

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2090

By: Kirby

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; limiting
8 duration of future sales tax exemptions; amending 68
9 O.S. 2001, Sections 1356, as last amended by Section
10 2, Chapter 436, O.S.L. 2008 and 1357, as last amended
11 by Section 3, Chapter 436, O.S.L. 2008 (68 O.S. Supp.
12 2008, Sections 1356 and 1357), which relate to sales
13 tax exemptions; referencing limitation on duration of
14 sales tax exemptions; providing for codification;
15 providing an effective date; and declaring an
16 emergency.

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

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

21 Any sales tax exemption enacted in this state on or after July
22 1, 2009, shall terminate and have no further effect five (5) years
23 following the effective date of the exemption.

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

Section 1356. Exemptions - Governmental and nonprofit entities.

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

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

12 2. Sales of property to agents appointed by or under contract
13 with agencies or instrumentalities of the United States government
14 if ownership and possession of such property transfers immediately
15 to the United States government;

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

22 4. Sales made directly by county, district or state fair
23 authorities of this state, upon the premises of the fair authority,
24 for the sole benefit of the fair authority or sales of admission

1 tickets to such fairs or fair events at any location in the state
2 authorized by county, district or state fair authorities; provided,
3 the exemption provided by this paragraph for admission tickets to
4 fair events shall apply only to any portion of the admission price
5 that is retained by or distributed to the fair authority. As used
6 in this paragraph, "fair event" shall be limited to an event held on
7 the premises of the fair authority in conjunction with and during
8 the time period of a county, district or state fair;

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

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

24

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

12 8. The amount of proceeds received from the sale of admission
13 tickets which is separately stated on the ticket of admission for
14 the repayment of money borrowed by any accredited state-supported
15 college or university or any public trust of which a county in this
16 state is the beneficiary, for the purpose of constructing or
17 enlarging any facility to be used for the staging of an athletic
18 event, a theatrical production, or any other form of entertainment,
19 edification or cultural cultivation to which entry is gained with a
20 paid admission ticket. Such facilities include, but are not limited
21 to, athletic fields, athletic stadiums, field houses, amphitheaters
22 and theaters. To be eligible for this sales tax exemption, the
23 amount separately stated on the admission ticket shall be a
24 surcharge which is imposed, collected and used for the sole purpose

1 of servicing or aiding in the servicing of debt incurred by the
2 college or university to effect the capital improvements
3 hereinbefore described;

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

8 10. Sale of tangible personal property or services to any
9 county, municipality, rural water district, public school district,
10 the institutions of The Oklahoma State System of Higher Education,
11 the Grand River Dam Authority, the Northeast Oklahoma Public
12 Facilities Authority, the Oklahoma Municipal Power Authority, City
13 of Tulsa-Rogers County Port Authority, Muskogee City-County Port
14 Authority, the Oklahoma Department of Veterans Affairs, the Broken
15 Bow Economic Development Authority, Ardmore Development Authority,
16 Durant Industrial Authority, Oklahoma Ordnance Works Authority or to
17 any person with whom any of the above-named subdivisions or agencies
18 of this state has duly entered into a public contract pursuant to
19 law, necessary for carrying out such public contract or to any
20 subcontractor to such a public contract. Any person making
21 purchases on behalf of such subdivision or agency of this state
22 shall certify, in writing, on the copy of the invoice or sales
23 ticket to be retained by the vendor that the purchases are made for
24 and on behalf of such subdivision or agency of this state and set

1 out the name of such public subdivision or agency. Any person who
2 wrongfully or erroneously certifies that purchases are for any of
3 the above-named subdivisions or agencies of this state or who
4 otherwise violates this section shall be guilty of a misdemeanor and
5 upon conviction thereof shall be fined an amount equal to double the
6 amount of sales tax involved or incarcerated for not more than sixty
7 (60) days or both;

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

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

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

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

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

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

16 14. Sales of tangible personal property by:

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

23 The exemption provided by this paragraph shall be limited to
24 sales for the purpose of raising funds for the benefit of such

