

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1559

By: Branan

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Sections 500.4 and 500.10, as amended by
9 Section 2, Chapter 267, O.S.L. 2007 (68 O.S. Supp.
10 2007, Section 500.10), which relate to motor fuel
11 tax; eliminating motor fuel tax on fuel used or
12 consumed for certain purposes; modifying exemption;
13 amending 68 O.S. 2001, Section 1355, as last amended
14 by Section 2, Chapter 203, O.S.L. 2007 (68 O.S. Supp.
15 2007, Section 1355), which relates to sales tax;
16 exempting fuel used or consumed for certain purposes
17 after specified date from sales tax; repealing 68
18 O.S. 2001, Section 500.6a, which relates to
19 apportionment of aircraft fuel tax; providing an
20 effective date; and declaring an emergency.

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

22 SECTION 1. AMENDATORY 68 O.S. 2001, Section 500.4, is
23 amended to read as follows:

24 Section 500.4 A. A tax is imposed on all gasoline and all
diesel fuel used or consumed in this state as follows:

1. Gasoline, sixteen cents (\$0.16) per gallon; and
2. Diesel fuel, thirteen cents (\$0.13) per gallon.

1 B. ~~A tax is imposed on all gasoline, diesel fuel and kerosene~~
2 ~~used or consumed in this state for use as fuel to generate power in~~
3 ~~aircraft engines or for training, testing or research on aircraft~~
4 ~~engines in the amount of eight one hundredths of one cent (\$0.0008)~~
5 ~~per gallon. All gasoline, diesel fuel and kerosene sold for use~~
6 ~~under this subsection shall not be subject to the excise tax levied~~
7 ~~in subsection A of this section.~~

8 C. Notwithstanding any exemption provided in ~~Section 500.1 et~~
9 ~~seq. of this title~~ the Motor Fuel Tax Code, all gasoline used or
10 consumed in this state for use as fuel for farm tractors or
11 stationary engines and used exclusively for agricultural purposes
12 shall be subject to a tax in the amount of two and eight one-
13 hundredths cents (\$0.0208) per gallon. All gasoline sold for use
14 pursuant to this subsection shall not be subject to the excise tax
15 levied in subsection A of this section. The term "farm tractor", as
16 used herein, shall include all tractor-type, motorized farm
17 implements and equipment but shall not include motor vehicles of the
18 truck-type, pickup truck-type, automobiles and other motor vehicles
19 required to be registered and licensed each year under the Oklahoma
20 Vehicle License and Registration Act.

21 ~~D.~~ C. It is the intent of this section to amend, revise,
22 incorporate and recodify the tax imposed on motor fuel and that the
23 tax shall be conclusively presumed to be a direct tax and shall be a
24 direct tax on the retail or ultimate consumer precollected for the

1 purpose of convenience and facility to the consumer. The levy and
2 assessment on other persons as specified in this act shall be as
3 agents of the state for the precollection of the tax. The
4 provisions of this section shall in no way affect the method of
5 collecting the tax as provided in this act. The tax imposed by this
6 section shall be collected and paid at those times, in the manner,
7 and by those persons specified in this act.

8 SECTION 2. AMENDATORY 68 O.S. 2001, Section 500.10, as
9 amended by Section 2, Chapter 267, O.S.L. 2007 (68 O.S. Supp. 2007,
10 Section 500.10), is amended to read as follows:

11 Section 500.10 Subject to the procedural requirements and
12 conditions set out in this section and Sections 500.11 through
13 500.17 of this title, the following are exempt from the tax imposed
14 by Section 500.4 of this title on motor fuel:

15 1. Motor fuel for which proof of export is available in the
16 form of a terminal-issued destination state shipping paper:

17 a. exported by a supplier who is licensed in the
18 destination state, or

19 b. sold by a supplier to a licensed exporter for
20 immediate export;

21 2. Motor fuel which was acquired by an unlicensed exporter and
22 as to which the tax imposed by Section 500.4 of this title has
23 previously been paid or accrued and was subsequently exported by
24 transport truck by or on behalf of the licensed exporter in a

1 diversion across state boundaries properly reported in conformity
2 with Section 500.46 of this title;

