

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

House Bill No. 2090

HOUSE BILL NO. 2090 - By: KIRBY AND SHERRER of the House and STANISLAWSKI of the Senate.

An Act relating to revenue and taxation; limiting duration of future sales tax exemptions; amending 68 O.S. 2001, Sections 1356, as last amended by Section 2, Chapter 436, O.S.L. 2008 and 1357, as last amended by Section 3, Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008, Sections 1356 and 1357), which relate to sales tax exemptions; referencing limitation on duration of sales tax exemptions; providing for codification; providing an effective date; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 1354A of Title 68, unless there is created a duplication in numbering,
3 reads as follows:

4 Any sales tax exemption enacted in this state on or after July 1, 2009, shall
5 terminate and have no further effect five (5) years following the effective date of the
6 exemption.

7 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1356, as last amended by
8 Section 2, Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008, Section 1356), is amended to
9 read as follows:

10 Section 1356. Exemptions - Governmental and nonprofit entities.

1 ~~There~~ Subject to the limitation provided in Section 1 of this act, there are hereby
2 specifically exempted from the tax levied by Section 1350 et seq. of this title:

3 1. Sale of tangible personal property or services to the United States government or
4 to the State of Oklahoma, any political subdivision of this state or any agency of a
5 political subdivision of this state; provided, all sales to contractors in connection with the
6 performance of any contract with the United States government, State of Oklahoma or
7 any of its political subdivisions shall not be exempted from the tax levied by Section 1350
8 et seq. of this title, except as hereinafter provided;

9 2. Sales of property to agents appointed by or under contract with agencies or
10 instrumentalities of the United States government if ownership and possession of such
11 property transfers immediately to the United States government;

12 3. Sales of property to agents appointed by or under contract with a political
13 subdivision of this state if the sale of such property is associated with the development of
14 a qualified federal facility, as provided in the Oklahoma Federal Facilities Development
15 Act, and if ownership and possession of such property transfers immediately to the
16 political subdivision or the state;

17 4. Sales made directly by county, district or state fair authorities of this state, upon
18 the premises of the fair authority, for the sole benefit of the fair authority or sales of
19 admission tickets to such fairs or fair events at any location in the state authorized by
20 county, district or state fair authorities; provided, the exemption provided by this
21 paragraph for admission tickets to fair events shall apply only to any portion of the
22 admission price that is retained by or distributed to the fair authority. As used in this

1 paragraph, "fair event" shall be limited to an event held on the premises of the fair
2 authority in conjunction with and during the time period of a county, district or state
3 fair;

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

7 6. Dues paid to fraternal, religious, civic, charitable or educational societies or
8 organizations by regular members thereof, provided, such societies or organizations
9 operate under what is commonly termed the lodge plan or system, and provided such
10 societies or organizations do not operate for a profit which inures to the benefit of any
11 individual member or members thereof to the exclusion of other members and dues paid
12 monthly or annually to privately owned scientific and educational libraries by members
13 sharing the use of services rendered by such libraries with students interested in the
14 study of geology, petroleum engineering or related subjects;

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

1 from the sale of such property are used by the church or churches or by the organization
2 for charitable purposes;

3 8. The amount of proceeds received from the sale of admission tickets which is
4 separately stated on the ticket of admission for the repayment of money borrowed by any
5 accredited state-supported college or university or any public trust of which a county in
6 this state is the beneficiary, for the purpose of constructing or enlarging any facility to be
7 used for the staging of an athletic event, a theatrical production, or any other form of
8 entertainment, edification or cultural cultivation to which entry is gained with a paid
9 admission ticket. Such facilities include, but are not limited to, athletic fields, athletic
10 stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax
11 exemption, the amount separately stated on the admission ticket shall be a surcharge
12 which is imposed, collected and used for the sole purpose of servicing or aiding in the
13 servicing of debt incurred by the college or university to effect the capital improvements
14 hereinbefore described;

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

18 10. Sale of tangible personal property or services to any county, municipality, rural
19 water district, public school district, the institutions of The Oklahoma State System of
20 Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public
21 Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers
22 County Port Authority, Muskogee City-County Port Authority, the Oklahoma