1 organizations. Sale of tangible personal property exempted by this
2 paragraph shall include sale of admission tickets;

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

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

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

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

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

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

20 21. Sales of tangible personal property or services to any
21 organization, which takes court-adjudicated juveniles for purposes
22 of rehabilitation, and which is exempt from taxation pursuant to the
23 provisions of the Internal Revenue Code, 26 U.S.C., Section
24 501(c) (3), provided that at least fifty percent (50%) of the

1 juveniles served by such organization are court adjudicated and the
2 organization receives state funds in an amount less than ten percent
3 (10%) of the annual budget of the organization;

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

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

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

10 c. any clinic receiving disbursements of state monies
11 from the Indigent Health Care Revolving Fund pursuant
12 to the provisions of Section 66 of Title 56 of the
13 Oklahoma Statutes,

14 d. any community based health center which meets all of
15 the following criteria:

16 (1) provides primary care services at no cost to the
17 recipient, and

18 (2) is exempt from taxation pursuant to the
19 provisions of Section 501(c)(3) of the Internal
20 Revenue Code, 26 U.S.C., Section 501(c)(3), and

21 e. any community mental health center as defined in
22 Section 3-302 of Title 43A of the Oklahoma Statutes;

23 23. Dues or fees, including free or complimentary dues or fees
24 which have a value equivalent to the charge that could have

1 otherwise been made, to YMCAs, YWCAs or municipally-owned recreation
2 centers for the use of facilities and programs;

3 24. The first Fifteen Thousand Dollars (\$15,000.00) each year
4 from sales of tangible personal property or services to or by a
5 cultural organization established to sponsor and promote
6 educational, charitable and cultural events for disadvantaged
7 children, and which organization is exempt from taxation pursuant to
8 the provisions of the Internal Revenue Code, 26 U.S.C., Section
9 501(c)(3);

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

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

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

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

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

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

1 31. Sales of tangible personal property or services to a
2 municipality, county or school district pursuant to a lease or
3 lease-purchase agreement executed between the vendor and a
4 municipality, county or school district. A copy of the lease or
5 lease-purchase agreement shall be retained by the vendor;

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

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

- 16 a. the destruction in whole or in part of the satellite
- 17 or launch vehicle,
- 18 b. the failure of a launch to occur or be successful, or
- 19 c. the absence of any transfer or title to, or possession
- 20 of, the satellite or launch vehicle after launch;

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

1 35. The sale, lease, use, storage, consumption, or distribution
2 in this state of tangible personal property, placed on or used
3 aboard any space facility, space propulsion system or space vehicle,
4 satellite, or station possessing space flight capacity, which is
5 launched into space, irrespective of whether such tangible property
6 is returned to this state for subsequent use, storage, or
7 consumption in any manner;

8 36. The sale, lease, use, storage, consumption, or distribution
9 in this state of tangible personal property meeting the definition
10 of "section 38 property" as defined in Sections 48(a)(1)(A) and
11 (B)(i) of the Internal Revenue Code of 1986, that is an integral
12 part of and used primarily in support of space flight; however,
13 section 38 property used in support of space flight shall not
14 include general office equipment, any boat, mobile home, motor
15 vehicle, or other vehicle of a class or type required to be
16 registered, licensed, titled, or documented in this state or by the
17 United States government, or any other property not specifically
18 suited to supporting space activity. The term "in support of space
19 flight", for purposes of this paragraph, means the altering,
20 monitoring, controlling, regulating, adjusting, servicing, or
21 repairing of any space facility, space propulsion systems or space
22 vehicle, satellite, or station possessing space flight capacity,
23 including the components thereof;

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

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

24

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

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

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

18 42. Sales of tangible personal property or services by an
19 organization which is exempt from taxation pursuant to the
20 provisions of the Internal Revenue Code, 26 U.S.C., Section
21 501(c) (3), in the course of conducting a national championship
22 sports event, but only if all or a portion of the payment in
23 exchange therefor would qualify as the receipt of a qualified
24 sponsorship payment described in Internal Revenue Code, 26 U.S.C.,

