plates as desired upon payment of a
10 fee of Ten Dollars (\$10.00) for each additional plate. Provided, a
11 used motor vehicle dealer shall use a used dealer license plate in
12 lieu of the in-transit license plate for transporting a used motor
13 vehicle and, in such cases, shall be exempt from making application
14 for an in-transit license plate. Provided further, only a person
15 who possesses a ~~certificate issued by the Interstate Commerce~~
16 ~~Commission or the Corporation Commission to engage in the business~~
17 ~~of transporting and delivering manufactured homes for hire~~ valid
18 motor carrier authority issued by the Federal Motor Carrier Safety
19 Administration, or a valid for-hire authority issued by the
20 Corporation Commission may use the in-transit license plates
21 obtained by them as herein authorized for transporting new or used
22 manufactured homes from one location to another location within
23 Oklahoma or from a point in another state to a point in this state.
24 Nothing contained in this section shall relieve any person from the

1 payment of license fees otherwise provided by law. When the
2 Commission deems it advisable and in the public interest, it may
3 require the holder of any in-transit license, or any person making
4 application therefor, to file a proper surety bond in any amount it
5 deems proper, not to exceed Ten Thousand Dollars (\$10,000.00).

6 E. The Oklahoma Tax Commission shall issue dealer licenses to
7 new and used manufactured home dealers, new and used travel trailer
8 dealers and new and used commercial trailer dealers.

9 F. All licenses provided for in this section shall expire on
10 December 31 of each year.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1133.3 of Title 47, unless there
13 is created a duplication in numbering, reads as follows:

14 At the option of the owner, the Oklahoma Tax Commission is
15 authorized to register boat trailers and utility-type trailers,
16 which are not being utilized in a commercial capacity, on an annual
17 basis for a fee of One Dollar (\$1.00).

18 SECTION 4. AMENDATORY 68 O.S. 2001, Section 118, as last
19 amended by Section 3, Chapter 335, O.S.L. 2007 (68 O.S. Supp. 2007,
20 Section 118), is amended to read as follows:

21 Section 118. A. Upon receipt of a written request from a
22 member or employee of the Legislature, the Oklahoma Tax Commission
23 shall provide:

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1 1. A written estimate of the revenue gain or loss to the state
2 as a result of an actual or proposed change to a state tax law; and

3 2. A written statement of the Tax Commission's recommendation
4 to the State Board of Equalization as to the change in the amount
5 certified as available for appropriation by the Legislature as a
6 result of an actual or proposed change to a state tax law.

7 The Tax Commission shall provide such estimate and statement
8 within two (2) weeks of the date the request was received unless the
9 member or employee of the Legislature specifies an earlier date. If
10 the Tax Commission determines that it is unable to provide such
11 estimate and statement within the time period required by this
12 section, it shall provide a written explanation and date by which
13 the estimate and statement will be provided to the member or
14 employee.

15 B. ~~As soon as is practicable~~ On or after December 31, ~~2008~~
16 2009, and subject to the availability of funds, the Tax Commission
17 shall develop the estimates and statements required by subsection A
18 of this section utilizing a dynamic revenue estimating model. Such
19 model shall take into consideration changes in economic activity as
20 a result of the proposed legislation and consequent revenue gains or
21 losses due to factors such as taxpayer behavior, employment and
22 business investment. The Tax Commission may, subject to the laws of
23 this state relating to confidentiality of information, contract with
24 institutions of higher education in this state or other entities to

1 perform its duties as set forth in this subsection. The Tax
2 Commission is authorized to promulgate rules to carry out the
3 implementation of this section.

4 C. For the purpose of providing an annual forecast of gross
5 production tax revenues from the production of natural and
6 casinghead gas to the Office of State Finance, the Tax Commission
7 shall subscribe to appropriate reference materials which provide
8 economic outlook of future gas prices that have most closely
9 followed the historical trend of Oklahoma gas prices. To determine
10 the average differential between the published forecasted prices and
11 Oklahoma gas prices, the Tax Commission shall compare prices in at
12 least twenty-four (24) of the immediate thirty-six (36) previous
13 months of production. The Tax Commission shall utilize the
14 procedures provided herein to forecast the collection of gross
15 production tax revenues from the production of natural and
16 casinghead gas for the fiscal year beginning July 1, 2005, and each
17 fiscal year thereafter.

18 SECTION 5. AMENDATORY 68 O.S. 2001, Section 205, as last
19 amended by Section 2, Chapter 327, O.S.L. 2007 (68 O.S. Supp. 2007,
20 Section 205), is amended to read as follows:

21 Section 205. A. The records and files of the Oklahoma Tax
22 Commission concerning the administration of the Uniform Tax
23 Procedure Code or of any state tax law shall be considered
24 confidential and privileged, except as otherwise provided for by

1 law, and neither the Tax Commission nor any employee engaged in the
2 administration of the Tax Commission or charged with the custody of
3 any such records or files nor any person who may have secured
4 information from the Tax Commission shall disclose any information
5 obtained from the records or files or from any examination or
6 inspection of the premises or property of any person.

7 B. Except as provided in paragraph 26 of subsection C of this
8 section, neither the Tax Commission nor any employee engaged in the
9 administration of the Tax Commission or charged with the custody of
10 any such records or files shall be required by any court of this
11 state to produce any of the records or files for the inspection of
12 any person or for use in any action or proceeding, except when the
13 records or files or the facts shown thereby are directly involved in
14 an action or proceeding pursuant to the provisions of the Uniform
15 Tax Procedure Code or of the state tax law, or when the
16 determination of the action or proceeding will affect the validity
17 or the amount of the claim of the state pursuant to any state tax
18 law, or when the information contained in the records or files
19 constitutes evidence of violation of the provisions of the Uniform
20 Tax Procedure Code or of any state tax law.

21 C. The provisions of this section shall not prevent the Tax
22 Commission from disclosing the following information and no
23 liability whatsoever, civil or criminal, shall attach to any member
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1 of the Tax Commission or any employee thereof for any error or
2 omission in the disclosure of such information:

3 1. The delivery to a taxpayer or a duly authorized
4 representative of the taxpayer of a copy of any report or any other
5 paper filed by the taxpayer pursuant to the provisions of the
6 Uniform Tax Procedure Code or of any state tax law;

7 2. The exchange of information that is not protected by the
8 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
9 pursuant to reciprocal agreements entered into by the Tax Commission
10 and other state agencies or agencies of the federal government;

11 3. The publication of statistics so classified as to prevent
12 the identification of a particular report and the items thereof;

13 4. The examination of records and files by the State Auditor
14 and Inspector or the duly authorized agents of the State Auditor and
15 Inspector;

16 5. The disclosing of information or evidence to the Oklahoma
17 State Bureau of Investigation, Attorney General, Oklahoma State
18 Bureau of Narcotics and Dangerous Drugs Control, any district
19 attorney, or agent of any federal law enforcement agency when the
20 information or evidence is to be used by such officials to
21 investigate or prosecute violations of the criminal provisions of
22 the Uniform Tax Procedure Code or of any state tax law or of any
23 federal crime committed against this state. Any information
24 disclosed to the Oklahoma State Bureau of Investigation, Attorney

1 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
2 Control, any district attorney, or agent of any federal law
3 enforcement agency shall be kept confidential by such person and not
4 be disclosed except when presented to a court in a prosecution for
5 violation of the tax laws of this state or except as specifically
6 authorized by law, and a violation by the Oklahoma State Bureau of
7 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
8 and Dangerous Drugs Control, district attorney, or agent of any
9 federal law enforcement agency by otherwise releasing the
10 information shall be a felony;

11 6. The use by any division of the Tax Commission of any
12 information or evidence in the possession of or contained in any
13 report or return filed with any other division of the Tax
14 Commission;

15 7. The furnishing, at the discretion of the Tax Commission, of
16 any information disclosed by its records or files to any official
17 person or body of this state, any other state, the United States, or
18 foreign country who is concerned with the administration or
19 assessment of any similar tax in this state, any other state or the
20 United States. The provisions of this paragraph shall include the
21 furnishing of information by the Tax Commission to a county assessor
22 to determine the amount of gross household income pursuant to the
23 provisions of Section 8C of Article X of the Oklahoma Constitution
24 or Section 2890 of this title. The Tax Commission shall promulgate

1 rules to give guidance to the county assessors regarding the type of
2 information which may be used by the county assessors in determining
3 the amount of gross household income pursuant to Section 8C of
4 Article X of the Oklahoma Constitution or Section 2890 of this
5 title. The provisions of this paragraph shall also include the
6 furnishing of information to the State Treasurer for the purpose of
7 administration of the Uniform Unclaimed Property Act;

8 8. The furnishing of information to other state agencies for
9 the limited purpose of aiding in the collection of debts owed by
10 individuals to such requesting agencies;

11 9. The furnishing of information requested by any member of the
12 general public and stated in the sworn lists or schedules of taxable
13 property of public service corporations organized, existing, or
14 doing business in this state which are submitted to and certified by
15 the State Board of Equalization pursuant to the provisions of
16 Section 2858 of this title and Section 21 of Article X of the
17 Oklahoma Constitution, provided such information would be a public
18 record if filed pursuant to Sections 2838 and 2839 of this title on
19 behalf of a corporation other than a public service corporation;

20 10. The furnishing of information requested by any member of
21 the general public and stated in the findings of the Tax Commission
22 as to the adjustment and equalization of the valuation of real and
23 personal property of the counties of the state, which are submitted
24 to and certified by the State Board of Equalization pursuant to the

1 provisions of Section 2865 of this title and Section 21 of Article X
2 of the Oklahoma Constitution;

3 11. The furnishing of information to an Oklahoma wholesaler of
4 low-point beer, licensed under the provisions of Section 163.1 et
5 seq. of Title 37 of the Oklahoma Statutes, or an association or
6 organization whose membership is comprised of such wholesalers, of
7 the licensed retailers authorized by law to purchase low-point beer
8 in this state or the furnishing of information to a licensed
9 Oklahoma wholesaler of low-point beer of shipments by licensed
10 manufacturers into this state;

11 12. The furnishing of information as to the issuance or
12 revocation of any tax permit, license or exemption by the Tax
13 Commission as provided for by law. Such information shall be
14 limited to the name of the person issued the permit, license or
15 exemption, the name of the business entity authorized to engage in
16 business pursuant to the permit, license or exemption, the address
17 of the business entity, and the grounds for revocation;

18 13. The posting of notice of revocation of any tax permit or
19 license upon the premises of the place of business of any business
20 entity which has had any tax permit or license revoked by the Tax
21 Commission as provided for by law. Such notice shall be limited to
22 the name of the person issued the permit or license, the name of the
23 business entity authorized to engage in business pursuant to the
24

1 permit or license, the address of the business entity, and the
2 grounds for revocation;

3 14. The furnishing of information upon written request by any
4 member of the general public as to the outstanding and unpaid amount
5 due and owing by any taxpayer of this state for any delinquent tax,
6 together with penalty and interest, for which a tax warrant or a
7 certificate of indebtedness has been filed pursuant to law;

8 15. After the filing of a tax warrant pursuant to law, the
9 furnishing of information upon written request by any member of the
10 general public as to any agreement entered into by the Tax
11 Commission concerning a compromise of tax liability for an amount
12 less than the amount of tax liability stated on such warrant;

13 16. The disclosure of information necessary to complete the
14 performance of any contract authorized by ~~Sections 255 and 262 of~~
15 this title to any person with whom the Tax Commission has
16 contracted;

17 17. The disclosure of information to any person for a purpose
18 as authorized by the taxpayer pursuant to a waiver of
19 confidentiality. The waiver shall be in writing and shall be made
20 upon such form as the Tax Commission may prescribe;

21 18. The disclosure of information required in order to comply
22 with the provisions of Section 2369 of this title;

23

24

1 19. The disclosure to an employer, as defined in Sections
2 2385.1 and 2385.3 of this title, of information required in order to
3 collect the tax imposed by Section 2385.2 of this title;

4 20. The disclosure to a plaintiff of a corporation's last-known
5 address shown on the records of the Franchise Tax Division of the
6 Tax Commission in order for such plaintiff to comply with the
7 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

8 21. The disclosure of information directly involved in the
9 resolution of the protest by a taxpayer to an assessment of tax or
10 additional tax or the resolution of a claim for refund filed by a
11 taxpayer, including the disclosure of the pendency of an
12 administrative proceeding involving such protest or claim, to a
13 person called by the Tax Commission as an expert witness or as a
14 witness whose area of knowledge or expertise specifically addresses
15 the issue addressed in the protest or claim for refund. Such
16 disclosure to a witness shall be limited to information pertaining
17 to the specific knowledge of that witness as to the transaction or
18 relationship between taxpayer and witness;