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

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

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

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

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

- 12 (1) a public school,
- 13 (2) a private school offering instruction for grade levels
14 kindergarten through twelfth grade,
- 15 (3) a public school district,
- 16 (4) a public or private school board,
- 17 (5) a public or private school student group or organization,
- 18 (6) a parent-teacher association or organization other than as
19 specified in subparagraph b of this paragraph, or
- 20 (7) public or private school personnel for purposes of raising funds
21 for the benefit of a public or private school, public school district,

1 public or private school board or public or private school student
2 group or organization, or

3 b. Sales of tangible personal property made by or to nonprofit parent-
4 teacher associations or organizations exempt from taxation pursuant
5 to the provisions of the Internal Revenue Code, 26 U.S.C., Section
6 501(c)(3) and before July 1, 2014, nonprofit local public or private
7 school foundations which solicit money or property in the name of any
8 public or private school or public school district.

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

14 14. Sales of tangible personal property by:

- 15 a. local 4-H clubs,
- 16 b. county, regional or state 4-H councils,
- 17 c. county, regional or state 4-H committees,
- 18 d. 4-H leader associations,
- 19 e. county, regional or state 4-H foundations, and
- 20 f. authorized 4-H camps and training centers.

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

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

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

11 17. Sales of tangible personal property or services to fire departments organized
12 pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used
13 for the purposes of the fire department. Any person making purchases on behalf of any
14 such fire department shall certify, in writing, on the copy of the invoice or sales ticket to
15 be retained by the vendor that the purchases are made for and on behalf of such fire
16 department and set out the name of such fire department. Any person who wrongfully or
17 erroneously certifies that the purchases are for any such fire department or who
18 otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor
19 and upon conviction thereof, shall be fined an amount equal to double the amount of
20 sales tax involved or incarcerated for not more than sixty (60) days, or both;

21 18. Complimentary or free tickets for admission to places of amusement, sports,
22 entertainment, exhibition, display or other recreational events or activities which are

1 issued through a box office or other entity which is operated by a state institution of
2 higher education with institutional employees or by a municipality with municipal
3 employees;

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

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

14 21. Sales of tangible personal property or services to any organization, which takes
15 court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from
16 taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section
17 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such
18 organization are court adjudicated and the organization receives state funds in an
19 amount less than ten percent (10%) of the annual budget of the organization;

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

21 a. any federally qualified community health center as defined in Section
22 254c of Title 42 of the United States Code,

- 1 b. any migrant health center as defined in Section 254b of Title 42 of the
2 United States Code,
- 3 c. any clinic receiving disbursements of state monies from the Indigent
4 Health Care Revolving Fund pursuant to the provisions of Section 66
5 of Title 56 of the Oklahoma Statutes,
- 6 d. any community based health center which meets all of the following
7 criteria:
- 8 (1) provides primary care services at no cost to the recipient, and
9 (2) is exempt from taxation pursuant to the provisions of Section
10 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section
11 501(c)(3), and
- 12 e. any community mental health center as defined in Section 3-302 of
13 Title 43A of the Oklahoma Statutes;
- 14 23. Dues or fees, including free or complimentary dues or fees which have a value
15 equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or
16 municipally-owned recreation centers for the use of facilities and programs;
- 17 24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible
18 personal property or services to or by a cultural organization established to sponsor and
19 promote educational, charitable and cultural events for disadvantaged children, and
20 which organization is exempt from taxation pursuant to the provisions of the Internal
21 Revenue Code, 26 U.S.C., Section 501(c)(3);

1 25. Sales of tangible personal property or services to museums or other entities
2 which have been accredited by the American Association of Museums. Any person
3 making purchases on behalf of any such museum or other entity shall certify, in writing,
4 on the copy of the invoice or sales ticket to be retained by the vendor that the purchases
5 are made for and on behalf of such museum or other entity and set out the name of such
6 museum or other entity. Any person who wrongfully or erroneously certifies that the
7 purchases are for any such museum or other entity or who otherwise violates the
8 provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon
9 conviction thereof, shall be fined an amount equal to double the amount of sales tax
10 involved or incarcerated for not more than sixty (60) days, or by both such fine and
11 incarceration;