1 Section 513(i). Sales exempted pursuant to this paragraph shall be
2 exempt from all Oklahoma sales, use, excise and gross receipts
3 taxes;

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

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

9 b. is affiliated with a comprehensive university within
10 The Oklahoma State System of Higher Education, and

11 c. has been organized primarily for the purpose of
12 providing education and teacher training and
13 conducting events relating to robotics;

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

20 45. Sales of tickets for admission to a collegiate athletic
21 event that is held in a facility owned or operated by a municipality
22 or a public trust of which the municipality is the sole beneficiary
23 and that actually determines or is part of a tournament or
24

1 tournament process for determining a conference tournament
2 championship, a conference championship, or a national championship;

3 46. Sales of tangible personal property or services to or by an
4 organization which is exempt from taxation pursuant to the
5 provisions of the Internal Revenue Code, 26 U.S.C., Section
6 501(c)(3) and is operating the Oklahoma City National Memorial and
7 Museum, an affiliate of the National Park System;

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

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

21 49. Sales of tangible personal property or services to a state
22 that borders this state or any political subdivision of that state,
23 but only to the extent that the other state or political subdivision
24

1 exempts or does not impose a tax on similar sales of items to this
2 state or a political subdivision of this state;

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

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

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

1 paid to each purchaser. The pro rata refund amount shall be the
2 only method to recover sales taxes paid during the preceding fiscal
3 year and no balance of any sales taxes paid on a pro rata basis
4 shall be the subject of any subsequent refund claim pursuant to this
5 paragraph;

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

1 (\$175,000.00) each fiscal year. Claims for refund shall be
2 processed in the order in which such claims are received by the
3 Oklahoma Tax Commission. If a claim otherwise timely filed exceeds
4 the total amount of refunds payable for a fiscal year, such claim
5 shall be barred;

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

19 54. Sales of tangible personal property to a nonprofit
20 organization, exempt from taxation pursuant to the provisions of the
21 Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized
22 primarily for the purpose of providing services to homeless persons
23 during the day and located in a metropolitan area with a population
24 in excess of five hundred thousand (500,000) persons according to

1 the latest Federal Decennial Census. The exemption authorized by
2 this paragraph shall be applicable to sales of tangible personal
3 property to a qualified entity occurring on or after January 1,
4 2005;

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

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

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

19 a. is exempt from taxation pursuant to the provisions of
20 the Internal Revenue Code, 26 U.S.C., Section
21 501(c)(3), and

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

- 1 (1) serves people with workplace disadvantages and
2 disabilities by providing job training and
3 employment services, as well as job placement
4 opportunities and post-employment support,
- 5 (2) has locations in the United States and at least
6 twenty other countries,
- 7 (3) collects donated clothing and household goods to
8 sell in retail stores and provides contract labor
9 services to business and government, and
- 10 (4) provides documentation to the Oklahoma Tax
11 Commission that over seventy-five percent (75%)
12 of its revenues are channeled into employment,
13 job training and placement programs and other
14 critical community services;

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

7 b. allows on site universal pre-kindergarten education to
8 be provided to four-year-old children through a
9 contractual agreement with any public school or school
10 district.

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

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

16 b. The exemption authorized by this paragraph shall be
17 administered in the form of a refund from the sales
18 tax revenues apportioned pursuant to Section 1353 of
19 this title, and the vendor shall be required to
20 collect the sales tax otherwise applicable to the
21 transaction. The purchaser may apply for a refund of
22 the state sales tax paid in the manner prescribed by
23 this paragraph. Within sixty (60) days after the end
24 of each calendar quarter, any purchaser that is

1 entitled to make application for a refund based upon
2 the exempt treatment authorized by this paragraph may
3 file an application for refund of the state sales
4 taxes paid during such preceding calendar quarter.

