

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 750

By: Marlatt

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7 AS INTRODUCED

8 An Act relating to sales tax; amending 68 O.S. 2001,  
9 Section 2702, as last amended by Section 16, Chapter  
10 412, O.S.L. 2010 (68 O.S. Supp. 2010, Section 2702),  
11 which relates to the collection, assessment and  
12 enforcement of sales tax; clarifying applicability of  
13 certain agreements; requiring Oklahoma Tax Commission  
14 to enter into certain agreements relating to  
15 collection of taxes under specified circumstances;  
16 authorizing contracts with private persons or  
17 entities for specified purposes under certain  
18 conditions, contingent upon Tax Commission approval;  
19 authorizing exchange of information subject to  
20 specified penalties; requiring contracting  
21 municipalities to provide certain information to Tax  
22 Commission; excluding certain amounts from specified  
23 retention fee; and providing an effective date.  
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2702, as  
last amended by Section 16, Chapter 412, O.S.L. 2010 (68 O.S. Supp.  
2010, Section 2702), is amended to read as follows:

Section 2702. A. The governing body of any incorporated city  
or town and the Oklahoma Tax Commission shall enter into contractual

1 agreements whereby the ~~Oklahoma~~ Tax Commission shall have authority  
2 to assess, to collect and to enforce any taxes or, penalties or  
3 interest thereon, levied by such incorporated city or town, and  
4 remit the same to such municipality. Said assessment, collection,  
5 and enforcement authority shall apply to any taxes, penalty or  
6 interest liability existing at the time of contracting. Upon  
7 contracting, the ~~Oklahoma~~ Tax Commission shall have all the powers  
8 of enforcement in regard to such taxes, penalties and interest as  
9 are granted to or vested in the contracting municipality. Such  
10 agreement shall provide for the assessment, collection, enforcement,  
11 and prosecution of such municipal tax, penalties and interest, in  
12 the same manner as and in accordance with the administration,  
13 collection, enforcement, and prosecution by the ~~Oklahoma~~ Tax  
14 Commission of any similar state tax except as provided by agreement.  
15 ~~The municipality shall agree to refrain from any assessment,~~  
16 ~~collection, or enforcement of the municipal tax except as specified~~  
17 ~~in the agreement.~~ Such agreement shall authorize the ~~Oklahoma~~ Tax  
18 Commission to retain an amount not to exceed one and three-fourths  
19 percent (1 3/4%) as a retention fee of municipal tax collected for  
20 services rendered in connection with such collections; provided, if  
21 a municipality files an action resulting in collection of delinquent  
22 state and municipal taxes, the Tax Commission shall remit one-half  
23 (1/2) of the retention fee applied to the amount of such taxes to  
24 the municipality to be apportioned as are other sales tax revenue.

1 All funds retained by the ~~Oklahoma~~ Tax Commission for the collection  
2 services to municipalities shall be deposited in the Oklahoma Tax  
3 Commission Revolving Fund in the State Treasury. The municipality  
4 shall agree to refrain from any assessment, collection, or  
5 enforcement of the municipal tax except as specified in an agreement  
6 made pursuant to subsections A, C, D and E of this section.

7 B. The ~~Oklahoma~~ Tax Commission shall place all sales taxes,  
8 including penalties and interest, collected on behalf of a  
9 municipality pursuant to the provisions of this section and all use  
10 taxes, including penalties and interest, collected on behalf of a  
11 municipality pursuant to the provisions of Section 1411 of this  
12 title in the Sales Tax Remitting Account as provided in Section 1373  
13 of this title.

14 C. ~~Provided that~~ Notwithstanding the provisions of subsection E  
15 of this section, the ~~Oklahoma~~ Tax Commission and the governing body  
16 of any incorporated city or town may enter into contractual  
17 agreements whereby the municipality would be authorized to implement  
18 or augment the enforcement, collection and prosecution of the  
19 municipal tax in those contracting municipalities and to provide for  
20 the satisfaction of refunds or credits to taxpayers. Such  
21 agreements shall and are hereby authorized to provide that the  
22 municipality and the ~~Oklahoma~~ Tax Commission may exchange necessary  
23 information to effectively carry out the terms of such agreements.  
24 The municipality, its officers and employees shall preserve the

1 confidentiality of such information in the same manner and be  
2 subject to the same penalties as provided by Section 205 of this  
3 title, provided that the municipal prosecutor and other municipal  
4 enforcement personnel may receive all information necessary to  
5 implement or augment the enforcement and prosecution of municipal  
6 sales tax ordinances.