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

1 27. Sales of tangible personal property or services occurring on or after June 1,
2 1995, to children's homes which are supported or sponsored by one or more churches,
3 members of which serve as trustees of the home;

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

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

10 30. Transfer of tangible personal property made pursuant to Section 3226 of Title
11 63 of the Oklahoma Statutes by the University Hospitals Trust;

12 31. Sales of tangible personal property or services to a municipality, county or
13 school district pursuant to a lease or lease-purchase agreement executed between the
14 vendor and a municipality, county or school district. A copy of the lease or lease-
15 purchase agreement shall be retained by the vendor;

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

18 33. The sale, use, storage, consumption, or distribution in this state, whether by
19 the importer, exporter, or another person, of any satellite or any associated launch
20 vehicle, including components of, and parts and motors for, any such satellite or launch
21 vehicle, imported or caused to be imported into this state for the purpose of export by

1 means of launching into space. This exemption provided by this paragraph shall not be
2 affected by:

- 3 a. the destruction in whole or in part of the satellite or launch vehicle,
- 4 b. the failure of a launch to occur or be successful, or
- 5 c. the absence of any transfer or title to, or possession of, the satellite or
6 launch vehicle after launch;

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

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

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

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

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

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

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

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

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

15 42. Sales of tangible personal property or services by an organization which is
16 exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26
17 U.S.C., Section 501(c)(3), in the course of conducting a national championship sports
18 event, but only if all or a portion of the payment in exchange therefor would qualify as
19 the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26
20 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be exempt from
21 all Oklahoma sales, use, excise and gross receipts taxes;

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

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

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

11 45. Sales of tickets for admission to a collegiate athletic event that is held in a
12 facility owned or operated by a municipality or a public trust of which the municipality is
13 the sole beneficiary and that actually determines or is part of a tournament or
14 tournament process for determining a conference tournament championship, a
15 conference championship, or a national championship;

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

20 47. Sales of tangible personal property or services to organizations which are
21 exempt from federal taxation pursuant to the provisions of Section 501(c)(3) of the
22 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), the memberships of which are

1 limited to honorably discharged veterans, and which furnish financial support to area
2 veterans' organizations to be used for the purpose of constructing a memorial or museum;

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

8 49. Sales of tangible personal property or services to a state that borders this state
9 or any political subdivision of that state, but only to the extent that the other state or
10 political subdivision exempts or does not impose a tax on similar sales of items to this
11 state or a political subdivision of this state;

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

15 51. Sales of tangible personal property to a public trust having either a single city,
16 town or county or multiple cities, towns or counties or combination thereof as beneficiary
17 or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to
18 the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for the purpose
19 of constructing improvements to or expanding a hospital or nursing home owned and
20 operated by any such public trust or nonprofit entity prior to the effective date of this act
21 in counties with a population of less than one hundred thousand (100,000) persons,
22 according to the most recent Federal Decennial Census. As used in this paragraph,

1 “constructing improvements to or expanding” shall not mean any expense for routine
2 maintenance or general repairs and shall require a project cost of at least One Hundred
3 Thousand Dollars (\$100,000.00). For purposes of this paragraph, sales made to a
4 contractor or subcontractor that enters into a contractual relationship with a public trust
5 or nonprofit entity as described by this paragraph shall be considered sales made to the
6 public trust or nonprofit entity. The exemption authorized by this paragraph shall be
7 administered in the form of a refund from the sales tax revenues apportioned pursuant to
8 Section 1353 of this title and the vendor shall be required to collect the sales tax
9 otherwise applicable to the transaction. The purchaser may apply for a refund of the
10 sales tax paid in the manner prescribed by this paragraph. Within thirty (30) days after
11 the end of each fiscal year, any purchaser that is entitled to make application for a
12 refund based upon the exempt treatment authorized by this paragraph may file an
13 application for refund of the sales taxes paid during such preceding fiscal year. The Tax
14 Commission shall prescribe a form for purposes of making the application for refund.
15 The Tax Commission shall determine whether or not the total amount of sales tax
16 exemptions claimed by all purchasers is equal to or less than Six Hundred Fifty
17 Thousand Dollars (\$650,000.00). If such claims are less than or equal to that amount,
18 the Tax Commission shall make refunds to the purchasers in the full amount of the
19 documented and verified sales tax amounts. If such claims by all purchasers are in
20 excess of Six Hundred Fifty Thousand Dollars (\$650,000.00), the Tax Commission shall
21 determine the amount of each purchaser’s claim, the total amount of all claims by all
22 purchasers, and the percentage each purchaser’s claim amount bears to the total. The