5 The Tax Commission shall prescribe a form for purposes
6 of making the application for refund.

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

15 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1357, as
16 last amended by Section 3, Chapter 436, O.S.L. 2008 (68 O.S. Supp.
17 2008, Section 1357), is amended to read as follows:

18 Section 1357. Exemptions - General.

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

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

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

4 3. Sales for resale to persons engaged in the business of
5 reselling the articles purchased, whether within or without the
6 state, provided that such sales to residents of this state are made
7 to persons to whom sales tax permits have been issued as provided in
8 the Oklahoma Sales Tax Code. This exemption shall not apply to the
9 sales of articles made to persons holding permits when such persons
10 purchase items for their use and which they are not regularly
11 engaged in the business of reselling; neither shall this exemption
12 apply to sales of tangible personal property to peddlers, solicitors
13 and other salespersons who do not have an established place of
14 business and a sales tax permit. The exemption provided by this
15 paragraph shall apply to sales of motor fuel or diesel fuel to a
16 Group Five vendor, but the use of such motor fuel or diesel fuel by
17 the Group Five vendor shall not be exempt from the tax levied by the
18 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
19 is exempt from sales tax when the motor fuel is for shipment outside
20 this state and consumed by a common carrier by rail in the conduct
21 of its business. The sales tax shall apply to the purchase of motor
22 fuel or diesel fuel in Oklahoma by a common carrier by rail when
23 such motor fuel is purchased for fueling, within this state, of any
24 locomotive or other motorized flanged wheel equipment;

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

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

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

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

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

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

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

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

23

24

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

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

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

- 16 a. is exempt from taxation pursuant to the provisions of
17 Section 501(c)(3) of the Internal Revenue Code, 26
18 U.S.C., Section 501(c)(3), and which provides and
19 delivers prepared meals for home consumption to
20 elderly or homebound persons as part of a program
21 commonly known as "Meals on Wheels" or "Mobile Meals",
22 or
23 b. is exempt from taxation pursuant to the provisions of
24 Section 501(c)(3) of the Internal Revenue Code, 26

1 U.S.C., Section 501(c)(3), and which receives federal
2 funding pursuant to the Older Americans Act of 1965,
3 as amended, for the purpose of providing nutrition
4 programs for the care and benefit of elderly persons;

5 14. a. Sales of tangible personal property or services to or
6 by organizations which are exempt from taxation
7 pursuant to the provisions of Section 501(c)(3) of the
8 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
9 and:

10 (1) are primarily involved in the collection and
11 distribution of food and other household products
12 to other organizations that facilitate the
13 distribution of such products to the needy and
14 such distributee organizations are exempt from
15 taxation pursuant to the provisions of Section
16 501(c)(3) of the Internal Revenue Code, 26
17 U.S.C., Section 501(c)(3), or

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

20 b. Sales made in the course of business for profit or
21 savings, competing with other persons engaged in the
22 same or similar business shall not be exempt under
23 this paragraph;
24

1 15. Sales of tangible personal property or services to
2 children's homes which are located on church-owned property and are
3 operated by organizations exempt from taxation pursuant to the
4 provisions of the Internal Revenue Code, 26 U.S.C., Section
5 501(c)(3);

6 16. Sales of computers, data processing equipment, related
7 peripherals and telephone, telegraph or telecommunications service
8 and equipment for use in a qualified aircraft maintenance or
9 manufacturing facility. For purposes of this paragraph, "qualified
10 aircraft maintenance or manufacturing facility" means a new or
11 expanding facility primarily engaged in aircraft repair, building or
12 rebuilding whether or not on a factory basis, whose total cost of
13 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)
14 and which employs at least two hundred fifty (250) new full-time-
15 equivalent employees, as certified by the Oklahoma Employment
16 Security Commission, upon completion of the facility. In order to
17 qualify for the exemption provided for by this paragraph, the cost
18 of the items purchased by the qualified aircraft maintenance or
19 manufacturing facility shall equal or exceed the sum of Two Million
20 Dollars (\$2,000,000.00);

21 17. Sales of tangible personal property consumed or
22 incorporated in the construction or expansion of a qualified
23 aircraft maintenance or manufacturing facility as defined in
24 paragraph 16 of this section. For purposes of this paragraph, sales