19 22. The disclosure of information necessary to implement an
20 agreement authorized by Section 2702 of this title when such
21 information is directly involved in the resolution of issues arising
22 out of the enforcement of a municipal sales tax ordinance. Such
23 disclosure shall be to the governing body or to the municipal
24 attorney, if so designated by the governing body;

1 23. The furnishing of information regarding incentive payments
2 made pursuant to the provisions of Sections 3601 through 3609 of
3 this title or incentive payments made pursuant to the provisions of
4 Sections 3501 through 3508 of this title;

5 24. The furnishing to a prospective purchaser of any business,
6 or his or her authorized representative, of information relating to
7 any liabilities, delinquencies, assessments or warrants of the
8 prospective seller of the business which have not been filed of
9 record, established, or become final and which relate solely to the
10 seller's business. Any disclosure under this paragraph shall only
11 be allowed upon the presentment by the prospective buyer, or the
12 buyer's authorized representative, of the purchase contract and a
13 written authorization between the parties;

14 25. The furnishing of information as to the amount of state
15 revenue affected by the issuance or granting of any tax permit,
16 license, exemption, deduction, credit or other tax preference by the
17 Tax Commission as provided for by law. Such information shall be
18 limited to the type of permit, license, exemption, deduction, credit
19 or other tax preference issued or granted, the date and duration of
20 such permit, license, exemption, deduction, credit or other tax
21 preference and the amount of such revenue. The provisions of this
22 paragraph shall not authorize the disclosure of the name of the
23 person issued such permit, license, exemption, deduction, credit or
24 other tax preference, or the name of the business entity authorized

1 to engage in business pursuant to the permit, license, exemption,
2 deduction, credit or other tax preference;

3 26. The examination of records and files of a person or entity
4 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
5 Control pursuant to a court order by a magistrate in whose
6 territorial jurisdiction the person or entity resides, or where the
7 Tax Commission records and files are physically located. Such an
8 order may only be issued upon a sworn application by an agent of the
9 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
10 certifying that the person or entity whose records and files are to
11 be examined is the target of an ongoing investigation of a felony
12 violation of the Uniform Controlled Dangerous Substances Act and
13 that information resulting from such an examination would likely be
14 relevant to that investigation. Any records or information obtained
15 pursuant to such an order may only be used by the Oklahoma State
16 Bureau of Narcotics and Dangerous Drugs Control in the investigation
17 and prosecution of a felony violation of the Uniform Controlled
18 Dangerous Substances Act. Any such order issued pursuant to this
19 paragraph, along with the underlying application, shall be sealed
20 and not disclosed to the person or entity whose records were
21 examined, for a period of ninety (90) days. The issuing magistrate
22 may grant extensions of such period upon a showing of good cause in
23 furtherance of the investigation. Upon the expiration of ninety
24 (90) days and any extensions granted by the magistrate, a copy of

1 the application and order shall be served upon the person or entity
2 whose records were examined, along with a copy of the records or
3 information actually provided by the Tax Commission;

4 27. The disclosure of information, as prescribed by this
5 paragraph, which is related to the proposed or actual usage of tax
6 credits pursuant to Section 2357.7 of this title, the Small Business
7 Capital Formation Incentive Act or the Rural Venture Capital
8 Formation Incentive Act. Unless the context clearly requires
9 otherwise, the terms used in this paragraph shall have the same
10 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
11 title. The disclosure of information authorized by this paragraph
12 shall include:

- 13 a. the legal name of any qualified venture capital
14 company, qualified small business capital company, or
15 qualified rural small business capital company,
- 16 b. the identity or legal name of any person or entity
17 that is a shareholder or partner of a qualified
18 venture capital company, qualified small business
19 capital company, or qualified rural small business
20 capital company,
- 21 c. the identity or legal name of any Oklahoma business
22 venture, Oklahoma small business venture, or Oklahoma
23 rural small business venture in which a qualified
24 investment has been made by a capital company, or

1 d. the amount of funds invested in a qualified venture
2 capital company, the amount of qualified investments
3 in a qualified small business capital company or
4 qualified rural small business capital company and the
5 amount of investments made by a qualified venture
6 capital company, qualified small business capital
7 company, or qualified rural small business capital
8 company; or

9 28. The disclosure of specific information as required by
10 Section ~~± 46~~ of ~~this act~~ Title 62 of the Oklahoma Statutes.

11 D. The Tax Commission shall cause to be prepared and made
12 available for public inspection in the office of the Tax Commission
13 in such manner as it may determine an annual list containing the
14 name and post office address of each person, whether individual,
15 corporate, or otherwise, making and filing an income tax return with
16 the Tax Commission.

17 It is specifically provided that no liability whatsoever, civil
18 or criminal, shall attach to any member of the Tax Commission or any
19 employee thereof for any error or omission of any name or address in
20 the preparation and publication of the list.

21 E. The Tax Commission shall prepare or cause to be prepared a
22 report on all provisions of state tax law that reduce state revenue
23 through exclusions, deductions, credits, exemptions, deferrals or
24 other preferential tax treatments. The report shall be prepared not

1 later than October 1 of each even-numbered year and shall be
2 submitted to the Governor, the President Pro Tempore of the Senate
3 and the Speaker of the House of Representatives. The Tax Commission
4 may prepare and submit supplements to the report at other times of
5 the year if additional or updated information relevant to the report
6 becomes available. The report shall include, for the previous
7 fiscal year, the Tax Commission's best estimate of the amount of
8 state revenue that would have been collected but for the existence
9 of each such exclusion, deduction, credit, exemption, deferral or
10 other preferential tax treatment allowed by law. The Tax Commission
11 may request the assistance of other state agencies as may be needed
12 to prepare the report. The Tax Commission is authorized to require
13 any recipient of a tax incentive or tax expenditure to report to the
14 Tax Commission such information as requested so that the Tax
15 Commission may provide the information to the Incentive Review
16 Committee or fulfill its obligations as required by this subsection.
17 The Tax Commission may require this information to be submitted in
18 an electronic format. The Tax Commission may disallow any claim of
19 a person for a tax incentive due to its failure to file a report as
20 required under the authority of this subsection. The Tax Commission
21 may consult with the Incentive Review Committee to develop a
22 reporting system to obtain the information requested in a manner
23 that is the least burdensome on the taxpayer.

24

1 F. It is further provided that the provisions of this section
2 shall be strictly interpreted and shall not be construed as
3 permitting the disclosure of any other information contained in the
4 records and files of the Tax Commission relating to income tax or to
5 any other taxes.

6 G. Unless otherwise provided for in this section, any violation
7 of the provisions of this section shall constitute a misdemeanor and
8 shall be punishable by the imposition of a fine not exceeding One
9 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
10 for a term not exceeding one (1) year, or by both such fine and
11 imprisonment, and the offender shall be removed or dismissed from
12 office.

13 H. Offenses described in Section 2376 of this title shall be
14 reported to the appropriate district attorney of this state by the
15 Tax Commission as soon as the offenses are discovered by the Tax
16 Commission or its agents or employees. The Tax Commission shall
17 make available to the appropriate district attorney or to the
18 authorized agent of the district attorney its records and files
19 pertinent to prosecutions, and such records and files shall be fully
20 admissible as evidence for the purpose of such prosecutions.

21 SECTION 6. AMENDATORY Section 4, Chapter 475, O.S.L.
22 2003, as amended by Section 7, Chapter 479, O.S.L. 2005 (68 O.S.
23 Supp. 2007, Section 312.1), is amended to read as follows:

24

1 Section 312.1 A. The Oklahoma Tax Commission, if in its
2 discretion it deems practical and reasonable, may establish
3 procedures for maintaining records and filing reports containing the
4 information required by this section. The exercise by the Tax
5 Commission of the authority granted in this subsection shall be by
6 adoption of rules necessary to establish procedures that increase
7 compliance with the requirements of this article. If the Tax
8 Commission determines to utilize its discretion, the provisions of
9 subsections B through J of this section shall apply.

10 B. Every wholesaler and distributor receiving cigarettes shall
11 submit periodic reports containing the information required by this
12 subsection. In each case, the information required shall be
13 itemized so as to disclose clearly the brand style of the product.
14 The reports shall be provided separately with respect to each of the
15 facilities operated by the wholesaler and distributor and shall
16 include:

17 1. The quantity of cigarette packages that were distributed or
18 shipped to another distributor or to a retailer within the borders
19 of Oklahoma during the reporting period and the name and address of
20 each person to whom those products were distributed or shipped;

21 2. The quantity of cigarette packages that were distributed or
22 shipped to another facility of the same distributor within the
23 borders of Oklahoma during the reporting period; and
24

1 3. The quantity of cigarette packages that were distributed or
2 shipped within the borders of Oklahoma to Indian tribal entities or
3 instrumentalities of the federal government during the reporting
4 period and the name and address of each person to whom those
5 products were distributed or shipped.

6 C. Manufacturers shall submit periodic reports containing the
7 information required by this subsection. In each case, the
8 information required shall be itemized so as to disclose clearly the
9 brand style of the product. The reports shall be provided
10 separately with respect to each of the facilities operated by the
11 manufacturer and shall include:

12 1. The quantity of cigarette packages that were distributed or
13 shipped to another manufacturer or to a distributor within the
14 borders of Oklahoma during the reporting period and the name and
15 address of each person to whom those products were distributed or
16 shipped;

17 2. The quantity of cigarette packages that were distributed or
18 shipped to another facility of the same manufacturer within the
19 borders of Oklahoma during the reporting period; and

20 3. The quantity of cigarette packages that were distributed or
21 shipped within the borders of Oklahoma to instrumentalities of the
22 federal government during the reporting period and the name and
23 address of each person to whom those products were distributed or
24 shipped.

1 D. The Tax Commission shall establish the reporting period,
2 which shall be no longer than three (3) calendar months and no
3 shorter than one (1) calendar month. Reports shall be submitted
4 electronically as prescribed by the Tax Commission.

5 E. Each distributor shall maintain copies of invoices or
6 equivalent documentation for each of its facilities for every
7 transaction in which the distributor is the seller, purchaser,
8 consignor, consignee, or recipient of cigarettes. The invoices or
9 documentation shall show the name, address, phone number and
10 wholesale license number of the consignor, seller, purchaser, or
11 consignee, and the quantity by brand style of the cigarettes
12 involved in the transaction.

13 F. Each retailer shall maintain copies of invoices or
14 equivalent documentation for every transaction in which the retailer
15 receives or purchases cigarettes at each of its facilities. The
16 invoices or documentation shall show the name and address of the
17 distributor from whom, or the address of another facility of the
18 same retailer from which, the cigarettes were received, the quantity
19 of each brand style received in such transaction and the retail
20 cigarette license number or sales tax license number.

21 G. Each manufacturer shall maintain copies of invoices or
22 equivalent documentation for each of its facilities for every
23 transaction in which the manufacturer is the seller, purchaser,
24 consignor, consignee, or recipient of cigarettes. The invoices or

1 documentation shall show the name and address of the consignor,
2 seller, purchaser, or consignee, and the quantity by brand style of
3 the cigarettes involved in the transaction.

4 H. Records required under subsections E through G of this
5 section shall be preserved on the premises described in the license
6 in such a manner as to ensure permanency and accessibility for
7 inspection at reasonable hours by authorized personnel of the
8 Oklahoma Tax Commission. With the permission of the Tax Commission,
9 manufacturers, distributors, and retailers with multiple places of
10 business may retain centralized records, but shall transmit
11 duplicates of the invoices or the equivalent documentation to each
12 place of business within twenty-four (24) hours upon the request of
13 the Tax Commission.

14 I. The records required by subsections E through G of this
15 section shall be retained for a period of three (3) years from the
16 date of the transaction.

17 J. The Tax Commission, upon request, shall have access to
18 reports and records required under this act. The Tax Commission at
19 its sole discretion may share the records and reports required by
20 such sections with law enforcement officials of the federal
21 government, the State of Oklahoma, other states, or international
22 authorities.

23

24

1 SECTION 7. AMENDATORY 68 O.S. 2001, Section 316, as
2 amended by Section 5, Chapter 475, O.S.L. 2003 (68 O.S. Supp. 2007,
3 Section 316), is amended to read as follows:

4 Section 316. A. Any person who shall:

5 1. Sell, offer for sale or present as a prize or gift
6 cigarettes without a stamp being then and there affixed to each
7 individual package;

8 2. Sell cigarettes in quantities less than an individual
9 package;

10 3. Knowingly consume, use or smoke any cigarettes upon which a
11 tax is required to be paid without a stamp being affixed upon each
12 individual package;

13 4. Knowingly cancel or mutilate any stamp affixed to any
14 individual package of cigarettes for the purpose of concealing any
15 violation of Section 301 et seq. of this title or with any other
16 fraudulent intent;

17 5. Use any artful device or deceptive practice to conceal any
18 violation of Section 301 et seq. of this title;

19 6. Refuse to surrender to the Oklahoma Tax Commission upon
20 demand any cigarettes possessed in violation of any provision of
21 Section 301 et seq. of this title; or

22 7. Make a first sale of cigarettes without a stamp being then
23 and there affixed to each individual package;

24

1 shall be guilty of a misdemeanor, and upon conviction thereof shall
2 be fined not more than Two Hundred Dollars (\$200.00), where specific
3 penalties are not otherwise provided.