3 3. Motor fuel exported out of a bulk plant in this state in a
4 tank wagon if the destination of that vehicle does not exceed
5 twenty-five (25) miles from the border of this state and as to which
6 the tax imposed by Section 500.4 of this title has previously been
7 paid or accrued, subject to gallonage limits and other conditions
8 established by the Oklahoma Tax Commission;

9 4. K-1 kerosene sold at retail through dispensers which have
10 been designed and constructed to prevent delivery directly from the
11 dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at
12 retail through nonbarricaded dispensers in quantities of not more
13 than twenty-one (21) gallons for use other than for highway
14 purposes, under such rules as the Tax Commission shall reasonably
15 require;

16 5. Motor fuel sold to the United States or any agency or
17 instrumentality thereof;

18 6. Motor fuel used solely and exclusively in district-owned
19 public school vehicles or FFA and 4-H Club trucks for the purpose of
20 legally transporting public school children, and motor fuel
21 purchased by any school district for use exclusively in school buses
22 leased or hired for the purpose of legally transporting public
23 school children, or in the operation of vehicles used in driver
24 training;

1 7. Motor fuel used solely and exclusively as fuel to propel
2 motor vehicles on the public roads and highways of this state, when
3 leased or owned and being operated for the sole benefit of a county,
4 city, town, a volunteer fire department with a state certification
5 and rating, rural electric cooperatives, rural water and sewer
6 districts, rural ambulance service districts, or federally
7 recognized Indian tribes;

8 8. Motor fuel used as fuel for farm tractors or stationary
9 engines owned or leased and operated by any person and used
10 exclusively for agricultural purposes, except as to two and eight
11 one-hundredths cents (\$0.0208) per gallon of gasoline as provided in
12 subsection C of Section 500.4 of this title;

13 9. Gasoline, diesel fuel and kerosene sold for use as fuel to
14 generate power in aircraft engines, whether in aircraft or for
15 training, testing or research purposes of aircraft engines, ~~except~~
16 ~~as to eight one hundredths of one cent (\$0.0008) per gallon as~~
17 ~~provided in subsection B of Section 500.4 of this title;~~

18 10. Motor fuel sold within an Indian reservation or within
19 Indian country by a federally recognized Indian tribe to a member of
20 that tribe and used in motor vehicles owned by that member of the
21 tribe. This exemption does not apply to sales within an Indian
22 reservation or within Indian country by a federally recognized
23 Indian tribe to non-Indian consumers or to Indian consumers who are
24 not members of the tribe selling the motor fuel;

1 11. Subject to determination by the Tax Commission, that
2 portion of diesel fuel:

- 3 a. used to operate equipment attached to a motor vehicle,
4 if the diesel fuel was placed into the fuel supply
5 tank of a motor vehicle that has a common fuel
6 reservoir for travel on a highway and for the
7 operation of equipment, or
8 b. consumed by the vehicle while the vehicle is parked
9 off the highways of this state;

10 12. Motor fuel acquired by a consumer out of state and carried
11 into this state, retained within and consumed from the same vehicle
12 fuel supply tank within which it was imported;

13 13. Diesel fuel used as heating oil, or in railroad locomotives
14 or any other motorized flanged-wheel rail equipment, or used for
15 other nonhighway purposes other than as expressly exempted under
16 another provision;

17 14. Motor fuel which was lost or destroyed as a direct result
18 of a sudden and unexpected casualty;

19 15. Taxable diesel which had been accidentally contaminated by
20 dye so as to be unsaleable as highway fuel as proved by proper
21 documentation;

22 16. Dyed diesel fuel;
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1 17. Motor fuel sold to the Oklahoma Space Industry Development
2 Authority or any spaceport user as defined in the Oklahoma Space
3 Industry Development Act; and

4 18. Biofuels or biodiesel produced by an individual with crops
5 grown on property owned by the same individual and used in a vehicle
6 owned by the same individual on the public roads and highways of
7 this state.

