

1 STATE OF OKLAHOMA

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

3 SENATE BILL 834

By: Jolley

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5  
6 AS INTRODUCED

7 An Act relating to sales tax; amending 68 O.S. 2001,  
8 Section 1361.1, as last amended by Section 1, Chapter  
9 387, O.S.L. 2010 (68 O.S. Supp. 2010, Section  
10 1361.1), which relates to sales tax exemptions;  
11 providing exception to certain limit on liability of  
12 a vendor; requiring vendor to collect and remit sales  
13 tax unless sales is subject to certain provisions;  
14 providing for refund of sales tax paid; establishing  
15 procedures for refund; setting time limit on payment  
16 of refund; requiring Oklahoma Tax Commission to  
17 develop rules; providing for codification; and  
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 68 O.S. 2001, Section 1361.1, as  
21 last amended by Section 1, Chapter 387, O.S.L. 2010 (68 O.S. Supp.  
22 2010, Section 1361.1), is amended to read as follows:

23 Section 1361.1. A. If Except as otherwise provided in  
24 subsection A of Section 2 of this act, if a vendor, in good faith,  
25 timely accepts from a consumer properly completed documentation  
26 certified by the Oklahoma Tax Commission that such consumer is  
27 exempt from the taxes levied by the Oklahoma Sales Tax, the vendor  
28 shall be relieved of any liability for any sales tax or the duty to

1 collect any sales tax imposed by the provisions of Section 1361 of  
2 this title upon such vendor with respect to such sale.

3 B. A vendor who has actual knowledge that a consumer is  
4 entitled to an exemption under paragraph 34 of Section 1357 of this  
5 title and who willfully or intentionally refuses to honor the  
6 exemption shall be punished by an administrative fine of Five  
7 Hundred Dollars (\$500.00) per offense. A second or subsequent  
8 violation of this subsection shall be unlawful and constitute a  
9 misdemeanor offense punishable by a fine of not more than Five  
10 Hundred Dollars (\$500.00) per such offense, in addition to any  
11 administrative fine. The Tax Commission shall refer any vendor who  
12 has more than once willfully or intentionally refused to honor the  
13 exemption, whether fined or not, to the district attorney where the  
14 vendor is located for prosecution. For the purposes of this  
15 subsection, "vendor" means any individual most responsible for  
16 supervising, and the conduct of, any employee who intentionally  
17 refuses to honor the exemption including, but not limited to, a  
18 manager, owner, partner or corporate officer.

19 C. Any written communication between the Commission and any  
20 holder of a sales tax permit that is an attempt by the Commission to  
21 enforce the provisions of this section shall be public and,  
22 notwithstanding any other provision of law, no presumption of  
23 confidentiality shall exist for such communications. The Commission  
24 shall, upon request of any consumer entitled to an exemption under

1 paragraph 34 of Section 1357 of this title, transmit to such  
2 consumer copies of such communication.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1362.1 of Title 68, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. For the purposes of subsections A and B of Section 1362 of  
7 Title 68 of the Oklahoma Statutes, a vendor shall collect and remit  
8 to the Oklahoma Tax Commission the amount of tax applicable to the  
9 taxable item at the time of sale without regard for any claimed or  
10 applicable exemption except those created by Sections 1355, 1356,  
11 paragraph 34 of Section 1357, 1357.6 and 1357.10.

12 B. In order to administer qualified exemptions as provided by  
13 the Sales Tax Code, there shall be made a sales tax refund for state  
14 and local sales taxes paid by a qualified purchaser. The Oklahoma  
15 Tax Commission shall transfer each month from sales tax collected  
16 the amount which the Commission estimates to be necessary to make  
17 the sales tax refund. State sales tax transfers shall be made to an  
18 account designated as the Commission determines. Local sales tax  
19 transfers shall be made to a separate account within the Oklahoma  
20 Tax Commission Revolving Fund in the State Treasury as provided by  
21 Section 2702 of Title 68 of the Oklahoma Statutes; provided, a local  
22 taxing authority may direct the Commission to transfer a lesser  
23 amount. The Commission shall make a refund of a local tax solely  
24 from taxes paid to that local taxing authority. Any refund shall be

1 paid from the appropriate account prescribed by this section no  
2 later than September 30 following the fiscal year in which the  
3 exempt transaction occurred.

4 C. No later than December 31, 2011, the Oklahoma Tax Commission  
5 shall develop rules providing for consumers or users who are  
6 eligible for a sales tax exemption to claim a refund for taxes  
7 actually paid.

8 SECTION 3. This act shall become effective January 1, 2012.

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