4 B. Any distributor, wholesale dealer, retail dealer or
5 distributing agent who shall:

6 1. Commit any of the acts specifically enumerated in subsection
7 A of this section, where such acts are applicable to such person;

8 2. Sell any cigarettes upon which tax is required to be paid by
9 Section 301 et seq. of this title without at the time of making such
10 sale having a valid license;

11 3. Make a first sale of cigarettes without at the time of first
12 sale having a license posted so as to be easily seen by the public;
13 or

14 4. Fail to deliver an invoice required by law to a purchaser of
15 cigarettes;

16 shall be guilty of a misdemeanor, and upon conviction thereof shall
17 be punished by a fine of not more than Two Hundred Dollars
18 (\$200.00), where specific penalties are not otherwise provided.

19 C. Any distributing agent who shall:

20 1. Commit any of the acts specifically enumerated in
21 subsections A and B of this section where such provisions are
22 applicable to such distributing agent; or

23 2. Store any unstamped cigarettes in the state or deliver or
24 distribute any unstamped cigarettes within this state, without at

1 the time of storage or delivery having a valid license posted so as
2 to be easily seen by the public;
3 shall be guilty of a misdemeanor, and upon conviction shall be
4 punished by a fine of not more than Two Hundred Dollars (\$200.00).

5 D. Any retailer violating the provisions of Section ~~305.1~~ 301
6 et seq. of this title ~~shall~~ may:

7 1. For a first offense, be punished by an administrative fine
8 of not more than One Hundred Dollars (\$100.00);

9 2. For a second offense, be punished by an administrative fine
10 of not more than One Thousand Dollars (\$1,000.00); and

11 3. For a third or subsequent offense, be punished by an
12 administrative fine of not more than Five Thousand Dollars
13 (\$5,000.00).

14 E. Any wholesaler, jobber or warehouseman violating the
15 provisions of Section 305.1 of this title shall:

16 1. For a first offense, be punished by an administrative fine
17 of not more than Five Thousand Dollars (\$5,000.00); and

18 2. For a second or subsequent offense, be punished by an
19 administrative fine of not more than Twenty Thousand Dollars
20 (\$20,000.00).

21 Administrative fines collected pursuant to the provisions of
22 this subsection shall be deposited to the revolving fund created in
23 Section 305.2 of this title.

24

1 F. The Tax Commission shall immediately revoke the license of a
2 person punished for a violation pursuant to the provisions of
3 paragraph 3 of subsection D of this section or a person punished for
4 a violation pursuant to the provisions of subsection E of this
5 section. A person whose license is so revoked shall not be eligible
6 to receive another license pursuant to the provisions of Section 301
7 et seq. of this title for a period of ten (10) years.

8 G. Whoever, with intent to defraud Oklahoma:

9 1. Fails to keep or make any record, return, report, or
10 inventory, or keeps or makes any false or fraudulent record, return,
11 report, or inventory, required by Section 301 et seq. of this title
12 or rules promulgated thereunder;

13 2. Refuses to pay any tax imposed by Section 301 et seq. of
14 this title, or attempts in any manner to evade or defeat the tax or
15 the payment thereof; or

16 3. Fails to comply with any requirement of Section 301 et seq.
17 of this title;

18 shall, for each such offense, be fined not more than Ten Thousand
19 Dollars (\$10,000.00), or imprisoned not more than five (5) years, or
20 both.

21 H. Whoever knowingly omits, neglects, or refuses to comply with
22 any duty imposed upon the person by Section 301 et seq. of this
23 title, or to do, or cause to be done, any of the things required by
24 Section 301 et seq. of this title, or does anything prohibited by

1 Section 301 et seq. of this title, shall, in addition to any other
2 penalty provided in Section 301 et seq. of this title, pay an
3 administrative penalty of One Thousand Dollars (\$1,000.00).

4 I. Whoever fails to pay any tax imposed by Section 301 et seq.
5 of this title at the time prescribed by law or rules, shall, in
6 addition to any other penalty provided in Section 301 et seq. of
7 this title, be liable to a penalty of five hundred percent (500%) of
8 the tax due but unpaid.

9 J. 1. All cigarettes which are held for sale or distribution
10 within the borders of Oklahoma, in violation of the requirements of
11 Section 301 et seq. of this title, and the machinery used to
12 manufacture counterfeit cigarettes shall be forfeited to Oklahoma.
13 All cigarettes and machinery forfeited to Oklahoma under this
14 paragraph shall be destroyed.

15 2. All fixtures, equipment, and all other materials and
16 personal property on the premises of any distributor or retailer
17 who, with intent to defraud the state, fails to keep or make any
18 record, return, report, or inventory; keeps or makes any false or
19 fraudulent record, return, report, or inventory required by Section
20 301 et seq. of this title; refuses to pay any tax imposed by Section
21 301 et seq. of this title; or attempts in any manner to evade or
22 defeat the requirements of Section 301 et seq. of this title shall
23 be forfeited to Oklahoma.

24

1 K. Notwithstanding any other provision of law, the sale or
2 possession for sale of counterfeit cigarettes, or the sale or
3 possession for sale of counterfeit cigarettes by a manufacturer,
4 distributor, or retailer shall result in the seizure of the product
5 and related machinery by the Tax Commission or any law enforcement
6 agency and shall be punishable as follows:

7 1. A first violation with a total quantity of less than two
8 cartons of cigarettes or the equivalent amount of other cigarettes
9 shall be punishable by a fine not to exceed One Thousand Dollars
10 (\$1,000.00) or imprisonment not to exceed five (5) years, or both
11 fine and imprisonment;

12 2. A subsequent violation with a total quantity of less than
13 two cartons of cigarettes, or the equivalent amount of other
14 cigarettes shall be punishable by a fine not to exceed Five Thousand
15 Dollars (\$5,000.00), or imprisonment not to exceed five (5) years,
16 or both the fine and the imprisonment, and shall also result in the
17 revocation by the Tax Commission of the manufacturer, distributor,
18 or retailer license;

19 3. A first violation with a total quantity of more than two
20 cartons of cigarettes, or the equivalent amount of other cigarettes,
21 shall be punishable by a fine not to exceed Two Thousand Dollars
22 (\$2,000.00) or imprisonment not to exceed five (5) years, or both
23 the fine and imprisonment; and
24

1 4. A subsequent violation with a quantity of two cartons of
2 cigarettes or more, or the equivalent amount of other cigarettes
3 shall be punishable by a fine not to exceed Fifty Thousand Dollars
4 (\$50,000.00) or imprisonment not to exceed five (5) years, or both
5 the fine and imprisonment, and shall also result in the revocation
6 by the Tax Commission of the manufacturer, distributor, or retailer
7 license.

8 For the purposes of this section, "counterfeit cigarettes"
9 includes cigarettes that have false manufacturing labels or tobacco
10 product packs without tax stamps or with counterfeit tax stamps or a
11 combination thereof. Any counterfeit cigarette seized by the Tax
12 Commission shall be destroyed.

13 SECTION 8. AMENDATORY 68 O.S. 2001, Section 305, as
14 amended by Section 3, Chapter 475, O.S.L. 2003 (68 O.S. Supp. 2007,
15 Section 305), is amended to read as follows:

16 Section 305. A. Every wholesaler, jobber, distributor, or
17 warehouseman doing business within this state and required to secure
18 a license as provided under Section 304 of this title shall, upon
19 withdrawal from storage, and before making any sale or distribution
20 of cigarettes for consumption thereof, affix or cause the same to
21 have affixed thereto the stamp or stamps as required by Section 301
22 et seq. of this title. It shall be the duty of the wholesaler,
23 jobber, distributor, or warehouseman to supply and charge to the
24 retailer the necessary stamps to cover any and all drop shipments of

1 cigarettes billed to the retailer or consumer by the wholesaler,
2 jobber, distributor, or warehouseman; and the wholesaler, jobber,
3 distributor, or warehouseman shall be liable to the Oklahoma Tax
4 Commission to perform this service. Distributors may apply stamps
5 only to cigarette packages that they have received directly from a
6 manufacturer or importer of cigarettes who possesses a valid and
7 current permit under Section 5712 of Title 26 of the United States
8 Code.

9 B. Every retailer who has received cigarettes from a
10 manufacturer, wholesaler, jobber, warehouseman or distributor not
11 required to secure a license as provided for under Section 304 of
12 this title, or to affix stamps as required under subsection A of
13 this section, shall, within seventy-two (72) hours, excluding
14 Sundays and holidays, from the time such cigarettes come into the
15 retailer's possession, and before making any sale or distribution
16 for consumption thereof, affix stamps upon all cigarette packages in
17 the proper denomination and amount, as required by Section 302 of
18 this title.

19 C. Any unlicensed consumer who buys direct from any
20 distributor, jobber, manufacturer, warehouseman, or wholesaler, or
21 other person, within or without this state, any cigarettes in excess
22 of forty, at any one time to which are not affixed the stamps
23 required by Section 301 et seq. of this title shall, before
24 purchasing such cigarettes, secure from the Tax Commission a written

1 license and shall pay therefor an annual fee of Twenty-five Dollars
2 (\$25.00), and shall immediately, upon the receipt of any unstamped
3 cigarettes, report the same to the Tax Commission on such forms as
4 the Tax Commission may prescribe, and immediately purchase from the
5 Tax Commission proper stamps and attach the same to all such
6 cigarettes received. It shall be unlawful for any person to sell or
7 consume cigarettes on which the tax, as levied by Section 301 et
8 seq. of this title, has not been paid, and which are not contained
9 in packages to which are securely affixed the stamps evidencing
10 payment of the tax imposed by Section 301 et seq. of this title.

11 D. If, upon examination of invoices or from other
12 investigations, the Tax Commission finds that cigarettes have been
13 sold without stamps affixed as required by Section 301 et seq. of
14 this title, the Tax Commission shall have the power to require such
15 person to pay to the Tax Commission a sum equal to twice the amount
16 of the tax due. If, under the same circumstances, a person is
17 unable to furnish evidence to the Tax Commission of sufficient stamp
18 purchases to cover unstamped cigarettes purchased, the prima facie
19 presumption shall arise that such cigarettes were sold without
20 proper stamps being affixed thereto.

21 E. 1. All unstamped cigarettes upon which taxes are imposed by
22 Section 301 et seq. of this title and all cigarettes stamped, sold,
23 offered for sale, or imported into this state in violation of the
24 provisions of Section 305.1 of this title which shall be found in

1 the possession, custody, or control of any person, for the purpose
2 of being consumed, sold or transported from one place to another in
3 this state, for the purpose of evading or violating the provisions
4 of Section 301 et seq. of this title, or with intent to avoid
5 payment of the tax imposed hereunder, and any automobile, truck,
6 conveyance, or other vehicle whatsoever used in the transportation
7 of such cigarettes, and all paraphernalia, equipment or other
8 tangible personal property incident to the use of such purposes,
9 found in the place, building, vehicle or vehicles, where such
10 cigarettes are found, may be seized by any authorized agent of the
11 Tax Commission, or any sheriff, deputy sheriff, constable or other
12 peace officer within the state, without process. The same shall be,
13 from the time of such seizure, forfeited to the State of Oklahoma,
14 and a proper proceeding filed ~~in a court of competent jurisdiction~~
15 ~~in the county of seizure,~~ to maintain such seizure and prosecute the
16 forfeiture as herein provided.

17 2. All such cigarettes so seized shall first be listed and
18 appraised by the officer making such seizure and turned over to the
19 Tax Commission and a receipt therefor taken. The person making such
20 seizure shall immediately make and file a written report thereof,
21 showing the name of the person making such seizure, the place where
22 and the person from whom such property was seized, and an inventory
23 and appraisement thereof, at the usual and ordinary retail price of
24 such articles received, to the Tax Commission, and the Attorney

1 General, in the case of cigarettes stamped, sold, offered for sale,
2 or imported into this state in violation of the provisions of
3 Section 305.1 of this title. The Tax Commission shall then proceed
4 to hear and determine the matter of whether or not the cigarettes
5 should, in fact, be forfeited to the State of Oklahoma. The owner
6 of the cigarettes shall be given at least ten (10) days' notice of
7 the hearing. In the event the Commission finds that the cigarettes
8 should be forfeited to the State of Oklahoma, it shall make an order
9 forfeiting the cigarettes to the State of Oklahoma and directing the
10 destruction of such cigarettes.