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

7 52. Effective July 1, 2006, sales of tangible personal property or services to any
8 organization which assists, trains, educates, and provides housing for physically and
9 mentally handicapped persons and which is exempt from taxation pursuant to the
10 provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that receives at
11 least eighty-five percent (85%) of its annual budget from state or federal funds. In order
12 to receive the benefit of the exemption authorized by this paragraph, the taxpayer shall
13 be required to make payment of the applicable sales tax at the time of sale to the vendor
14 in the manner otherwise required by law. Notwithstanding any other provision of the
15 Oklahoma Uniform Tax Procedure Code to the contrary, the taxpayer shall be authorized
16 to file a claim for refund of sales taxes paid that qualify for the exemption authorized by
17 this paragraph for a period of one (1) year after the date of the sale transaction. The
18 taxpayer shall be required to provide documentation as may be prescribed by the
19 Oklahoma Tax Commission in support of the refund claim. The total amount of sales tax
20 qualifying for exempt treatment pursuant to this paragraph shall not exceed One
21 Hundred Seventy-five Thousand Dollars (\$175,000.00) each fiscal year. Claims for
22 refund shall be processed in the order in which such claims are received by the

1 Oklahoma Tax Commission. If a claim otherwise timely filed exceeds the total amount of
2 refunds payable for a fiscal year, such claim shall be barred;

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

13 54. Sales of tangible personal property to a nonprofit organization, exempt from
14 taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section
15 501(c)(3), organized primarily for the purpose of providing services to homeless persons
16 during the day and located in a metropolitan area with a population in excess of five
17 hundred thousand (500,000) persons according to the latest Federal Decennial Census.
18 The exemption authorized by this paragraph shall be applicable to sales of tangible
19 personal property to a qualified entity occurring on or after January 1, 2005;

20 55. Sales of tangible personal property or services by an organization which is
21 exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26

1 U.S.C., Section 501(c)(3) made during auction events the principal purpose of which is to
2 provide funding for the preservation of wetlands and habitat for wild ducks;

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

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

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

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

12 (1) serves people with workplace disadvantages and disabilities by
13 providing job training and employment services, as well as job
14 placement opportunities and post-employment support,

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

17 (3) collects donated clothing and household goods to sell in retail
18 stores and provides contract labor services to business and
19 government, and

20 (4) provides documentation to the Oklahoma Tax Commission that
21 over seventy-five percent (75%) of its revenues are channeled

1 into employment, job training and placement programs and
2 other critical community services;

3 58. Sales of tickets made on or after September 21, 2005, and complimentary or
4 free tickets for admission issued on or after September 21, 2005, which have a value
5 equivalent to the charge that would have otherwise been made, for admission to a
6 professional athletic event in which a team in the National Basketball Association is a
7 participant, which is held in a facility owned or operated by a municipality, a county or a
8 public trust of which a municipality or a county is the sole beneficiary, and sales of
9 tickets made on or after the effective date of this act, and complimentary or free tickets
10 for admission issued on or after the effective date of this act, which have a value
11 equivalent to the charge that would have otherwise been made, for admission to a
12 professional athletic event in which a team in the National Hockey League is a
13 participant, which is held in a facility owned or operated by a municipality, a county or a
14 public trust of which a municipality or a county is the sole beneficiary;

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

1 the individual athletes or both, and which uses a salary structure to compensate the
2 athletes;

3 60. Sales of tickets for admission to an annual event sponsored by an educational
4 and charitable organization of women which is exempt from taxation pursuant to the
5 provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and has as its
6 mission promoting volunteerism, developing the potential of women and improving the
7 community through the effective action and leadership of trained volunteers;

