

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1007

By: Brown

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; enacting the
8 Buy America First Act of 2013; amending 68 O.S. 2011,
9 Section 1367.1, which relates to vendor discounts for
10 sales tax; modifying provisions related to vendor
11 discounts; removing maximum amount retained by
12 vendors; requiring Oklahoma Department of Commerce to
13 develop system for identification of certain
14 inventory; providing certain exception; amending 68
15 O.S. 2011, Section 1353, as amended by Section 540,
16 Chapter 304, O.S.L. 2012 (68 O.S. Supp. 2012. Section
17 2358), which relates to apportionment of sales tax
18 revenues; providing for apportionment of certain
19 incremental sales tax revenue to the Buy America
20 First Revolving Fund; creating Buy America First
21 Revolving Fund; providing for apportionment of monies
22 to fund; providing for expenditures by the Oklahoma
23 Department of Commerce; providing for development of
24 program to assist certain small business entities;
providing for codification; providing for
noncodification; providing an effective date; and
declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be

codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Buy America
First Act of 2013".

1 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1367.1, is
2 amended to read as follows:

3 Section 1367.1 A. For the purpose of compensating the seller
4 or vendor in keeping sales tax records, filing reports and remitting
5 the tax when due, a seller or vendor shall be allowed a deduction of
6 one percent (1%) of the tax due under the applicable provisions of
7 this title.

8 Such deduction shall not be allowed with respect to a direct
9 payment permit.

10 B. Effective July 1, 2013, a vendor may retain three percent
11 (3%) of the tax due under the applicable provisions of this title
12 for goods that have been certified as having been made or
13 manufactured in the United States of America. The Oklahoma Tax
14 Commission shall modify the sales tax report or sales tax reporting
15 system in a manner that allows a vendor to separately identify goods
16 for which the discount prescribed by this subsection is authorized
17 from other goods not made or manufactured in the United States. If
18 a vendor sells goods that are not identified as having been made or
19 manufactured in the United States, a vendor may retain one percent
20 (1%) of the tax due under the applicable provisions of this title.
21 The Oklahoma Department of Commerce shall develop and implement a
22 system for the identification of goods made or manufactured in the
23 United States to allow a vendor to clearly identify such goods in
24 the inventory of the vendor and at the time such goods are sold for

1 purposes of computing the discount amount authorized by this
2 subsection with respect to goods made or manufactured in the United
3 States. The provisions of this subsection shall not be applicable
4 to the sale of food items or agricultural products.

5 C. No deductions from tax shall be allowed if any such report
6 or payment of tax is delinquent; provided, the deduction shall be
7 allowed if the Oklahoma Tax Commission determines that the reason
8 that such report or payment of tax was delinquent was due to the
9 tornadoes occurring May 3, 1999, or May 8 or 9, 2003.

10 ~~C. Notwithstanding the formula provided by subsection A of this~~
11 ~~section, the deduction provided by this section shall be limited to~~
12 ~~a maximum of Two Thousand Five Hundred Dollars (\$2,500.00) per month~~
13 ~~per sales tax permit. No such sales tax permit holder may change~~
14 ~~sales tax permit status in order to avoid the provisions of this~~
15 ~~subsection.~~

16 ~~D. Notwithstanding any other provision of law, an amount equal~~
17 ~~to the excess of the amount calculated by the formula provided by~~
18 ~~subsection A of this section over the two-thousand-five-hundred-~~
19 ~~dollar limit provided by subsection C of this section shall be~~
20 ~~retained by the state as an administrative expense and deposited to~~
21 ~~the General Revenue Fund.~~

22 ~~E. D.~~ D. Notwithstanding the provisions of subsections A, B, ~~and C~~
23 ~~and D~~ of this section, in the event that federal authority
24 authorizes this state to require remote sellers to collect and remit

1 sales and use taxes, the Oklahoma Tax Commission is authorized and
2 directed to promulgate rules which provide for deductions in the
3 amounts and subject to the limitations provided in the Streamlined
4 Sales and Use Tax Agreement. All sellers or vendors shall be
5 eligible for such deductions beginning on the date this state
6 acquires such collection authority pursuant to federal
7 authorization.

8 ~~F.~~ E. For purposes of this section, the term "remote seller"
9 shall mean a seller that would not register to collect sales and use
10 taxes in this state but for the ability of this state to require
11 such remote seller to collect sales or use tax under federal
12 authority.

13 SECTION 3. AMENDATORY 68 O.S. 2011, Section 1353, as
14 amended by Section 540, Chapter 304, O.S.L. 2012 (68 O.S. Supp.
15 2012, Section 1353), is amended to read as follows:

16 Section 1353. A. It is hereby declared to be the purpose of
17 the Oklahoma Sales Tax Code to provide funds for the financing of
18 the program provided for by the Oklahoma Social Security Act and to
19 provide revenues for the support of the functions of the state
20 government of Oklahoma, and for this purpose it is hereby expressly
21 provided that, revenues derived pursuant to the provisions of the
22 Oklahoma Sales Tax Code, subject to the apportionment requirements
23 for the Oklahoma Tax Commission and Office of Management and
24 Enterprise Services Joint Computer Enhancement Fund provided by

1 Section 265 of this title, and except as otherwise provided by
2 subsection C of this section, shall be apportioned as follows:

- 3 1. a. the following amounts shall be paid to the State
4 Treasurer to be placed to the credit of the General
5 Revenue Fund to be paid out pursuant to direct
6 appropriation by the Legislature:

7 Fiscal Year	Amount
8 FY 2003 and FY 2004	86.04%
9 FY 2005	85.83%
10 FY 2006	85.54%
11 FY 2007	85.04%
12 FY 2008 and each fiscal 13 year thereafter	83.61%

- 14 b. in the event that additional monies are necessary
15 pursuant to paragraph 6 of this subsection, such
16 additional monies shall be deducted in the proportion
17 determined by the State Board of Equalization pursuant
18 to paragraph 3 of Section 2355.1B of this title from
19 the monies apportioned to the General Revenue Fund;

20 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-
21 hundredths percent (10.42%), shall be paid to the State Treasurer to
22 be placed to the credit of the Education Reform Revolving Fund of
23 the State Department of Education and for FY 2006 and each fiscal
24 year thereafter, ten and forty-six one-hundredths percent (10.46%)

1 shall be paid to the State Treasurer to be placed to the credit of
2 the Education Reform Revolving Fund of the State Department of
3 Education;

4 3. The following amounts shall be paid to the State Treasurer
5 to be placed to the credit of the Teachers' Retirement System
6 Dedicated Revenue Revolving Fund:

7 Fiscal Year	Amount
8 FY 2003 and FY 2004	3.54%
9 FY 2005	3.75%
10 FY 2006	4.0%
11 FY 2007	4.5%
12 FY 2008 and each fiscal 13 year thereafter	5.0%

14 4. For the fiscal year beginning July 1, 2010, and for each
15 fiscal year thereafter, eighty-seven one-hundredths percent (0.87%)
16 shall be paid to the State Treasurer to be further apportioned as
17 follows:

- 18 a. thirty-six percent (36%) shall be placed to the credit
19 of the Oklahoma Tourism Promotion Revolving Fund, and
- 20 b. sixty-four percent (64%) shall be placed to the credit
21 of the Oklahoma Tourism Capital Improvement Revolving
22 Fund; and

23 5. For the fiscal year beginning July 1, 2010, and for each
24 fiscal year thereafter, six one-hundredths percent (0.06%) shall be

1 placed to the credit of the Oklahoma Historical Society Capital
2 Improvement and Operations Revolving Fund.

3 6. During the first fiscal year after the State Board of
4 Equalization has made a determination as provided in Section 2355.1B
5 of this title, regarding a baseline amount of revenue apportioned
6 pursuant to paragraph 3 of this subsection, and for each fiscal year
7 thereafter, in no event shall monies apportioned pursuant to
8 paragraph 3 of this subsection, paragraph 3 of Section 1403 of this
9 title and subparagraph c of paragraph 1 of Section 2352 of this
10 title be less than such baseline amount.

11 B. Provided, for the fiscal year beginning July 1, 2007, and
12 every fiscal year thereafter, an amount of revenue shall be
13 apportioned to each municipality or county which levies a sales tax
14 subject to the provisions of Section 1357.10 of this title and
15 subsection F of Section 2701 of this title equal to the amount of
16 sales tax revenue of such municipality or county exempted by the
17 provisions of Section 1357.10 of this title and subsection F of
18 Section 2701 of this title. The Oklahoma Tax Commission shall
19 promulgate and adopt rules necessary to implement the provisions of
20 this subsection.

21 C. Effective July 1, 2013, before any other apportionment of
22 revenue is made pursuant to the provisions of this section, the
23 amount of sales tax revenue attributable to the increase in sales
24 tax collections resulting from the discount provisions of subsection

1 B of Section 1367.1 of this title and as amended by Section 2 of
2 this act shall be apportioned to the "Buy America First Revolving
3 Fund" created by Section 4 of this act for use by the Oklahoma
4 Department of Commerce.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5501 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 There is hereby created in the State Treasury a revolving fund
9 for the Oklahoma Department of Commerce to be designated the "Buy
10 America First Revolving Fund". The fund shall be a continuing fund,
11 not subject to fiscal year limitations, and shall consist of all
12 monies received by the Oklahoma Department of Commerce from
13 increased sales tax revenues attributable to the provisions of
14 Section 1367.1 of Title 68 of the Oklahoma Statutes. All monies
15 accruing to the credit of said fund are hereby appropriated and may
16 be budgeted and expended by the Oklahoma Department of Commerce for
17 the purpose of providing assistance to small business enterprises
18 that produce goods which are eligible to be identified as "Made in
19 America". Expenditures from said fund shall be made upon warrants
20 issued by the State Treasurer against claims filed as prescribed by
21 law with the Director of the Office of State Finance for approval
22 and payment.

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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5502 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Department of Commerce shall develop and
5 implement a program to assist small start-up businesses the
6 inventory of which consists either exclusively of goods made or
7 manufactured in the United States of America or the inventory of
8 which consists of not less than seventy-five percent (75%) of goods
9 made or manufactured in the United States of America.

10 B. The Department shall use monies available from the Buy
11 America First Revolving Fund as provided in Section 4 of this act.

12 SECTION 6. This act shall become effective July 1, 2013.

13 SECTION 7. 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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