11 3. Any and all such cigarettes, vehicles and property so seized
12 shall first be listed and appraised by the officer making such
13 seizure and turned over to the county sheriff of the county in which
14 the seizure is made and a receipt therefor taken. The person making
15 such seizure shall immediately make and file a written report
16 thereof, showing the name of the person making such seizure, the
17 place, where and the person ~~where,~~ and from whom such property was
18 seized, and an inventory and appraisal thereof, at the usual and
19 ordinary retail price of such articles received, to the Tax
20 Commission, ~~or the Attorney General, in the case of cigarettes~~
21 ~~stamped, sold, offered for sale, or imported into this state in~~
22 ~~violation of the provisions of Section 305.1 of this title. The~~
23 district attorney of the county in which the seizures are made
24 shall, at the request of the Tax Commission or Attorney General,

1 file in the district court forfeiture proceedings in the name of the
2 State of Oklahoma, as plaintiff, and in the name of the owner or
3 person in possession, as defendant, if known, and if unknown in the
4 name of the property seized. The clerk of the court shall issue
5 summons to the owner or person in whose possession such property was
6 found, directing the owner or person to answer within ten (10) days.
7 If the property is declared forfeited and ordered sold, notice of
8 the sale shall be posted in five public places in the county not
9 less than ten (10) days before the date of sale; ~~provided, cigarette~~
10 ~~packages or containers as described in Section 305.1 of this title~~
11 ~~shall only be sold for export outside the United States or as~~
12 ~~otherwise permitted by federal law.~~ The proceeds of the sale shall
13 be deposited with the clerk of the court, who shall after deducting
14 costs, including the costs of sale, pay the balance to the Tax
15 Commission as cigarette tax collected, or in the case of vehicles
16 and property seized in connection with cigarettes seized as being in
17 violation of the provisions of Section 305.1 of this title, to the
18 Attorney General. The Attorney General shall remit the amount of
19 cigarette tax, if any be due, including all penalties and interest
20 due, to the Tax Commission as cigarette tax collected and shall
21 deposit the remainder to the revolving fund created in Section 305.2
22 of this title.

23 ~~3.~~ 4. The seizure ~~and sale~~ of cigarettes shall not relieve the
24 person from whom such cigarettes were seized from any prosecution or

1 the payment of any penalties provided for under Section 301 et seq.
2 of this title; ~~nor shall it relieve the purchaser thereof from any~~
3 ~~payment of the regular cigarette tax and the placing of proper~~
4 ~~stamps thereon before making any sale of the cigarettes or the~~
5 ~~personal consumption of the same.~~

6 ~~4.~~ 5. The forfeiture provisions of Section 301 et seq. of this
7 title shall only apply to persons having possession of or
8 transporting cigarettes with intent to barter, sell or give away the
9 same; provided, that such possession of cigarettes in any quantity
10 of five or more cartons of ten packages each shall be prima facie
11 evidence of intent to barter, sell or give away such cigarettes in
12 violation of the provisions of Section 301 et seq. of this title.

13 F. The Tax Commission shall exchange new stamps for any stamps
14 which are damaged, or for stamps which have been affixed to packages
15 of cigarettes returned to factories, or shipped to other states, or
16 sold to government agencies or state institutions, or for stamps
17 purchased in excess of floor stocks. Application to the Tax
18 Commission for such exchanges must be accompanied by affidavit,
19 damaged stamps, bill of lading covering shipment to factory or other
20 states, or other proof required by the Tax Commission. Any person
21 to whom stamps shall be issued under this paragraph may, upon
22 approval of the Tax Commission, sell such stamps to any wholesaler
23 as defined in Section 301 et seq. of this title.

24

1 G. Any person, including distributing agents, wholesalers,
2 jobbers, carriers, warehousemen, retailers and consumers, having
3 possession of unstamped cigarettes in this state shall be liable for
4 the tax on such cigarettes in case the same are lost, stolen or
5 unaccounted for, in transit, storage or otherwise, and in such event
6 a presumption shall exist for the purposes of taxation, that such
7 cigarettes were used and consumed in Oklahoma.

8 SECTION 9. AMENDATORY Section 7, Chapter 266, O.S.L.
9 2004 (68 O.S. Supp. 2007, Section 360.7), is amended to read as
10 follows:

11 Section 360.7 A. In addition to or in lieu of any other civil
12 or criminal remedy provided by law, upon a determination that a
13 stamping agent has violated Section ~~6~~ 360.6 of this ~~act~~ title or any
14 rule promulgated pursuant to the Master Settlement Agreement
15 Complementary Act, the Oklahoma Tax Commission may revoke or suspend
16 the license of the stamping agent. Each stamp affixed and each sale
17 or offer to sell cigarettes in violation of the Master Settlement
18 Agreement Complementary Act shall constitute a separate violation.
19 For each violation, the Oklahoma Tax Commission may also impose a
20 civil penalty in an amount not to exceed the greater of five hundred
21 percent (500%) of the retail value of the cigarettes or Five
22 Thousand Dollars (\$5,000.00) upon a determination of violation of
23 the Master Settlement Agreement Complementary Act or any rules
24 promulgated pursuant thereto.

1 B. Any cigarettes that have been sold, offered for sale, or
2 possessed for sale in this state or imported for personal
3 consumption in this state, in violation of the Master Settlement
4 Agreement Complementary Act, shall be deemed contraband pursuant to
5 the Master Settlement Agreement Complementary Act. Those cigarettes
6 shall be subject to seizure and forfeiture as provided by this
7 section and all cigarettes so seized and forfeited shall be
8 destroyed as provided by this section and not resold.

9 C. 1. Cigarettes or tobacco product distributors and
10 wholesalers licensed by the Oklahoma Tax Commission, pursuant to
11 Section 304 or 415 of ~~Title 68 of the Oklahoma Statutes~~ this title,
12 who also distribute cigarettes in a state bordering Oklahoma may
13 store in their Oklahoma warehouse cigarettes made contraband under
14 this section if, and only if, they have the tax stamp of another
15 state affixed to each package of cigarettes.

16 2. Cigarettes or roll-your-own tobacco products made contraband
17 pursuant to this section, without being subject to seizure or
18 forfeiture, may be transported in, into, or through the state
19 either:

- 20 a. on a commercial carrier with a proper bill of lading
21 with an out-of-state destination,
22 b. when the tax stamp of another state is affixed to each
23 pack of cigarettes or tobacco product transported, or
24

1 c. on a commercial carrier with a proper bill of lading
2 to a tobacco product distributor or wholesaler
3 licensed by the Oklahoma Tax Commission, pursuant to
4 Section 304 or 415 of ~~Title 68 of the Oklahoma~~
5 ~~Statutes~~ this title, who also distributes cigarettes
6 in a state bordering Oklahoma if, and only if, the
7 packing slip accompanying the shipment indicates the
8 shipment is for sale in another state and indicates
9 which state, and the invoice for the shipment also
10 indicates the shipment is for sale in a state other
11 than Oklahoma and identifies the state in which the
12 shipment is to be sold. The time of delivery of the
13 shipments shall be indicated on the bill of lading of
14 the common carrier when delivery is completed. The
15 receiving Oklahoma distributor or wholesaler must,
16 within twenty-four (24) hours of receiving the
17 delivery, affix or cause to be affixed to each package
18 of cigarettes the stamp of the state in which they are
19 to be sold.

20 3. All such cigarettes and tobacco products so seized shall
21 first be listed and appraised by the officer making such seizure and
22 turned over to the Tax Commission and a receipt therefor taken. The
23 person making such seizure shall immediately make and file a written
24 report thereof, showing the name of the person making such seizure,

1 the place where and the person from whom such property was seized,
2 and an inventory and appraisement thereof, at the usual and ordinary
3 retail price of such articles received, to the Tax Commission, and
4 the Attorney General, in the case of cigarettes stamped, sold,
5 offered for sale, or imported into this state in violation of the
6 provisions of Section 305.1 of this title and tobacco made
7 contraband by this section. The Tax Commission shall then proceed
8 to hear and determine the matter of whether or not the cigarettes
9 and tobacco products should, in fact be forfeited to the State of
10 Oklahoma. The owner of the cigarettes and tobacco products shall be
11 given at least ten (10) days' notice of the hearing. In the event
12 the Commission finds that the cigarettes and tobacco products should
13 be forfeited to the State of Oklahoma, it shall make an order
14 forfeiting the cigarettes and tobacco products to the State of
15 Oklahoma and directing the destruction of such cigarettes and
16 tobacco products.

17 4. All cigarettes, tobacco products, Any and all vehicles, and
18 property so seized shall be listed and appraised by the officer
19 making the seizure and turned over to the county sheriff of the
20 county in which the seizure is made and a receipt therefor taken.
21 The person making the seizure shall immediately make a written
22 report of the seizure, showing the name of the person making the
23 seizure, the location of the seizure, the person from whom the
24 property was seized, and an inventory and appraisement of the

1 property at the usual and ordinary retail price of the articles
2 received. The report shall be filed with the Oklahoma Tax
3 Commission and the Attorney General. The district attorney of the
4 county in which the seizures are made, at the request of the
5 Oklahoma Tax Commission or Attorney General, shall file in the
6 district court forfeiture proceedings in the name of the State of
7 Oklahoma, as plaintiff, and in the name of the owner or person in
8 possession, as defendant, if known, and if unknown or not
9 susceptible to the jurisdiction of the court, in the name of the
10 property seized. The clerk of the court shall issue a summons to
11 the owner or person in whose possession the property was found
12 directing the owner or person to answer within ten (10) days. At
13 the forfeiture proceeding, if a distributor or wholesaler
14 demonstrates through clear and convincing evidence that the
15 possession of contraband by the distributor or wholesaler was
16 accidental, the vehicle in which the contraband was being
17 transported shall not be forfeited. In no case, however, shall
18 possession of more than twenty (20) cartons of contraband product be
19 considered by the courts as being possessed accidentally. If the
20 property is declared forfeited and ordered sold, notice of the sale
21 shall be posted not less than ten (10) days before the date of sale
22 in five public places in the county in which the seizures are made.
23 ~~However, any cigarettes or tobacco products forfeited pursuant to~~
24 ~~this section shall be destroyed by the county sheriff. Proceeds of~~

1 the sale shall be deposited with the clerk of the court, who shall,
2 after deducting costs including the costs of prosecution, storage,
3 and sale, pay the balance to the Oklahoma Tax Commission for deposit
4 in the Tobacco Settlement Endowment Trust Fund.

5 D. The Attorney General may seek an injunction to restrain a
6 threatened or actual violation of the Master Settlement Agreement
7 Complementary Act by a stamping agent and to compel the stamping
8 agent to comply with those provisions. In any action brought
9 pursuant to this section, the state shall be entitled to recover the
10 costs of investigation, costs of the action, and reasonable attorney
11 fees.

12 E. 1. It shall be unlawful for a person to:

13 a. sell or distribute cigarettes, or

14 b. acquire, hold, own, possess, transport, import, or

15 cause to be imported cigarettes that the person knows

16 or should know are intended for distribution or sale

17 in the state in violation of the Master Settlement

18 Agreement Complementary Act. A violation of the act

19 shall be a misdemeanor.

20 2. A person who violates subsection C of Section ~~4~~ 360.4 of
21 this ~~act~~ title engages in an unfair and deceptive trade practice in
22 violation of the provisions of the Oklahoma Consumer Protection Act.

23 SECTION 10. AMENDATORY 68 O.S. 2001, Section 417, is
24 amended to read as follows:

1 Section 417. A. All unstamped tobacco products upon which a
2 tax is levied by Section 401 et seq. of this title and all tobacco
3 products stamped, sold, offered for sale, or imported into this
4 state in violation of the provisions of Section 4 403.2 of this ~~act~~
5 title, found in the possession, custody or control of any person for
6 the purpose of being consumed, sold or transported from one place to
7 another in this state, for the purpose of evading or violating the
8 provisions of Section 401 et seq. of this title, or with intent to
9 avoid payment of the tax imposed thereunder, may be seized by any
10 authorized agent of the Oklahoma Tax Commission or any sheriff,
11 deputy sheriff or police within the state. Tobacco products from
12 the time of seizure shall be forfeited to the State of Oklahoma. A
13 proper proceeding shall be filed ~~in the district court of the county~~
14 ~~of seizure~~, to maintain such seizure and prosecute the forfeiture as
15 herein provided; the provisions of this section shall not apply,
16 however, where the tax on such unstamped tobacco products does not
17 exceed One Dollar (\$1.00).

18 B. All such tobacco products so seized shall first be listed
19 and appraised by the officer making such seizure and turned over to
20 the ~~sheriff of the county in which the seizure is made~~, Tax
21 Commission and a receipt taken therefor.