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

1 62. Sales of tangible personal property or services to or by an organization which is
2 part of a national volunteer women’s service organization dedicated to promoting
3 patriotism, preserving American history and securing better education for children and
4 which has at least 168,000 members in 3,000 chapters across the United States;

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

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

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

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

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

- 3 a. is exempt from taxation pursuant to the provisions of the Internal
4 Revenue Code, 26 U.S.C., Section 501(c)(3),
5 b. has filed a Not-for-Profit Certificate of Incorporation in this state, and
6 c. is organized for the purpose of:
- 7 (1) providing training and education to developmentally disabled
8 individuals,
9 (2) educating the community about the rights, abilities and
10 strengths of developmentally disabled individuals, and
11 (3) promoting unity among developmentally disabled individuals in
12 their community and geographic area;

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

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

- 21 a. possesses a 3-star rating from the Department of Human Services
22 Reaching for the Stars Program or a national accreditation, and

1 b. allows on site universal pre-kindergarten education to be provided to
2 four-year-old children through a contractual agreement with any
3 public school or school district.

4 For the purposes of this paragraph, sales made to any person, firm, agency or entity
5 that has entered previously into a contractual relationship with a child care center for
6 construction and improvement of buildings and other structures owned by the child care
7 center and operated for educational purposes shall be considered sales made to a child
8 care center. Any such person, firm, agency or entity making purchases on behalf of a
9 child care center shall certify in writing, on the copy of the invoice or sales ticket the
10 nature of the purchase. Any such person, or person acting on behalf of a firm, agency or
11 entity making purchases on behalf of a child care center in violation of this paragraph
12 shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount
13 equal to double the amount of sales tax involved or incarcerated for not more than sixty
14 (60) days or both;

15 70. a. Sales of tangible personal property to a service organization of mothers who
16 have children who are serving or who have served in the military,
17 which service organization is exempt from taxation pursuant to the
18 provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(19)
19 and which is known as the Blue Star Mothers of America, Inc. The
20 exemption provided by this paragraph shall only apply to the purchase
21 of tangible personal property actually sent to United States military
22 personnel overseas who are serving in a combat zone and not to any

1 other tangible personal property purchased by the organization.

2 Provided, this exemption shall not apply to any sales tax levied by a
3 city, town, county, or any other jurisdiction in this state.

4 b. The exemption authorized by this paragraph shall be administered in
5 the form of a refund from the sales tax revenues apportioned pursuant
6 to Section 1353 of this title, and the vendor shall be required to collect
7 the sales tax otherwise applicable to the transaction. The purchaser
8 may apply for a refund of the state sales tax paid in the manner
9 prescribed by this paragraph. Within sixty (60) days after the end of
10 each calendar quarter, any purchaser that is entitled to make
11 application for a refund based upon the exempt treatment authorized
12 by this paragraph may file an application for refund of the state sales
13 taxes paid during such preceding calendar quarter. The Tax
14 Commission shall prescribe a form for purposes of making the
15 application for refund.

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

1 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1357, as last amended by
2 Section 3, Chapter 436, O.S.L. 2008 (68 O.S. Supp. 2008, Section 1357), is amended to
3 read as follows:

4 Section 1357. Exemptions - General.

5 ~~There~~ Subject to the limitation provided in Section 1 of this act, there are hereby
6 specifically exempted from the tax levied by the Oklahoma Sales Tax Code:

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

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

12 3. Sales for resale to persons engaged in the business of reselling the articles
13 purchased, whether within or without the state, provided that such sales to residents of
14 this state are made to persons to whom sales tax permits have been issued as provided in
15 the Oklahoma Sales Tax Code. This exemption shall not apply to the sales of articles
16 made to persons holding permits when such persons purchase items for their use and
17 which they are not regularly engaged in the business of reselling; neither shall this
18 exemption apply to sales of tangible personal property to peddlers, solicitors and other
19 salespersons who do not have an established place of business and a sales tax permit.
20 The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel
21 to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five
22 vendor shall not be exempt from the tax levied by the Oklahoma Sales Tax Code. The

1 purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for
2 shipment outside this state and consumed by a common carrier by rail in the conduct of
3 its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in
4 Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling,
5 within this state, of any locomotive or other motorized flanged wheel equipment;

