

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1850

By: Sykes

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending  
8 Sections 3 and 5, Chapter 136, O.S.L. 2007 and 68  
9 O.S. 2001, Section 2701, as last amended by Section  
10 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2009,  
11 Sections 1357.10, 1377 and 2701), which relate to  
12 sales tax; modifying certain state exemption to  
13 include school supplies, school art supplies or  
14 school instructional materials; excluding specified  
15 items; defining terms; limiting certain term to  
16 specified items; requiring rules promulgated by  
17 Oklahoma Tax Commission to be in compliance with  
18 specified agreement; modifying certain county  
19 exemption to include school supplies, school art  
20 supplies or school instructional materials; modifying  
21 certain municipal exemption to include school  
22 supplies, school art supplies or school instructional  
23 materials; and providing an effective date.

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

19 SECTION 1. AMENDATORY Section 3, Chapter 136, O.S.L.  
20 2007 (68 O.S. Supp. 2009, Section 1357.10), is amended to read as  
21 follows:

22 Section 1357.10 A. The sale of an article of clothing or  
23 footwear designed to be worn on or about the human body or the sale  
24 of any school supply, school art supply or school instructional

1 material shall be exempt from the tax imposed by Section 1354 of  
2 ~~Title 68 of the Oklahoma Statutes~~ this title if:

3 1. The sales price of the article, supply or material is less  
4 than One Hundred Dollars (\$100.00); and

5 2. The sale takes place during a period beginning at 12:01 a.m.  
6 on the first Friday in August and ending at 12 midnight on the  
7 following Sunday, covering a period of three (3) days.

8 B. Subsection A of this section shall not apply to:

9 1. Any special clothing or footwear that is primarily designed  
10 for athletic activity or protective use and that is not normally  
11 worn except when used for athletic activity or protective use for  
12 which it is designed;

13 2. Accessories, including jewelry, handbags, luggage,  
14 umbrellas, wallets, watches, and similar items carried on or about  
15 the human body, without regard to whether worn on the body in a  
16 manner characteristic of clothing; ~~and~~

17 3. The rental of clothing or footwear; and

18 4. Computers or school computer supplies as defined in the  
19 Streamlined Sales and Use Tax Agreement.

20 C. For purposes of this section;

21 1. "Clothing or footwear" means human wearing apparel suitable  
22 for general use, including the following:

23 a. pants,

24 b. jeans,

- 1            c.    skirts,
- 2            d.    blouses,
- 3            e.    shirts,
- 4            f.    athletic supporters,
- 5            g.    belts and suspenders,
- 6            h.    boots,
- 7            i.    coats and jackets,
- 8            j.    ear muffs,
- 9            k.    gloves and mittens,
- 10           l.    hats and caps,
- 11           m.    hosiery,
- 12           n.    insoles for shoes,
- 13           o.    lab coats,
- 14           p.    pantyhose,
- 15           q.    rainwear,
- 16           r.    sandals,
- 17           s.    scarves,
- 18           t.    shoes and shoe laces,
- 19           u.    slippers,
- 20           v.    sneakers,
- 21           w.    socks and stockings,
- 22           x.    underwear, and
- 23           z.    uniforms, athletic and nonathletic;

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1        2. "School supply" means an item commonly used by a student in  
2 a course of study;

3        3. "School art supply" means an item commonly used by a student  
4 in a course of study for artwork; and

5        4. "School instructional material" means written material  
6 commonly used by a student in a course of study as a reference and  
7 to learn the subject being taught.

8        D. The Oklahoma Tax Commission shall promulgate any necessary  
9 rules to implement the provisions of this section. Any rules  
10 pertaining to the exemption for school supplies, school art supplies  
11 and school instructional materials shall be consistent with the  
12 Streamlined Sales and Use Tax Agreement.

13        SECTION 2.        AMENDATORY        Section 5, Chapter 136, O.S.L.  
14 2007 (68 O.S. Supp. 2009, Section 1377), is amended to read as  
15 follows:

16        Section 1377. The sales tax imposed by any county or authority  
17 authorized by law to levy a sales tax shall not be imposed upon the  
18 sale of an article of clothing or footwear designed to be worn on or  
19 about the human body or the sale of any school supply, school art  
20 supply or school instructional material in accordance with and to  
21 the extent set forth in Section ~~3 of this act~~ 1357.10 of this title.

22        SECTION 3.        AMENDATORY        68 O.S. 2001, Section 2701, as  
23 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
24 2009, Section 2701), is amended to read as follows:

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

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

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

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

19 4. Cooperatives and communications companies are hereby  
20 authorized to pass on to their subscribers in the incorporated city  
21 or town involved, the amount of any special municipal fee, charge or  
22 tax hereafter assessed or levied on or collected from such  
23 cooperatives or communications companies;

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

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

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

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

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

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

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

22 E. If the proceeds of any sales tax levied by a municipality  
23 pursuant to subsection B of this section are being used by the  
24 municipality for the purpose of retiring indebtedness incurred by

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

10 F. The sale of an article of clothing or footwear designed to  
11 be worn on or about the human body or the sale of any school supply,  
12 school art supply or school instructional material shall be exempt  
13 from the sales tax imposed by any incorporated city or town, in  
14 accordance with and to the extent set forth in Section ~~3 of this act~~  
15 1357.10 of this title.

16 SECTION 4. This act shall become effective November 1, 2010.

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