22 C. The person making such seizure shall immediately make and
23 file a written report thereof to the Tax Commission, showing the
24 name of the person making such seizure, the place where seized, the

1 person from whom seized, the property seized and an inventory and
2 appraisement thereof, which inventory shall be based on the usual
3 and ordinary retail price or value of the articles seized, ~~or~~ and
4 the Attorney General, in the case of tobacco products stamped, sold,
5 offered for sale, or imported into this state in violation of the
6 provisions of Section 4 403.2 of this act title. ~~The district~~
7 ~~attorney of the county in which such seizure is made shall, at the~~
8 ~~request of the Tax Commission or Attorney General, file in the~~
9 ~~district court forfeiture proceedings in the name of the State of~~
10 ~~Oklahoma against the owner or person in possession of the property~~
11 ~~seized, if known, and if unknown, against the property seized. The~~
12 ~~clerk of the court shall issue summons to the owner or person in~~
13 ~~whose possession such property was found. Summons so issued and all~~
14 ~~procedure thereafter shall be governed by statutes relating to~~
15 ~~procedure in civil actions. If personal service cannot be had, or~~
16 ~~if suit be filed against the property seized, service may be~~
17 ~~obtained by the posting of notices in five public places within the~~
18 ~~county. The notice shall direct the owner, or if the owner be~~
19 ~~unknown, the person in possession of the property seized, to answer~~
20 ~~the petition filed within twenty (20) days from the date of the~~
21 ~~posting of such notices. The district attorney shall within three~~
22 ~~(3) days after the posting of the notices cause a copy of the same~~
23 ~~to be mailed to any defendant on whom personal service was not had,~~
24 ~~addressed to the defendant's last known address. If, after a full~~

1 ~~hearing upon the petition, the court finds that the property seized~~
2 ~~is forfeited to the State of Oklahoma, the court shall direct to the~~
3 ~~sheriff to sell the property at public auction ten (10) days after~~
4 ~~the posting of notices of sale in five public places within the~~
5 ~~county; provided, tobacco products as described in Section 4 of this~~
6 ~~act shall only be sold for export outside the United States or as~~
7 ~~otherwise permitted by federal law. The proceeds of the sale shall~~
8 ~~be deposited with the clerk of the court who shall, after deducting~~
9 ~~costs including the cost of the sale, pay same to the Tax Commission~~
10 ~~as tobacco products tax collected, or in the case of tobacco~~
11 ~~products seized as being in violation of the provisions of Section 4~~
12 ~~of this act, to the Attorney General. The Attorney General shall~~
13 ~~remit the amount of tobacco products tax, if any be due, including~~
14 ~~all penalties and interest due, to the Tax Commission as tobacco~~
15 ~~products tax collected and shall deposit the remainder to the~~
16 ~~revolving fund created in Section 7 of this act. The Tax Commission~~
17 ~~shall then proceed to hear and determine the matter of whether or~~
18 ~~not the tobacco products should, in fact be forfeited to the State~~
19 ~~of Oklahoma. The owner of the tobacco products shall be given at~~
20 ~~least ten (10) days' notice of the hearing. In the event the~~
21 ~~Commission finds that the tobacco products should be forfeited to~~
22 ~~the State of Oklahoma, it shall make an order forfeiting the tobacco~~
23 ~~products to the State of Oklahoma and directing the destruction of~~
24 ~~such tobacco products.~~

1 D. The seizure ~~and sale~~ of such tobacco products shall not
2 relieve the person from whom such tobacco products were seized from
3 prosecution or the payment of penalties. ~~The purchaser of forfeited~~
4 ~~tobacco products shall pay the regular tobacco products tax and~~
5 ~~shall place proper stamps thereon before any of such tobacco~~
6 ~~products are sold or consumed.~~

7 E. The forfeiture provisions of Section 401 et seq. of this
8 title shall only apply to persons having possession of or
9 transporting tobacco products with intent to barter, sell or give
10 away the same.

11 SECTION 11. AMENDATORY Section 20, Chapter 413, O.S.L.
12 2003, as last amended by Section 6, Chapter 155, O.S.L. 2007 (68
13 O.S. Supp. 2007, Section 1354.27), is amended to read as follows:

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

16 1. When the product is received by the purchaser at a business
17 location of the seller, the sale is sourced to that business
18 location;

19 2. When the product is not received by the purchaser at a
20 business location of the seller, the sale is sourced to the location
21 where receipt by the purchaser, or the purchaser's donee, designated
22 as such by the purchaser, occurs, including the location indicated
23 by instructions for delivery to the purchaser or donee, known to the
24 seller. Provided, this subsection shall not apply to florists until

1 January 1, ~~2009~~ 2011. Prior to that date, all sales by florists
2 shall be sourced to its business location;

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

9 4. When the provisions of paragraphs 1, 2 and 3 of this
10 subsection do not apply, the sale is sourced to the location
11 indicated by an address for the purchaser obtained during the
12 consummation of the sale, including the address of a purchaser's
13 payment instrument, if no other address is available, when use of
14 this address does not constitute bad faith; and

15 5. When none of the previous rules of paragraphs 1, 2, 3 and 4
16 of this subsection apply, including the circumstance in which the
17 seller is without sufficient information to apply the previous
18 rules, then the location will be determined by the address from
19 which tangible personal property was shipped, from which the digital
20 good or the computer software delivered electronically was first
21 available for transmission by the seller, or from which the service
22 was provided, disregarding for these purposes any location that
23 merely provided the digital transfer of the product sold. In the
24 case of a sale of mobile telecommunications service that is a

1 prepaid telecommunications service, the location will be that which
2 is associated with the mobile telephone number.

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

6 1. For a lease or rental that requires recurring periodic
7 payments, the first periodic payment is sourced the same as a retail
8 sale in accordance with the provisions of subsection A of this
9 section. Periodic payments made subsequent to the first payment are
10 sourced to the primary property location for each period covered by
11 the payment. The primary property location shall be as indicated by
12 an address for the property provided by the lessee that is available
13 to the lessor from its records maintained in the ordinary course of
14 business, when use of this address does not constitute bad faith.
15 The property location shall not be altered by intermittent use at
16 different locations, such as use of business property that
17 accompanies employees on business trips and service calls; and

18 2. For a lease or rental that does not require recurring
19 periodic payments, the payment is sourced the same as a retail sale
20 in accordance with the provisions of subsection A of this section.
21 This subsection does not affect the imposition or computation of
22 sales or use tax on leases or rentals based on a lump sum or
23 accelerated basis, or on the acquisition of property for lease.

24

1 C. The lease or rental of motor vehicles, trailers,
2 semitrailers, or aircraft that do not qualify as transportation
3 equipment, as defined in subsection D of this section, shall be
4 sourced as follows:

5 1. For a lease or rental that requires recurring periodic
6 payments, each periodic payment is sourced to the primary property
7 location. The primary property location shall be as indicated by an
8 address for the property provided by the lessee that is available to
9 the lessor from its records maintained in the ordinary course of
10 business, when use of this address does not constitute bad faith.
11 This location shall not be altered by intermittent use at different
12 locations; and

13 2. For a lease or rental that does not require recurring
14 periodic payments, the payment is sourced the same as a retail sale
15 in accordance with the provisions of subsection A of this section.
16 This subsection does not affect the imposition or computation of
17 sales or use tax on leases or rentals based on a lump sum or
18 accelerated basis, or on the acquisition of property for lease.

19 D. The retail sale, including lease or rental, of
20 transportation equipment shall be sourced the same as a retail sale
21 in accordance with the provisions of subsection A of this section,
22 notwithstanding the exclusion of lease or rental in subsection A of
23 this section. "Transportation equipment" means any of the
24 following:

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

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

6 a. registered through the International Registration
7 Plan, and

8 b. operated under authority of a carrier authorized and
9 certificated by the United States Department of
10 Transportation or another federal authority to engage
11 in the carriage of persons or property in interstate
12 commerce;

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

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

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

22 1. Taking possession of tangible personal property;

23 2. Making first use of services; or
24

1 3. Taking possession or making first use of digital goods,
2 whichever comes first.

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

5 SECTION 12. AMENDATORY 68 O.S. 2001, Section 1356, as
6 last amended by Section 5, Chapter 353, O.S.L. 2007 (68 O.S. Supp.
7 2007, Section 1356), is amended to read as follows:

8 Section 1356. Exemptions - Governmental and nonprofit entities.

9 There are hereby specifically exempted from the tax levied by
10 Section 1350 et seq. of this title:

11 1. Sale of tangible personal property or services to the United
12 States government or to the State of Oklahoma, any political
13 subdivision of this state or any agency of a political subdivision
14 of this state; provided, all sales to contractors in connection with
15 the performance of any contract with the United States government,
16 State of Oklahoma or any of its political subdivisions shall not be
17 exempted from the tax levied by Section 1350 et seq. of this title,
18 except as hereinafter provided;

19 2. Sales of property to agents appointed by or under contract
20 with agencies or instrumentalities of the United States government
21 if ownership and possession of such property transfers immediately
22 to the United States government;

23 3. Sales of property to agents appointed by or under contract
24 with a political subdivision of this state if the sale of such

1 property is associated with the development of a qualified federal
2 facility, as provided in the Oklahoma Federal Facilities Development
3 Act, and if ownership and possession of such property transfers
4 immediately to the political subdivision or the state;

5 4. Sales made directly by county, district or state fair
6 authorities of this state, upon the premises of the fair authority,
7 for the sole benefit of the fair authority or sales of admission
8 tickets to such fairs or fair events at any location in the state
9 authorized by county, district or state fair authorities; provided,
10 the exemption provided by this paragraph for admission tickets to
11 fair events shall apply only to any portion of the admission price
12 that is retained by or distributed to the fair authority. As used
13 in this paragraph, "fair event" shall be limited to an event held on
14 the premises of the fair authority in conjunction with and during
15 the time period of a county, district or state fair;

16 5. Sale of food in cafeterias or lunch rooms of elementary
17 schools, high schools, colleges or universities which are operated
18 primarily for teachers and pupils and are not operated primarily for
19 the public or for profit;

20 6. Dues paid to fraternal, religious, civic, charitable or
21 educational societies or organizations by regular members thereof,
22 provided, such societies or organizations operate under what is
23 commonly termed the lodge plan or system, and provided such
24 societies or organizations do not operate for a profit which inures

1 to the benefit of any individual member or members thereof to the
2 exclusion of other members and dues paid monthly or annually to
3 privately owned scientific and educational libraries by members
4 sharing the use of services rendered by such libraries with students
5 interested in the study of geology, petroleum engineering or related
6 subjects;

7 7. Sale of tangible personal property or services to or by
8 churches, except sales made in the course of business for profit or
9 savings, competing with other persons engaged in the same or a
10 similar business or sale of tangible personal property or services
11 by an organization exempt from federal income tax pursuant to
12 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
13 made on behalf of or at the request of a church or churches if the
14 sale of such property is conducted not more than once each calendar
15 year for a period not to exceed three (3) days by the organization
16 and proceeds from the sale of such property are used by the church
17 or churches or by the organization for charitable purposes;

18 8. The amount of proceeds received from the sale of admission
19 tickets which is separately stated on the ticket of admission for
20 the repayment of money borrowed by any accredited state-supported
21 college or university or any public trust of which a county in this
22 state is the beneficiary, for the purpose of constructing or
23 enlarging any facility to be used for the staging of an athletic
24 event, a theatrical production, or any other form of entertainment,

1 edification or cultural cultivation to which entry is gained with a
2 paid admission ticket. Such facilities include, but are not limited
3 to, athletic fields, athletic stadiums, field houses, amphitheaters
4 and theaters. To be eligible for this sales tax exemption, the
5 amount separately stated on the admission ticket shall be a
6 surcharge which is imposed, collected and used for the sole purpose
7 of servicing or aiding in the servicing of debt incurred by the
8 college or university to effect the capital improvements
9 hereinbefore described;

10 9. Sales of tangible personal property or services to the
11 council organizations or similar state supervisory organizations of
12 the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire
13 Boys and Girls;

14 10. Sale of tangible personal property or services to any
15 county, municipality, rural water district, public school district,
16 the institutions of The Oklahoma State System of Higher Education,
17 the Grand River Dam Authority, the Northeast Oklahoma Public
18 Facilities Authority, the Oklahoma Municipal Power Authority, City
19 of Tulsa-Rogers County Port Authority, Muskogee City-County Port
20 Authority, the Oklahoma Department of Veterans Affairs, the Broken
21 Bow Economic Development Authority, Ardmore Development Authority,
22 Durant Industrial Authority, Oklahoma Ordnance Works Authority,
23 Central Oklahoma Master Conservancy District or to any person with
24 whom any of the above-named subdivisions or agencies of this state

1 has duly entered into a public contract pursuant to law, necessary
2 for carrying out such public contract or to any subcontractor to
3 such a public contract. Any person making purchases on behalf of
4 such subdivision or agency of this state shall certify, in writing,
5 on the copy of the invoice or sales ticket to be retained by the
6 vendor that the purchases are made for and on behalf of such
7 subdivision or agency of this state and set out the name of such
8 public subdivision or agency. Any person who wrongfully or
9 erroneously certifies that purchases are for any of the above-named
10 subdivisions or agencies of this state or who otherwise violates
11 this section shall be guilty of a misdemeanor and upon conviction
12 thereof shall be fined an amount equal to double the amount of sales
13 tax involved or incarcerated for not more than sixty (60) days or
14 both;

15 11. Sales of tangible personal property or services to private
16 institutions of higher education and private elementary and
17 secondary institutions of education accredited by the State
18 Department of Education or registered by the State Board of
19 Education for purposes of participating in federal programs or
20 accredited as defined by the Oklahoma State Regents for Higher
21 Education which are exempt from taxation pursuant to the provisions
22 of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
23 including materials, supplies, and equipment used in the
24

1 construction and improvement of buildings and other structures owned
2 by the institutions and operated for educational purposes.