1 made to a contractor or subcontractor that has previously entered
2 into a contractual relationship with a qualified aircraft
3 maintenance or manufacturing facility for construction or expansion
4 of such a facility shall be considered sales made to a qualified
5 aircraft maintenance or manufacturing facility;

6 18. Sales of the following telecommunications services:

7 a. Interstate and International "800 service". "800
8 service" means a "telecommunications service" that
9 allows a caller to dial a toll-free number without
10 incurring a charge for the call. The service is
11 typically marketed under the name "800", "855", "866",
12 "877", and "888" toll-free calling, and any subsequent
13 numbers designated by the Federal Communications
14 Commission, or

15 b. Interstate and International "900 service". "900
16 service" means an inbound toll "telecommunications
17 service" purchased by a subscriber that allows the
18 subscriber's customers to call in to the subscriber's
19 prerecorded announcement or live service. "900
20 service" does not include the charge for: collection
21 services provided by the seller of the
22 "telecommunications services" to the subscriber, or
23 service or product sold by the subscriber to the
24 subscriber's customer. The service is typically

1 marketed under the name "900" service, and any
2 subsequent numbers designated by the Federal
3 Communications Commission,

4 c. Interstate and International "private communications
5 service". "Private communications service" means a
6 "telecommunications service" that entitles the
7 customer to exclusive or priority use of a
8 communications channel or group of channels between or
9 among termination points, regardless of the manner in
10 which such channel or channels are connected, and
11 includes switching capacity, extension lines,
12 stations, and any other associated services that are
13 provided in connection with the use of such channel or
14 channels,

15 d. "Value-added nonvoice data service". "Value-added
16 nonvoice data service" means a service that otherwise
17 meets the definition of "telecommunications services"
18 in which computer processing applications are used to
19 act on the form, content, code, or protocol of the
20 information or data primarily for a purpose other than
21 transmission, conveyance or routing,

22 e. Interstate and International telecommunications
23 service which is:
24

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

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

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

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

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

16 20. Sales of aircraft and aircraft parts provided such sales
17 occur at a qualified aircraft maintenance facility. As used in this
18 paragraph, "qualified aircraft maintenance facility" means a
19 facility operated by an air common carrier at which there were
20 employed at least two thousand (2,000) full-time-equivalent
21 employees in the preceding year as certified by the Oklahoma
22 Employment Security Commission and which is primarily related to the
23 fabrication, repair, alteration, modification, refurbishing,
24 maintenance, building or rebuilding of commercial aircraft or

1 aircraft parts used in air common carriage. For purposes of this
2 paragraph, "air common carrier" shall also include members of an
3 affiliated group as defined by Section 1504 of the Internal Revenue
4 Code, 26 U.S.C., Section 1504;

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

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

14 b. as defined under Industrial Group Number 7374 of the
15 SIC Manual, latest version, which derive at least
16 eighty percent (80%) of their annual gross revenues
17 from the sale of a product or service to an out-of-
18 state buyer or consumer.

19 Eligibility for the exemption set out in this paragraph shall be
20 established, subject to review by the Tax Commission, by annually
21 filing an affidavit with the Tax Commission stating that the
22 facility so qualifies and such information as required by the Tax
23 Commission. For purposes of determining whether annual gross
24 revenues are derived from sales to out-of-state buyers or consumers,

1 all sales to the federal government shall be considered to be to an
2 out-of-state buyer or consumer;

3 22. Sales of prosthetic devices to an individual for use by
4 such individual. For purposes of this paragraph, "prosthetic
5 device" shall have the same meaning as provided in Section 1357.6 of
6 this title, but shall not include corrective eye glasses, contact
7 lenses or hearing aids;

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

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

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

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

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

14 28. Beginning July 1, 2005, sales of aircraft engine repairs,
15 modification, and replacement parts, sales of aircraft frame repairs
16 and modification, aircraft interior modification, and paint, and
17 sales of services employed in the repair, modification and
18 replacement of parts of aircraft engines, aircraft frame and
19 interior repair and modification, and paint;

20 29. Sales of materials and supplies to the owner or operator of
21 a ship, motor vessel or barge that is used in interstate or
22 international commerce if the materials and supplies:
23
24