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

7 5. Sales of programs relating to sporting and entertainment events, and sales of
8 advertising on billboards (including signage, posters, panels, marquees, or on other
9 similar surfaces, whether indoors or outdoors) or in programs relating to sporting and
10 entertainment events, and sales of any advertising, to be displayed at or in connection
11 with a sporting event, via the Internet, electronic display devices, or through public
12 address or broadcast systems. The exemption authorized by this paragraph shall be
13 effective for all sales made on or after January 1, 2001;

14 6. Sales of any advertising, other than the advertising described by paragraph 5 of
15 this section, via the Internet, electronic display devices, or through the electronic media,
16 including radio, public address or broadcast systems, television (whether through closed
17 circuit broadcasting systems or otherwise), and cable and satellite television, and the
18 servicing of any advertising devices;

19 7. Eggs, feed, supplies, machinery and equipment purchased by persons regularly
20 engaged in the business of raising worms, fish, any insect or any other form of terrestrial
21 or aquatic animal life and used for the purpose of raising same for marketing. This
22 exemption shall only be granted and extended to the purchaser when the items are to be

1 used and in fact are used in the raising of animal life as set out above. Each purchaser
2 shall certify, in writing, on the invoice or sales ticket retained by the vendor that the
3 purchaser is regularly engaged in the business of raising such animal life and that the
4 items purchased will be used only in such business. The vendor shall certify to the
5 Oklahoma Tax Commission that the price of the items has been reduced to grant the full
6 benefit of the exemption. Violation hereof by the purchaser or vendor shall be a
7 misdemeanor;

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

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

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

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

1 12. Sales of food or food products for home consumption which are purchased in
2 whole or in part with coupons issued pursuant to the federal food stamp program as
3 authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that
4 portion purchased with such coupons. The exemption provided for such sales shall be
5 inapplicable to such sales upon the effective date of any federal law that removes the
6 requirement of the exemption as a condition for participation by the state in the federal
7 food stamp program;

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

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

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

20 14. a. Sales of tangible personal property or services to or by organizations which
21 are exempt from taxation pursuant to the provisions of Section

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

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

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

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

13 15. Sales of tangible personal property or services to children's homes which are
14 located on church-owned property and are operated by organizations exempt from
15 taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section
16 501(c)(3);

17 16. Sales of computers, data processing equipment, related peripherals and
18 telephone, telegraph or telecommunications service and equipment for use in a qualified
19 aircraft maintenance or manufacturing facility. For purposes of this paragraph,
20 "qualified aircraft maintenance or manufacturing facility" means a new or expanding
21 facility primarily engaged in aircraft repair, building or rebuilding whether or not on a
22 factory basis, whose total cost of construction exceeds the sum of Five Million Dollars

1 (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-
2 equivalent employees, as certified by the Oklahoma Employment Security Commission,
3 upon completion of the facility. In order to qualify for the exemption provided for by this
4 paragraph, the cost of the items purchased by the qualified aircraft maintenance or
5 manufacturing facility shall equal or exceed the sum of Two Million Dollars
6 (\$2,000,000.00);

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

- 14 18. Sales of the following telecommunications services:
- 15 a. Interstate and International “800 service”. “800 service” means a
16 “telecommunications service” that allows a caller to dial a toll-free
17 number without incurring a charge for the call. The service is typically
18 marketed under the name “800”, “855”, “866”, “877”, and “888” toll-free
19 calling, and any subsequent numbers designated by the Federal
20 Communications Commission, or
 - 21 b. Interstate and International “900 service”. “900 service” means an
22 inbound toll “telecommunications service” purchased by a subscriber