3 Any person, firm, agency or entity making purchases on behalf of
4 any institution, agency or subdivision in this state, shall certify
5 in writing, on the copy of the invoice or sales ticket the nature of
6 the purchases, and violation of this paragraph shall be a
7 misdemeanor as set forth in paragraph 10 of this section;

8 12. Tuition and educational fees paid to private institutions
9 of higher education and private elementary and secondary
10 institutions of education accredited by the State Department of
11 Education or registered by the State Board of Education for purposes
12 of participating in federal programs or accredited as defined by the
13 Oklahoma State Regents for Higher Education which are exempt from
14 taxation pursuant to the provisions of the Internal Revenue Code, 26
15 U.S.C., Section 501(c)(3);

16 13. a. Sales of tangible personal property made by:

- 17 (1) a public school,
- 18 (2) a private school offering instruction for grade
19 levels kindergarten through twelfth grade,
- 20 (3) a public school district,
- 21 (4) a public or private school board,
- 22 (5) a public or private school student group or
23 organization,
- 24

1 (6) a parent-teacher association or organization
2 other than as specified in subparagraph b of this
3 paragraph, or

4 (7) public or private school personnel for purposes
5 of raising funds for the benefit of a public or
6 private school, public school district, public or
7 private school board or public or private school
8 student group or organization, or

9 b. Sales of tangible personal property made by or to
10 nonprofit parent-teacher associations or organizations
11 exempt from taxation pursuant to the provisions of the
12 Internal Revenue Code, 26 U.S.C., Section 501(c)(3).

13 The exemption provided by this paragraph for sales made by a
14 public or private school shall be limited to those public or private
15 schools accredited by the State Department of Education or
16 registered by the State Board of Education for purposes of
17 participating in federal programs. Sale of tangible personal
18 property in this paragraph shall include sale of admission tickets
19 and concessions at athletic events;

20 14. Sales of tangible personal property by:

- 21 a. local 4-H clubs,
- 22 b. county, regional or state 4-H councils,
- 23 c. county, regional or state 4-H committees,
- 24 d. 4-H leader associations,

1 e. county, regional or state 4-H foundations, and

2 f. authorized 4-H camps and training centers.

3 The exemption provided by this paragraph shall be limited to
4 sales for the purpose of raising funds for the benefit of such
5 organizations. Sale of tangible personal property exempted by this
6 paragraph shall include sale of admission tickets;

7 15. The first Seventy-five Thousand Dollars (\$75,000.00) each
8 year from sale of tickets and concessions at athletic events by each
9 organization exempt from taxation pursuant to the provisions of the
10 Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

11 16. Items or services which are subsequently given away by the
12 Oklahoma Tourism and Recreation Department as promotional items
13 pursuant to Section 1834 of Title 74 of the Oklahoma Statutes and
14 the sale of advertising in travel brochures and other promotional
15 materials produced at the direction of the Department;

16 17. Sales of tangible personal property or services to fire
17 departments organized pursuant to Section 592 of Title 18 of the
18 Oklahoma Statutes which items are to be used for the purposes of the
19 fire department. Any person making purchases on behalf of any such
20 fire department shall certify, in writing, on the copy of the
21 invoice or sales ticket to be retained by the vendor that the
22 purchases are made for and on behalf of such fire department and set
23 out the name of such fire department. Any person who wrongfully or
24 erroneously certifies that the purchases are for any such fire

1 department or who otherwise violates the provisions of this section
2 shall be deemed guilty of a misdemeanor and upon conviction thereof,
3 shall be fined an amount equal to double the amount of sales tax
4 involved or incarcerated for not more than sixty (60) days, or both;

5 18. Complimentary or free tickets for admission to places of
6 amusement, sports, entertainment, exhibition, display or other
7 recreational events or activities which are issued through a box
8 office or other entity which is operated by a state institution of
9 higher education with institutional employees or by a municipality
10 with municipal employees;

11 19. The first Fifteen Thousand Dollars (\$15,000.00) each year
12 from sales of tangible personal property by fire departments
13 organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes
14 for the purposes of raising funds for the benefit of the fire
15 department. Fire departments selling tangible personal property for
16 the purposes of raising funds shall be limited to no more than six
17 (6) days each year to raise such funds in order to receive the
18 exemption granted by this paragraph;

19 20. Sales of tangible personal property or services to any Boys
20 & Girls Clubs of America affiliate in this state which is not
21 affiliated with the Salvation Army and which is exempt from taxation
22 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
23 Section 501(c)(3);

24

1 21. Sales of tangible personal property or services to any
2 organization, which takes court-adjudicated juveniles for purposes
3 of rehabilitation, and which is exempt from taxation pursuant to the
4 provisions of the Internal Revenue Code, 26 U.S.C., Section
5 501(c)(3), provided that at least fifty percent (50%) of the
6 juveniles served by such organization are court adjudicated and the
7 organization receives state funds in an amount less than ten percent
8 (10%) of the annual budget of the organization;

9 22. Sales of tangible personal property or services to:

10 a. any federally qualified community health center as
11 defined in Section 254c of Title 42 of the United
12 States Code,

13 b. any migrant health center as defined in Section 254b
14 of Title 42 of the United States Code,

15 c. any clinic receiving disbursements of state monies
16 from the Indigent Health Care Revolving Fund pursuant
17 to the provisions of Section 66 of Title 56 of the
18 Oklahoma Statutes,

19 d. any community based health center which meets all of
20 the following criteria:

21 (1) provides primary care services at no cost to the
22 recipient, and

23

24

1 (2) is exempt from taxation pursuant to the
2 provisions of Section 501(c)(3) of the Internal
3 Revenue Code, 26 U.S.C., Section 501(c)(3), and
4 e. any community mental health center as defined in
5 Section 3-302 of Title 43A of the Oklahoma Statutes;

6 23. Dues or fees, including free or complimentary dues or fees
7 which have a value equivalent to the charge that could have
8 otherwise been made, to YMCAs, YWCAs or municipally-owned recreation
9 centers for the use of facilities and programs;

10 24. The first Fifteen Thousand Dollars (\$15,000.00) each year
11 from sales of tangible personal property or services to or by a
12 cultural organization established to sponsor and promote
13 educational, charitable and cultural events for disadvantaged
14 children, and which organization is exempt from taxation pursuant to
15 the provisions of the Internal Revenue Code, 26 U.S.C., Section
16 501(c)(3);

17 25. Sales of tangible personal property or services to museums
18 or other entities which have been accredited by the American
19 Association of Museums. Any person making purchases on behalf of
20 any such museum or other entity shall certify, in writing, on the
21 copy of the invoice or sales ticket to be retained by the vendor
22 that the purchases are made for and on behalf of such museum or
23 other entity and set out the name of such museum or other entity.
24 Any person who wrongfully or erroneously certifies that the

1 purchases are for any such museum or other entity or who otherwise
2 violates the provisions of this paragraph shall be deemed guilty of
3 a misdemeanor and, upon conviction thereof, shall be fined an amount
4 equal to double the amount of sales tax involved or incarcerated for
5 not more than sixty (60) days, or by both such fine and
6 incarceration;

7 26. Sales of tickets for admission by any museum accredited by
8 the American Association of Museums. In order to be eligible for
9 the exemption provided by this paragraph, an amount equivalent to
10 the amount of the tax which would otherwise be required to be
11 collected pursuant to the provisions of Section 1350 et seq. of this
12 title shall be separately stated on the admission ticket and shall
13 be collected and used for the sole purpose of servicing or aiding in
14 the servicing of debt incurred by the museum to effect the
15 construction, enlarging or renovation of any facility to be used for
16 entertainment, edification or cultural cultivation to which entry is
17 gained with a paid admission ticket;

18 27. Sales of tangible personal property or services occurring
19 on or after June 1, 1995, to children's homes which are supported or
20 sponsored by one or more churches, members of which serve as
21 trustees of the home;

22 28. Sales of tangible personal property or services to the
23 organization known as the Disabled American Veterans, Department of
24 Oklahoma, Inc., and subordinate chapters thereof;

1 29. Sales of tangible personal property or services to youth
2 camps which are supported or sponsored by one or more churches,
3 members of which serve as trustees of the organization;

4 30. Transfer of tangible personal property made pursuant to
5 Section 3226 of Title 63 of the Oklahoma Statutes by the University
6 Hospitals Trust;

7 31. Sales of tangible personal property or services to a
8 municipality, county or school district pursuant to a lease or
9 lease-purchase agreement executed between the vendor and a
10 municipality, county or school district. A copy of the lease or
11 lease-purchase agreement shall be retained by the vendor;

12 32. Sales of tangible personal property or services to any
13 spaceport user, as defined in the Oklahoma Space Industry
14 Development Act;

15 33. The sale, use, storage, consumption, or distribution in
16 this state, whether by the importer, exporter, or another person, of
17 any satellite or any associated launch vehicle, including components
18 of, and parts and motors for, any such satellite or launch vehicle,
19 imported or caused to be imported into this state for the purpose of
20 export by means of launching into space. This exemption provided by
21 this paragraph shall not be affected by:

22 a. the destruction in whole or in part of the satellite
23 or launch vehicle,

24 b. the failure of a launch to occur or be successful, or

1 c. the absence of any transfer or title to, or possession
2 of, the satellite or launch vehicle after launch;

3 34. The sale, lease, use, storage, consumption, or distribution
4 in this state of any space facility, space propulsion system or
5 space vehicle, satellite, or station of any kind possessing space
6 flight capacity, including components thereof;

7 35. The sale, lease, use, storage, consumption, or distribution
8 in this state of tangible personal property, placed on or used
9 aboard any space facility, space propulsion system or space vehicle,
10 satellite, or station possessing space flight capacity, which is
11 launched into space, irrespective of whether such tangible property
12 is returned to this state for subsequent use, storage, or
13 consumption in any manner;

14 36. The sale, lease, use, storage, consumption, or distribution
15 in this state of tangible personal property meeting the definition
16 of "section 38 property" as defined in Sections 48(a)(1)(A) and
17 (B)(i) of the Internal Revenue Code of 1986, that is an integral
18 part of and used primarily in support of space flight; however,
19 section 38 property used in support of space flight shall not
20 include general office equipment, any boat, mobile home, motor
21 vehicle, or other vehicle of a class or type required to be
22 registered, licensed, titled, or documented in this state or by the
23 United States government, or any other property not specifically
24 suited to supporting space activity. The term "in support of space

1 flight", for purposes of this paragraph, means the altering,
2 monitoring, controlling, regulating, adjusting, servicing, or
3 repairing of any space facility, space propulsion systems or space
4 vehicle, satellite, or station possessing space flight capacity,
5 including the components thereof;

6 37. The purchase or lease of machinery and equipment for use at
7 a fixed location in this state, which is used exclusively in the
8 manufacturing, processing, compounding, or producing of any space
9 facility, space propulsion system or space vehicle, satellite, or
10 station of any kind possessing space flight capacity. Provided, the
11 exemption provided for in this paragraph shall not be allowed unless
12 the purchaser or lessee signs an affidavit stating that the item or
13 items to be exempted are for the exclusive use designated herein.
14 Any person furnishing a false affidavit to the vendor for the
15 purpose of evading payment of any tax imposed by Section 1354 of
16 this title shall be subject to the penalties provided by law. As
17 used in this paragraph, "machinery and equipment" means "section 38
18 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the
19 Internal Revenue Code of 1986, which is used as an integral part of
20 the manufacturing, processing, compounding, or producing of items of
21 tangible personal property. Such term includes parts and
22 accessories only to the extent that the exemption thereof is
23 consistent with the provisions of this paragraph;

24

1 38. The amount of a surcharge or any other amount which is
2 separately stated on an admission ticket which is imposed, collected
3 and used for the sole purpose of constructing, remodeling or
4 enlarging facilities of a public trust having a municipality or
5 county as its sole beneficiary;