8 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1355, as
9 last amended by Section 2, Chapter 203, O.S.L. 2007 (68 O.S. Supp.
10 2007, Section 1355), is amended to read as follows:

11 Section 1355. Exemptions - Subject to other tax.

12 There are hereby specifically exempted from the tax levied
13 pursuant to the provisions of Section 1350 et seq. of this title:

14 1. Sale of gasoline, motor fuel, methanol, "M-85" which is a
15 mixture of methanol and gasoline containing at least eighty-five
16 percent (85%) methanol, compressed natural gas, liquefied natural
17 gas, or liquefied petroleum gas on which the Motor Fuel Tax,
18 Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special
19 Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or
20 Section 701 et seq. of this title has been, or will be paid;

21 2. Sale of motor vehicles or any optional equipment or
22 accessories attached to motor vehicles on which the Oklahoma Motor
23 Vehicle Excise Tax levied in Section 2101 et seq. of this title has
24 been, or will be paid;

1 3. Sale of crude petroleum or natural or casinghead gas and
2 other products subject to gross production tax pursuant to the
3 provisions of Section 1001 et seq. and Section 1101 et seq. of this
4 title. This exemption shall not apply when such products are sold
5 to a consumer or user for consumption or use, except when used for
6 injection into the earth for the purpose of promoting or
7 facilitating the production of oil or gas. This paragraph shall not
8 operate to increase or repeal the gross production tax levied by the
9 laws of this state;

10 4. Sale of aircraft on which the tax levied pursuant to the
11 provisions of Sections 6001 through 6007 of this title has been, or
12 will be paid or which are specifically exempt from such tax pursuant
13 to the provisions of Section 6003 of this title;

14 5. Sales from coin-operated devices on which the fee imposed by
15 Sections 1501 through 1512 of this title has been paid;

16 6. Leases of twelve (12) months or more of motor vehicles in
17 which the owners of the vehicles have paid the vehicle excise tax
18 levied by Section 2103 of this title;

19 7. Sales of charity game equipment on which a tax is levied
20 pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of
21 Title 3A of the Oklahoma Statutes, or which is sold to an
22 organization that is:

23 a. a veterans' organization exempt from taxation pursuant
24 to the provisions of paragraph (4), (7), (8), (10) or

1 (19) of subsection (c) of Section 501 of the United
2 States Internal Revenue Code of 1986, as amended, 26
3 U.S.C., Section 501(c) et seq., or

4 b. a group home for mentally disabled individuals exempt
5 from taxation pursuant to the provisions of paragraph
6 (3) of subsection (c) of Section 501 of the United
7 States Internal Revenue Code of 1986, as amended, 26
8 U.S.C., Section 501(c) et seq.;

9 8. Sales of cigarettes or tobacco products to:

10 a. a federally recognized Indian tribe or nation which
11 has entered into a compact with the State of Oklahoma
12 pursuant to the provisions of subsection C of Section
13 346 of this title or to a licensee of such a tribe or
14 nation, upon which the payment in lieu of taxes
15 required by the compact has been paid, or

16 b. a federally recognized Indian tribe or nation or to a
17 licensee of such a tribe or nation upon which the tax
18 levied pursuant to the provisions of Section 349 or
19 Section 426 of this title has been paid;

20 9. Leases of aircraft upon which the owners have paid the
21 aircraft excise tax levied by Section 6001 et seq. of this title or
22 which are specifically exempt from such tax pursuant to the
23 provisions of Section 6003 of this title;

1 10. The sale of low-speed electrical vehicles on which the
2 Oklahoma Motor Vehicle Excise Tax levied in Section 2101 et seq. of
3 this title has been or will be paid; ~~and~~

4 11. Effective January 1, 2005, sales of cigarettes on which the
5 tax levied in Section 301 et seq. of this title or tobacco products
6 on which the tax levied in Section 401 et seq. of this title has
7 been paid; and

8 12. Effective July 1, 2008, the sale of all gasoline, diesel
9 fuel and kerosene for use in this state as fuel to generate power in
10 aircraft engines or for training, testing or research on aircraft
11 engines which is specifically exempt from excise tax pursuant to
12 Section 500.10 of this title.

13 SECTION 4. REPEALER 68 O.S. 2001, Section 500.6a, is
14 hereby repealed.

15 SECTION 5. This act shall become effective July 1, 2008.

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

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