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1 that allows the subscriber's customers to call in to the subscriber's
2 prerecorded announcement or live service. "900 service" does not
3 include the charge for: collection services provided by the seller of the
4 "telecommunications services" to the subscriber, or service or product
5 sold by the subscriber to the subscriber's customer. The service is
6 typically marketed under the name "900" service, and any subsequent
7 numbers designated by the Federal Communications Commission,
8 c. Interstate and International "private communications service".
9 "Private communications service" means a "telecommunications
10 service" that entitles the customer to exclusive or priority use of a
11 communications channel or group of channels between or among
12 termination points, regardless of the manner in which such channel or
13 channels are connected, and includes switching capacity, extension
14 lines, stations, and any other associated services that are provided in
15 connection with the use of such channel or channels,
16 d. "Value-added nonvoice data service". "Value-added nonvoice data
17 service" means a service that otherwise meets the definition of
18 "telecommunications services" in which computer processing
19 applications are used to act on the form, content, code, or protocol of
20 the information or data primarily for a purpose other than
21 transmission, conveyance or routing,
22 e. Interstate and International telecommunications service which is:

1 (1) rendered by a company for private use within its organization,
2 or

3 (2) used, allocated, or distributed by a company to its affiliated
4 group,

5 f. Regulatory assessments and charges, including charges to fund the
6 Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and
7 the Oklahoma High Cost Fund, and

8 g. Telecommunications nonrecurring charges, including but not limited to
9 the installation, connection, change or initiation of telecommunications
10 services which are not associated with a retail consumer sale;

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

13 20. Sales of aircraft and aircraft parts provided such sales occur at a qualified
14 aircraft maintenance facility. As used in this paragraph, “qualified aircraft maintenance
15 facility” means a facility operated by an air common carrier at which there were
16 employed at least two thousand (2,000) full-time-equivalent employees in the preceding
17 year as certified by the Oklahoma Employment Security Commission and which is
18 primarily related to the fabrication, repair, alteration, modification, refurbishing,
19 maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air
20 common carriage. For purposes of this paragraph, “air common carrier” shall also
21 include members of an affiliated group as defined by Section 1504 of the Internal
22 Revenue Code, 26 U.S.C., Section 1504;

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

- 3 a. as defined under Industrial Group Numbers 7372 and 7373 of the
4 Standard Industrial Classification (SIC) Manual, latest version, which
5 derive at least fifty percent (50%) of their annual gross revenues from
6 the sale of a product or service to an out-of-state buyer or consumer,
7 and
8 b. as defined under Industrial Group Number 7374 of the SIC Manual,
9 latest version, which derive at least eighty percent (80%) of their
10 annual gross revenues from the sale of a product or service to an out-
11 of-state buyer or consumer.

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

18 22. Sales of prosthetic devices to an individual for use by such individual. For
19 purposes of this paragraph, “prosthetic device” shall have the same meaning as provided
20 in Section 1357.6 of this title, but shall not include corrective eye glasses, contact lenses
21 or hearing aids;

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

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

14 25. Sales of tangible personal property or services to tax-exempt independent
15 nonprofit biomedical research foundations that provide educational programs for
16 Oklahoma science students and teachers and to tax-exempt independent nonprofit
17 community blood banks headquartered in this state;

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

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

3 28. Beginning July 1, 2005, sales of aircraft engine repairs, modification, and
4 replacement parts, sales of aircraft frame repairs and modification, aircraft interior
5 modification, and paint, and sales of services employed in the repair, modification and
6 replacement of parts of aircraft engines, aircraft frame and interior repair and
7 modification, and paint;

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

- 11 a. are loaded on the ship, motor vessel or barge and used in the
12 maintenance and operation of the ship, motor vessel or barge, or
13 b. enter into and become component parts of the ship, motor vessel or
14 barge;

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

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

- 1 b. the sale must be conducted within six (6) months of the date of death of
- 2 the decedent, and
- 3 c. the exemption allowed by this paragraph shall not be allowed for
- 4 property that was not part of the decedent’s estate;

5 31. Beginning January 1, 2004, sales of electricity and associated delivery and
6 transmission services, when sold exclusively for use by an oil and gas operator for
7 reservoir dewatering projects and associated operations commencing on or after July 1,
8 2003, in which the initial water-to-oil ratio is greater than or equal to five-to-one water-
9 to-oil, and such oil and gas development projects have been classified by the Corporation
10 Commission as a reservoir dewatering unit;

11 32. Sales of prewritten computer software that is delivered electronically. For
12 purposes of this paragraph, “delivered electronically” means delivered to the purchaser
13 by means other than tangible storage media;