6 39. Sales of tangible personal property or services which are
7 directly used in or for the benefit of a state park in this state,
8 which are made to an organization which is exempt from taxation
9 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
10 Section 501(c)(3) and which is organized primarily for the purpose
11 of supporting one or more state parks located in this state;

12 40. The sale, lease or use of parking privileges by an
13 institution of The Oklahoma State System of Higher Education;

14 41. Sales of tangible personal property or services for use on
15 campus or school construction projects for the benefit of
16 institutions of The Oklahoma State System of Higher Education,
17 private institutions of higher education accredited by the Oklahoma
18 State Regents for Higher Education or any public school or school
19 district when such projects are financed by or through the use of
20 nonprofit entities which are exempt from taxation pursuant to the
21 provisions of the Internal Revenue Code, 26 U.S.C., Section
22 501(c)(3);

23 42. Sales of tangible personal property or services by an
24 organization which is exempt from taxation pursuant to the

1 provisions of the Internal Revenue Code, 26 U.S.C., Section
2 501(c)(3), in the course of conducting a national championship
3 sports event, but only if all or a portion of the payment in
4 exchange therefor would qualify as the receipt of a qualified
5 sponsorship payment described in Internal Revenue Code, 26 U.S.C.,
6 Section 513(i). Sales exempted pursuant to this paragraph shall be
7 exempt from all Oklahoma sales, use, excise and gross receipts
8 taxes;

9 43. Sales of tangible personal property or services to or by an
10 organization which:

- 11 a. is exempt from taxation pursuant to the provisions of
12 the Internal Revenue Code, 26 U.S.C., Section
13 501(c)(3),
- 14 b. is affiliated with a comprehensive university within
15 The Oklahoma State System of Higher Education, and
- 16 c. has been organized primarily for the purpose of
17 providing education and teacher training and
18 conducting events relating to robotics;

19 44. The first Fifteen Thousand Dollars (\$15,000.00) each year
20 from sales of tangible personal property to or by youth athletic
21 teams which are part of an athletic organization exempt from
22 taxation pursuant to the provisions of the Internal Revenue Code, 26
23 U.S.C., Section 501(c)(4), for the purposes of raising funds for the
24 benefit of the team;

1 45. Sales of tickets for admission to a collegiate athletic
2 event that is held in a facility owned or operated by a municipality
3 or a public trust of which the municipality is the sole beneficiary
4 and that actually determines or is part of a tournament or
5 tournament process for determining a conference tournament
6 championship, a conference championship, or a national championship;

7 46. Sales of tangible personal property or services to or by an
8 organization which is exempt from taxation pursuant to the
9 provisions of the Internal Revenue Code, 26 U.S.C., Section
10 501(c)(3) and is operating the Oklahoma City National Memorial and
11 Museum, an affiliate of the National Park System;

12 47. Sales of tangible personal property or services to
13 organizations which are exempt from federal taxation pursuant to the
14 provisions of Section 501(c)(3) of the Internal Revenue Code, 26
15 U.S.C., Section 501(c)(3), the memberships of which are limited to
16 honorably discharged veterans, and which furnish financial support
17 to area veterans' organizations to be used for the purpose of
18 constructing a memorial or museum;

19 48. Sales of tangible personal property or services on or after
20 January 1, 2003, to an organization which is exempt from taxation
21 pursuant to the provisions of the Internal Revenue Code, 26 U.S.C.,
22 Section 501(c)(3) that is expending monies received from a private
23 foundation grant in conjunction with expenditures of local sales tax
24 revenue to construct a local public library;

1 49. Sales of tangible personal property or services to a state
2 that borders this state or any political subdivision of that state,
3 but only to the extent that the other state or political subdivision
4 exempts or does not impose a tax on similar sales of items to this
5 state or a political subdivision of this state;

6 50. Effective July 1, 2005, sales of tangible personal property
7 or services to the Career Technology Student Organizations under the
8 direction and supervision of the Oklahoma Department of Career and
9 Technology Education;

10 51. Sales of tangible personal property to a public trust
11 having either a single city, town or county or multiple cities,
12 towns or counties or combination thereof as beneficiary or
13 beneficiaries or a nonprofit organization which is exempt from
14 taxation pursuant to the provisions of the Internal Revenue Code, 26
15 U.S.C., Section 501(c)(3) for the purpose of constructing
16 improvements to or expanding a hospital or nursing home owned and
17 operated by any such public trust or nonprofit entity prior to the
18 effective date of this act in counties with a population of less
19 than one hundred thousand (100,000) persons, according to the most
20 recent Federal Decennial Census. As used in this paragraph,
21 "constructing improvements to or expanding" shall not mean any
22 expense for routine maintenance or general repairs and shall require
23 a project cost of at least One Hundred Thousand Dollars
24 (\$100,000.00). For purposes of this paragraph, sales made to a

1 contractor or subcontractor that enters into a contractual
2 relationship with a public trust or nonprofit entity as described by
3 this paragraph shall be considered sales made to the public trust or
4 nonprofit entity. The exemption authorized by this paragraph shall
5 be administered in the form of a refund from the sales tax revenues
6 apportioned pursuant to Section 1353 of this title and the vendor
7 shall be required to collect the sales tax otherwise applicable to
8 the transaction. The purchaser may apply for a refund of the sales
9 tax paid in the manner prescribed by this paragraph. Within thirty
10 (30) days after the end of each fiscal year, any purchaser that is
11 entitled to make application for a refund based upon the exempt
12 treatment authorized by this paragraph may file an application for
13 refund of the sales taxes paid during such preceding fiscal year.
14 The Tax Commission shall prescribe a form for purposes of making the
15 application for refund. The Tax Commission shall determine whether
16 or not the total amount of sales tax exemptions claimed by all
17 purchasers is equal to or less than Six Hundred Fifty Thousand
18 Dollars (\$650,000.00). If such claims are less than or equal to
19 that amount, the Tax Commission shall make refunds to the purchasers
20 in the full amount of the documented and verified sales tax amounts.
21 If such claims by all purchasers are in excess of Six Hundred Fifty
22 Thousand Dollars (\$650,000.00), the Tax Commission shall determine
23 the amount of each purchaser's claim, the total amount of all claims
24 by all purchasers, and the percentage each purchaser's claim amount

1 bears to the total. The resulting percentage determined for each
2 purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars
3 (\$650,000.00) to determine the amount of refundable sales tax to be
4 paid to each purchaser. The pro rata refund amount shall be the
5 only method to recover sales taxes paid during the preceding fiscal
6 year and no balance of any sales taxes paid on a pro rata basis
7 shall be the subject of any subsequent refund claim pursuant to this
8 paragraph;

9 52. Effective July 1, 2006, sales of tangible personal property
10 or services to any organization which assists, trains, educates, and
11 provides housing for physically and mentally handicapped persons and
12 which is exempt from taxation pursuant to the provisions of the
13 Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that
14 receives at least eighty-five percent (85%) of its annual budget
15 from state or federal funds. In order to receive the benefit of the
16 exemption authorized by this paragraph, the taxpayer shall be
17 required to make payment of the applicable sales tax at the time of
18 sale to the vendor in the manner otherwise required by law.
19 Notwithstanding any other provision of the Oklahoma Uniform Tax
20 Procedure Code to the contrary, the taxpayer shall be authorized to
21 file a claim for refund of sales taxes paid that qualify for the
22 exemption authorized by this paragraph for a period of one (1) year
23 after the date of the sale transaction. The taxpayer shall be
24 required to provide documentation as may be prescribed by the

1 Oklahoma Tax Commission in support of the refund claim. The total
2 amount of sales tax qualifying for exempt treatment pursuant to this
3 paragraph shall not exceed One Hundred Seventy-five Thousand Dollars
4 (\$175,000.00) each fiscal year. Claims for refund shall be
5 processed in the order in which such claims are received by the
6 Oklahoma Tax Commission. If a claim otherwise timely filed exceeds
7 the total amount of refunds payable for a fiscal year, such claim
8 shall be barred;

9 53. The first Two Thousand Dollars (\$2,000.00) each year of
10 sales of tangible personal property or services to, by, or for the
11 benefit of a qualified neighborhood watch organization that is
12 endorsed or supported by or working directly with a law enforcement
13 agency with jurisdiction in the area in which the neighborhood watch
14 organization is located. As used in this paragraph, "qualified
15 neighborhood watch organization" means an organization that is a
16 not-for-profit corporation under the laws of the State of Oklahoma
17 that was created to help prevent criminal activity in an area
18 through community involvement and interaction with local law
19 enforcement and which is one of the first two thousand organizations
20 which makes application to the Oklahoma Tax Commission for the
21 exemption after the effective date of this act;

22 54. Sales of tangible personal property to a nonprofit
23 organization, exempt from taxation pursuant to the provisions of the
24 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized

1 primarily for the purpose of providing services to homeless persons
2 during the day and located in a metropolitan area with a population
3 in excess of five hundred thousand (500,000) persons according to
4 the latest Federal Decennial Census. The exemption authorized by
5 this paragraph shall be applicable to sales of tangible personal
6 property to a qualified entity occurring on or after January 1,
7 2005;

8 55. Sales of tangible personal property or services by an
9 organization which is exempt from taxation pursuant to the
10 provisions of the Internal Revenue Code, 26 U.S.C., Section
11 501(c) (3) made during auction events the principal purpose of which
12 is to provide funding for the preservation of wetlands and habitat
13 for wild ducks;

14 56. Sales of tangible personal property or services by an
15 organization which is exempt from taxation pursuant to the
16 provisions of the Internal Revenue Code, 26 U.S.C., Section
17 501(c) (3) made during auction events the principal purpose of which
18 is to provide funding for the preservation and conservation of wild
19 turkeys;

20 57. Sales of tangible personal property or services to an
21 organization which:

22 a. is exempt from taxation pursuant to the provisions of
23 the Internal Revenue Code, 26 U.S.C., Section
24 501(c) (3), and

1 b. is part of a network of community-based, autonomous
2 member organizations that meets the following
3 criteria:

4 (1) serves people with workplace disadvantages and
5 disabilities by providing job training and
6 employment services, as well as job placement
7 opportunities and post-employment support,

8 (2) has locations in the United States and at least
9 twenty other countries,

10 (3) collects donated clothing and household goods to
11 sell in retail stores and provides contract labor
12 services to business and government, and

13 (4) provides documentation to the Oklahoma Tax
14 Commission that over seventy-five percent (75%)
15 of its revenues are channeled into employment,
16 job training and placement programs and other
17 critical community services;

18 58. Sales of tickets made on or after September 21, 2005, and
19 complimentary or free tickets for admission issued on or after
20 September 21, 2005, which have a value equivalent to the charge that
21 would have otherwise been made, for admission to a professional
22 athletic event in which a team in the National Basketball
23 Association is a participant, which is held in a facility owned or
24 operated by a municipality, a county or a public trust of which a

1 municipality or a county is the sole beneficiary, and sales of
2 tickets made on or after the effective date of this act, and
3 complimentary or free tickets for admission issued on or after the
4 effective date of this act, which have a value equivalent to the
5 charge that would have otherwise been made, for admission to a
6 professional athletic event in which a team in the National Hockey
7 League is a participant, which is held in a facility owned or
8 operated by a municipality, a county or a public trust of which a
9 municipality or a county is the sole beneficiary;

10 59. Sales of tickets for admission and complimentary or free
11 tickets for admission which have a value equivalent to the charge
12 that would have otherwise been made to a professional sporting event
13 involving ice hockey, baseball, basketball, football or arena
14 football, or soccer. As used in this paragraph, "professional
15 sporting event" means an organized athletic competition between
16 teams that are members of an organized league or association with
17 centralized management, other than a national league or national
18 association, that imposes requirements for participation in the
19 league upon the teams, the individual athletes or both, and which
20 uses a salary structure to compensate the athletes;

21 60. Sales of tickets for admission to an annual event sponsored
22 by an educational and charitable organization of women which is
23 exempt from taxation pursuant to the provisions of the Internal
24 Revenue Code, 26 U.S.C., Section 501(c)(3) and has as its mission

1 promoting volunteerism, developing the potential of women and
2 improving the community through the effective action and leadership
3 of trained volunteers;

4 61. Sales of tangible personal property or services to an
5 organization, which is exempt from taxation pursuant to the
6 provisions of the Internal Revenue Code, 26 U.S.C., Section
7 501(c)(3), and which is itself a member of an organization which is
8 exempt from taxation pursuant to the provisions of the Internal
9 Revenue Code, 26 U.S.C., Section 501(c)(3), if the membership
10 organization is primarily engaged in advancing the purposes of its
11 member organizations through fundraising, public awareness or other
12 efforts for the benefit of its member organizations, and if the
13 member organization is primarily engaged either in providing
14 educational services and programs concerning health-related diseases
15 and conditions to individuals suffering from such health-related
16 diseases and conditions or their caregivers and family members or
17 support to such individuals, or in health-related research as to
18 such diseases and conditions, or both. In order to qualify for the
19 exemption authorized by this paragraph, the member nonprofit
20 organization shall be required to provide proof to the Oklahoma Tax
21 Commission of its membership status in the membership organization;