7 D. Provided further that, upon the request of any incorporated  
8 city or town, the ~~Oklahoma~~ Tax Commission shall enter into  
9 contractual agreements with such municipality whereby the  
10 municipality would be authorized to implement or augment the  
11 enforcement, either directly or through contract with private  
12 auditors or audit firms, of the municipal tax. Any person  
13 performing an audit shall first be approved by the ~~Oklahoma~~ Tax  
14 Commission and, once approved, shall be appointed as an agent of the  
15 ~~Oklahoma~~ Tax Commission for purposes of the audit. Contracts with a  
16 private auditor or audit firm shall not be subject to the  
17 limitations of Section 262 of this title and shall and are hereby  
18 authorized to provide that the municipality, private auditors or  
19 audit firms and the ~~Oklahoma~~ Tax Commission may exchange necessary  
20 information to effectively carry out the terms of such agreements.  
21 The municipality, its officers and employees and private auditors or  
22 audit firms may receive all information necessary to perform audits  
23 and shall preserve the confidentiality of such information in the  
24 same manner and be subject to the same penalties as provided by

1 Section 205 of this title. Municipalities conducting audits  
2 directly or by contracting for private auditors or audit firms  
3 pursuant to this subsection shall furnish to the Oklahoma Tax  
4 Commission the audit results and all relevant supporting  
5 documentation. Further, such municipalities shall provide for the  
6 payment of private auditors or audit firms by deduction from the tax  
7 assessment resulting from the audit conducted by said private  
8 auditors or audit firms unless a municipality contracts with the  
9 auditor or audit firm for another method of payment. Any municipal  
10 sales tax funds recovered as a result of the services provided under  
11 this subsection will not be included in calculating the retention  
12 fee retained by the ~~Oklahoma~~ Tax Commission pursuant to subsection A  
13 of this section. The contracts authorized by subsection A of this  
14 section shall provide that the ~~Oklahoma~~ Tax Commission shall not  
15 have any obligations thereunder to any municipality that does not  
16 participate in an audit conducted under this subsection.

17 E. Pursuant to the provisions of this subsection, upon the  
18 request of any incorporated city or town, the Oklahoma Tax  
19 Commission shall enter into contractual agreements with such  
20 municipality whereby the municipality would be authorized to  
21 implement or augment the collection, either directly or through  
22 contract with private persons or entities, of the municipal tax and  
23 to provide for the satisfaction of refunds or credits to taxpayers.  
24 The Tax Commission shall adopt rules outlining requirements for any

1 person or entity who will be performing collection and shall first  
2 approve such person or entity. Once approved, such person or entity  
3 shall be appointed as an agent of the Tax Commission for purposes of  
4 collection. Such agreements between any incorporated city or town  
5 and the Tax Commission, shall provide that the municipality, private  
6 persons or entities appointed as an agent and the Tax Commission,  
7 may exchange necessary information to effectively carry out the  
8 terms of such agreements. The municipality, its officers and  
9 employees and private persons or entities appointed as an agent, may  
10 receive all information necessary for collection and shall preserve  
11 the confidentiality of such information in the same manner and be  
12 subject to the same penalties as provided by Section 205 of this  
13 title. Municipalities conducting collection directly or by  
14 contracting with private persons or entities pursuant to this  
15 subsection shall furnish to the Tax Commission the collection  
16 results and all relevant supporting documentation. Any municipal  
17 sales tax funds collected as a result of the services provided under  
18 this subsection will not be included in calculating the retention  
19 fee retained by the Commission pursuant to subsection A of this  
20 section.

21 F. Any sum or sums collected or required to be collected  
22 pursuant to a municipal sales tax levy shall be deemed to be held in  
23 trust for the municipality, and, as trustee, the collecting vendor

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1 shall have a fiduciary duty to the municipality in regards to such  
2 sums and shall be subject to the trust laws of this state.

3 SECTION 2. This act shall become effective November 1, 2011.

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