14 33. Sales of modular dwelling units when built at a production facility and moved
15 in whole or in parts, to be assembled on-site, and permanently affixed to the real
16 property and used for residential or commercial purposes. The exemption provided by
17 this paragraph shall equal forty-five percent (45%) of the total sales price of the modular
18 dwelling unit. For purposes of this paragraph, “modular dwelling unit” means a
19 structure that is not subject to the motor vehicle excise tax imposed pursuant to Section
20 2103 of this title;

21 34. Sales of tangible personal property or services to persons who are residents of
22 Oklahoma and have been honorably discharged from active service in any branch of the

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1 Armed Forces of the United States or Oklahoma National Guard and who have been
2 certified by the United States Department of Veterans Affairs or its successor to be in
3 receipt of disability compensation at the one-hundred-percent rate and the disability
4 shall be permanent and have been sustained through military action or accident or
5 resulting from disease contracted while in such active service; provided, sales for the
6 benefit of the person to a spouse of the eligible person or to a member of the household in
7 which the eligible person resides and who is authorized to make purchases on the
8 person's behalf, when such eligible person is not present at the sale, shall also be exempt
9 for purposes of this paragraph. Sales qualifying for the exemption authorized by this
10 paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) per year per
11 individual. Upon request of the Tax Commission, a person asserting or claiming the
12 exemption authorized by this paragraph shall provide a statement, executed under oath,
13 that the total sales amounts for which the exemption is applicable have not exceeded
14 Twenty-five Thousand Dollars (\$25,000.00) per year. If the amount of such exempt sales
15 exceeds such amount, the sales tax in excess of the authorized amount shall be treated as
16 a direct sales tax liability and may be recovered by the Tax Commission in the same
17 manner provided by law for other taxes, including penalty and interest;

18 35. Sales of electricity to the operator, specifically designated by the Oklahoma
19 Corporation Commission, of a spacing unit or lease from which oil is produced or
20 attempted to be produced using enhanced recovery methods, including, but not limited
21 to, increased pressure in a producing formation through the use of water or saltwater if
22 the electrical usage is associated with and necessary for the operation of equipment

1 required to inject or circulate fluids in a producing formation for the purpose of forcing oil
2 or petroleum into a wellbore for eventual recovery and production from the wellhead. In
3 order to be eligible for the sales tax exemption authorized by this paragraph, the total
4 content of oil recovered after the use of enhanced recovery methods shall not exceed one
5 percent (1%) by volume. The exemption authorized by this paragraph shall be applicable
6 only to the state sales tax rate and shall not be applicable to any county or municipal
7 sales tax rate;

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

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

20 38. Sales of goods, wares, merchandise, tangible personal property, machinery and
21 equipment to a web search portal located in this state which derives at least eighty
22 percent (80%) of its annual gross revenue from the sale of a product or service to an out-

1 of-state buyer or consumer. For purposes of this paragraph, “web search portal” means
2 an establishment classified under NAICS code 518112 which operates web sites that use
3 a search engine to generate and maintain extensive databases of Internet addresses and
4 content in an easily searchable format;

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

11 40. Sales of tangible personal property or services to a business primarily engaged
12 in the repair of consumer electronic goods, including, but not limited to, cell phones,
13 compact disc players, personal computers, MP3 players, digital devices for the storage
14 and retrieval of information through hard-wired or wireless computer or Internet
15 connections, if the devices are sold to the business by the original manufacturer of such
16 devices and the devices are repaired, refitted or refurbished for sale by the entity
17 qualifying for the exemption authorized by this paragraph directly to retail consumers or
18 if the devices are sold to another business entity for sale to retail consumers; and

19 41. Before July 1, 2014, sales of rolling stock when sold or leased by the
20 manufacturer, regardless of whether the purchaser is a public services corporation
21 engaged in business as a common carrier of property or passengers by railway, for use or

1 consumption by a common carrier directly in the rendition of public service. For
2 purposes of this paragraph, "rolling stock" means locomotives, autocars and railroad cars.

3 SECTION 4. This act shall become effective July 1, 2009.

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

7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
8 dated 02-26-09 - DO PASS, As Coauthored.