22 62. Sales of tangible personal property or services to or by an
23 organization which is part of a national volunteer women's service
24 organization dedicated to promoting patriotism, preserving American

1 history and securing better education for children and which has at
2 least 168,000 members in 3,000 chapters across the United States;

3 63. Sales of tangible personal property or services to or by a
4 YWCA or YMCA organization which is part of a national nonprofit
5 community service organization working to meet the health and social
6 service needs of its members across the United States;

7 64. Sales of tangible personal property or services to or by a
8 veteran's organization which is exempt from taxation pursuant to the
9 provisions of the Internal Revenue Code, 26 U.S.C., Section 501
10 (c)(19) and which is known as the Veterans of Foreign Wars of the
11 United States, Oklahoma Chapters;

12 65. Sales of boxes of food by a church or by an organization,
13 which is exempt from taxation pursuant to the provisions of the
14 Internal Revenue Code, 26 U.S.C., Section 501(c)(3). To qualify
15 under the provisions of this paragraph, the organization must be
16 organized for the primary purpose of feeding needy individuals or to
17 encourage volunteer service by requiring such service in order to
18 purchase food. These boxes shall only contain edible staple food
19 items;

20 66. Sales of tangible personal property or services to any
21 person with whom a church has duly entered into a construction
22 contract, necessary for carrying out such contract or to any
23 subcontractor to such a construction contract;

24

1 67. Sales of tangible personal property or services used
2 exclusively for charitable or educational purposes, to or by an
3 organization which:

4 a. is exempt from taxation pursuant to the provisions of
5 the Internal Revenue Code, 26 U.S.C., Section
6 501(c)(3),

7 b. has filed a Not-for-Profit Certificate of
8 Incorporation in this state, and

9 c. is organized for the purpose of:

10 (1) providing training and education to
11 developmentally disabled individuals,

12 (2) educating the community about the rights,
13 abilities and strengths of developmentally
14 disabled individuals, and

15 (3) promoting unity among developmentally disabled
16 individuals in their community and geographic
17 area;

18 68. Sales of tangible personal property or services to any
19 organization which is a shelter for abused, neglected, or abandoned
20 children and which is exempt from taxation pursuant to the
21 provisions of the Internal Revenue Code, 26 U.S.C., Section
22 501(c)(3); provided, until July 1, 2008, such exemption shall apply
23 only to eligible shelters for children from birth to age twelve (12)

1 and after July 1, 2008, such exemption shall apply to eligible
2 shelters for children from birth to age eighteen (18);

3 69. Sales of tangible personal property or services to a child
4 care center which is licensed pursuant to the Oklahoma Child Care
5 Facilities Licensing Act and which:

- 6 a. possesses a 3-star rating from the Department of Human
7 Services Reaching for the Stars Program or a national
8 accreditation, and
- 9 b. allows on site universal pre-kindergarten education to
10 be provided to four-year-old children through a
11 contractual agreement with any public school or school
12 district.

13 For the purposes of this paragraph, sales made to any person,
14 firm, agency or entity that has entered previously into a
15 contractual relationship with a child care center for construction
16 and improvement of buildings and other structures owned by the child
17 care center and operated for educational purposes shall be
18 considered sales made to a child care center. Any such person,
19 firm, agency or entity making purchases on behalf of a child care
20 center shall certify in writing, on the copy of the invoice or sales
21 ticket the nature of the purchase. Any such person, or person
22 acting on behalf of a firm, agency or entity making purchases on
23 behalf of a child care center in violation of this paragraph shall
24 be guilty of a misdemeanor and upon conviction thereof shall be

1 fined an amount equal to double the amount of sales tax involved or
2 incarcerated for not more than sixty (60) days or both; and

3 70. a. Sales of tangible personal property to a service
4 organization of mothers who have children who are
5 serving or who have served in the military, which
6 service organization is exempt from taxation pursuant
7 to the provisions of the Internal Revenue Code, 26
8 U.S.C., Section 501(c)(19) and which is known as the
9 Blue Star Mothers of America, Inc. The exemption
10 provided by this paragraph shall only apply to the
11 purchase of tangible personal property actually sent
12 to United States military personnel overseas who are
13 serving in a combat zone and not to any other tangible
14 personal property purchased by the organization.
15 Provided, this exemption shall not apply to any sales
16 tax levied by a city, town, county, or any other
17 jurisdiction in this state.

18 b. The exemption authorized by this paragraph shall be
19 administered in the form of a refund from the sales
20 tax revenues apportioned pursuant to Section 1353 of
21 this title, and the vendor shall be required to
22 collect the sales tax otherwise applicable to the
23 transaction. The purchaser may apply for a refund of
24 the state sales tax paid in the manner prescribed by

1 this paragraph. Within sixty (60) days after the end
2 of each calendar quarter, any purchaser that is
3 entitled to make application for a refund based upon
4 the exempt treatment authorized by this paragraph may
5 file an application for refund of the state sales
6 taxes paid during such preceding calendar quarter.
7 The Tax Commission shall prescribe a form for purposes
8 of making the application for refund.

9 c. A purchaser who applies for a refund pursuant to this
10 paragraph shall certify that the items were actually
11 sent to military personnel overseas in a combat zone.
12 Any purchaser that applies for a refund for the
13 purchase of items that are not authorized for
14 exemption under this paragraph shall be subject to a
15 penalty in the amount of Five Hundred Dollars
16 (\$500.00).

17 SECTION 13. AMENDATORY Section 4, Chapter 42, 2nd
18 Extraordinary Session, O.S.L. 2006, as amended by Section 2, Chapter
19 346, O.S.L. 2007 (68 O.S. Supp. 2007, Section 2355.1A), is amended
20 to read as follows:

21 Section 2355.1A A. The provisions of this section shall be
22 applicable with respect to the implementation of the decreases in
23 the top marginal rate of individual income tax otherwise authorized
24 pursuant to the provisions of subparagraph (h) of paragraphs 1 and 2

1 of subsection B of Section 2355 of this title which shall be
2 contingent upon a determination by the State Board of Equalization
3 made by a comparison of the revenue computations described by this
4 section which shall be conducted until the income tax rate of five
5 and twenty-five hundredths percent (5.25%) is effective.

6 B. In addition to any other duties prescribed by law, at the
7 meeting required by paragraph 1 of Section 23 of Article X of the
8 Oklahoma Constitution to be held in December ~~2007~~ 2008, and for any
9 subsequent December meeting of the State Board of Equalization if
10 the top marginal income tax rate prescribed by subparagraph (h) of
11 paragraphs 1 and 2 of subsection B of Section 2355 of this title has
12 not become effective, the State Board of Equalization shall
13 determine:

14 1. The amount of revenue growth in the General Revenue Fund of
15 the State Treasury by comparing the fiscal year ~~2009~~ General Revenue
16 Fund estimate for the fiscal year beginning on the next ensuing July
17 1 date to the revised General Revenue Fund estimate for the then
18 current fiscal year ~~2008~~; and

19 2. The amount by which the income tax revenue for the tax year
20 ~~2009~~ which will begin on the second January 1 date following such
21 December meeting is estimated to be reduced by the increase in the
22 standard deduction provided in paragraph 2 of subsection E of
23 Section 2358 of this title, plus an amount equal to four percent
24 (4%) of the revised General Revenue Fund estimate for the then

1 current fiscal year 2008 in order for a top marginal income tax rate
2 of five and twenty-five hundredths percent (5.25%) to be effective.

3 If the amount determined pursuant to the provisions of paragraph
4 1 of this subsection is equal to or greater than the amount
5 determined pursuant to the provisions of paragraph 2 of this
6 subsection, the Board shall make a preliminary finding that the
7 Board anticipates that a finding will be made at the February 2008
8 meeting immediately subsequent to the December meeting that
9 applicable revenue growth in the state will authorize the
10 implementation of the provisions of subparagraph (h) of paragraphs 1
11 and 2 of subsection B of Section 2355 of this title beginning ~~with~~
12 ~~calendar year 2009~~ on the second January 1 following such December
13 meeting.

14 If the amount determined pursuant to the provisions of paragraph
15 1 of this subsection is less than the amount determined pursuant to
16 the provisions of paragraph 2 of this subsection, the Board shall
17 make a preliminary finding that the Board anticipates that a finding
18 will be made at the February 2008 meeting immediately subsequent to
19 the December meeting that applicable revenue growth in the state
20 will not authorize the implementation of the provisions of
21 subparagraph (h) of paragraphs 1 and 2 of subsection B of Section
22 2355 of this title beginning ~~with calendar year 2009~~ on the second
23 January 1 following such December meeting.

24

1 ~~B.~~ C. In addition to any other duties prescribed by law, at the
2 meeting required by paragraph 3 of Section 23 of Article X of the
3 Oklahoma Constitution to be held in February ~~2008~~ 2009, and for any
4 subsequent February meeting of the State Board of Equalization if
5 the top marginal income tax rate prescribed by subparagraph (h) of
6 paragraphs 1 and 2 of subsection B of Section 2355 of this title has
7 not become effective the State Board of Equalization shall
8 determine:

9 1. The amount of revenue growth in the General Revenue Fund of
10 the State Treasury by comparing the fiscal year ~~2009~~ General Revenue
11 Fund estimate for the fiscal year beginning on the next ensuing July
12 1 date to the revised General Revenue Fund estimate for the then
13 current fiscal year ~~2008~~; and

14 2. The amount by which the income tax revenue for the tax year
15 ~~2009~~ which will begin on the January 1 date immediately following
16 such February meeting is estimated to be reduced by the increase in
17 the standard deduction provided in paragraph 2 of subsection E of
18 Section 2358 of this title plus an amount equal to four percent (4%)
19 of the revised General Revenue Fund estimate for the then current
20 fiscal year ~~2008~~ in order for a top marginal income tax rate of five
21 and twenty-five hundredths percent (5.25%) to be effective.

22 If the amount determined pursuant to the provisions of paragraph
23 1 of this subsection is equal to or greater than the amount
24 determined pursuant to the provisions of paragraph 2 of this

1 subsection, the Board shall make a finding that applicable revenue
2 growth in the state will authorize the implementation of the
3 provisions of subparagraph (h) of paragraphs 1 and 2 of subsection B
4 of Section 2355 of this title beginning ~~with calendar year 2009~~ on
5 the January 1 date immediately following such February meeting.

6 If the amount determined pursuant to the provisions of paragraph
7 1 of this subsection is less than the amount determined pursuant to
8 the provisions of paragraph 2 of this subsection, the Board shall
9 make a finding that applicable revenue growth in the state does not
10 authorize the implementation of the provisions of subparagraph (h)
11 of paragraphs 1 and 2 of subsection B of Section 2355 of this title
12 beginning with ~~calendar year 2009~~ the January 1 date immediately
13 following such February meeting.

14 ~~C.~~ D. If the Board makes a finding that applicable revenue
15 growth in the state does not authorize the implementation of the
16 provisions of subparagraph (h) of paragraphs 1 and 2 of subsection B
17 of Section 2355 of this title beginning with calendar year ~~2009~~ 2010
18 pursuant to the provisions of subsection ~~B~~ C of this section, the
19 procedures prescribed by subsection A ~~and,~~ subsection B, and
20 subsection C of this section shall be repeated by the State Board of
21 Equalization for each successive two-year comparison. Once the
22 income tax rate otherwise authorized pursuant to subparagraph (h) of
23 paragraphs 1 and 2 of subsection B of Section 2355 of this title has
24 been implemented as a result of the analysis of the General Revenue

1 Fund estimates together with the fiscal impact of the standard
2 deduction as authorized pursuant to paragraph 2 of subsection E of
3 Section 2358 of this title, such income tax rate shall be in effect
4 for ~~all subsequent~~ the tax years as prescribed by subparagraph (h)
5 of paragraphs 1 and 2 of subsection B of Section 2355 of this title.

6 ~~D. For purposes of this section, the estimate of the revenue~~
7 ~~for appropriations authority for fiscal year 2009 shall be made~~
8 ~~assuming a top individual income tax rate of five and twenty five~~
9 ~~hundredths percent (5.25%) as provided in subparagraph (h) of~~
10 ~~paragraphs 1 and 2 of subsection B of Section 2355 of this title.~~

11 SECTION 14. Section 1 of this act shall become effective July
12 1, 2009.

13 SECTION 15. Sections 2, 3 and 5 of this act shall become
14 effective July 1, 2008.

15 SECTION 16. 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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