1 a. are loaded on the ship, motor vessel or barge and used
2 in the maintenance and operation of the ship, motor
3 vessel or barge, or

4 b. enter into and become component parts of the ship,
5 motor vessel or barge;

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

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

15 b. the sale must be conducted within six (6) months of
16 the date of death of the decedent, and

17 c. the exemption allowed by this paragraph shall not be
18 allowed for property that was not part of the
19 decedent's estate;

20 31. Beginning January 1, 2004, sales of electricity and
21 associated delivery and transmission services, when sold exclusively
22 for use by an oil and gas operator for reservoir dewatering projects
23 and associated operations commencing on or after July 1, 2003, in
24 which the initial water-to-oil ratio is greater than or equal to

1 five-to-one water-to-oil, and such oil and gas development projects
2 have been classified by the Corporation Commission as a reservoir
3 dewatering unit;

4 32. Sales of prewritten computer software that is delivered
5 electronically. For purposes of this paragraph, "delivered
6 electronically" means delivered to the purchaser by means other than
7 tangible storage media;

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

17 34. Sales of tangible personal property or services to persons
18 who are residents of Oklahoma and have been honorably discharged
19 from active service in any branch of the Armed Forces of the United
20 States or Oklahoma National Guard and who have been certified by the
21 United States Department of Veterans Affairs or its successor to be
22 in receipt of disability compensation at the one-hundred-percent
23 rate and the disability shall be permanent and have been sustained
24 through military action or accident or resulting from disease

1 | contracted while in such active service; provided, sales for the
2 | benefit of the person to a spouse of the eligible person or to a
3 | member of the household in which the eligible person resides and who
4 | is authorized to make purchases on the person's behalf, when such
5 | eligible person is not present at the sale, shall also be exempt for
6 | purposes of this paragraph. Sales qualifying for the exemption
7 | authorized by this paragraph shall not exceed Twenty-five Thousand
8 | Dollars (\$25,000.00) per year per individual. Upon request of the
9 | Tax Commission, a person asserting or claiming the exemption
10 | authorized by this paragraph shall provide a statement, executed
11 | under oath, that the total sales amounts for which the exemption is
12 | applicable have not exceeded Twenty-five Thousand Dollars
13 | (\$25,000.00) per year. If the amount of such exempt sales exceeds
14 | such amount, the sales tax in excess of the authorized amount shall
15 | be treated as a direct sales tax liability and may be recovered by
16 | the Tax Commission in the same manner provided by law for other
17 | taxes, including penalty and interest;

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

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

9 36. Sales of intrastate charter and tour bus transportation.

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

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

1 38. Sales of goods, wares, merchandise, tangible personal
2 property, machinery and equipment to a web search portal located in
3 this state which derives at least eighty percent (80%) of its annual
4 gross revenue from the sale of a product or service to an out-of-
5 state buyer or consumer. For purposes of this paragraph, "web
6 search portal" means an establishment classified under NAICS code
7 518112 which operates web sites that use a search engine to generate
8 and maintain extensive databases of Internet addresses and content
9 in an easily searchable format;

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

18 40. Sales of tangible personal property or services to a
19 business primarily engaged in the repair of consumer electronic
20 goods, including, but not limited to, cell phones, compact disc
21 players, personal computers, MP3 players, digital devices for the
22 storage and retrieval of information through hard-wired or wireless
23 computer or Internet connections, if the devices are sold to the
24 business by the original manufacturer of such devices and the

1 devices are repaired, refitted or refurbished for sale by the entity
2 qualifying for the exemption authorized by this paragraph directly
3 to retail consumers or if the devices are sold to another business
4 entity for sale to retail consumers; and

5 41. Before July 1, 2014, sales of rolling stock when sold or
6 leased by the manufacturer, regardless of whether the purchaser is a
7 public services corporation engaged in business as a common carrier
8 of property or passengers by railway, for use or consumption by a
9 common carrier directly in the rendition of public service. For
10 purposes of this paragraph, "rolling stock" means locomotives,
11 autocars and railroad cars.

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

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

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