

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1628

By: Boggs

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5  
6 AS INTRODUCED

7 An Act relating to sales tax; amending 68 O.S. 2011,  
8 Section 1365, which relates to remittance of sales  
9 tax by vendors; providing exception to requirement  
10 for remittance by electronic fund transfer;  
11 authorizing permanent exception from requirement  
12 under certain circumstances and clarifying  
13 application of exception; authorizing Oklahoma Tax  
14 Commission to prescribe rules; and providing an  
15 effective date.

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

17 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1365, is  
18 amended to read as follows:

19 Section 1365. When Tax Due - Reports - Records.

20 A. The tax levied hereunder shall be due and payable on the  
21 first day of each month, except as herein provided, by any person  
22 liable to remit or pay any tax due under ~~Section 1350 et seq. of~~  
23 ~~this title~~ the Oklahoma Sales Tax Code. For the purpose of  
24 ascertaining the amount of the tax payable, it shall be the duty of  
all tax remitters, on or before the twentieth day of each month, to  
deliver to the Oklahoma Tax Commission, upon forms prescribed and

1 furnished by it, sales tax reports signed under oath, showing the  
2 gross receipts or gross proceeds arising from all sales taxable or  
3 nontaxable under ~~Section 1350 et seq. of this title~~ the Oklahoma  
4 Sales Tax Code during the preceding calendar month. Such reports  
5 shall show such further information as the Tax Commission may  
6 require to enable it to compute correctly and collect the tax herein  
7 levied. In addition to the information required on reports, the Tax  
8 Commission may request and the taxpayer must furnish any information  
9 deemed necessary for a correct computation of the tax levied herein.  
10 Such tax remitter shall compute and remit to the Tax Commission the  
11 required tax due for the preceding calendar month, the remittance or  
12 remittances of the tax to accompany the reports herein required. If  
13 not filed on or before the twentieth day of such month, the tax  
14 shall be delinquent from such date. Reports timely mailed shall be  
15 considered timely filed. If a report is not timely filed, interest  
16 shall be charged from the date the report should have been filed  
17 until the report is actually filed.

18 B. ~~Effective~~ Except as provided in subsection J of this  
19 section, effective July 1, 2001, every person owing an average of  
20 One Hundred Thousand Dollars (\$100,000.00) or more per month in  
21 total sales taxes in the previous fiscal year shall remit the tax  
22 due and shall participate in the Tax Commission's electronic funds  
23 transfer and electronic data interchange program, according to the  
24 following schedule:

1           1. For sales from the first day through the fifteenth day of  
2 each month, the tax shall be due and payable on the twentieth day of  
3 such month and remitted to the Tax Commission by electronic funds  
4 transfer. A taxpayer will be considered to have complied with the  
5 reporting requirements of this paragraph if, on or before the  
6 twentieth day of such month, the taxpayer paid at least ninety  
7 percent (90%) of the liability for that fifteen-day period or at  
8 least fifty percent (50%) of the taxpayer's liability in the  
9 immediate preceding calendar year for the same month as the month in  
10 which the fifteen-day period occurs; and

11           2. For sales from the sixteenth day through the end of each  
12 month, the tax shall be due and payable on the twentieth day of the  
13 following month and remitted to the Tax Commission by electronic  
14 funds transfer.

15           Every person required to remit the tax due pursuant to this  
16 subsection shall file its monthly sales tax report in accordance  
17 with the Tax Commission's electronic data interchange program on the  
18 twentieth day of the month following the month the sales occurred.

19           Taxes not paid on or before the due dates specified in this  
20 subsection shall be delinquent from such dates.

21           C. Effective Except as provided in subsection J of this  
22 section, effective March 1, 2002, every person owing an average of  
23 Twenty-five Thousand Dollars (\$25,000.00) or more per month in total  
24 sales taxes in the previous fiscal year shall remit the tax due and

1 shall participate in the Tax Commission's electronic funds transfer  
2 and electronic data interchange program, according to the following  
3 schedule:

4 1. For sales from the first day through the fifteenth day of  
5 each month, the tax shall be due and payable on the twentieth day of  
6 such month and remitted to the Tax Commission by electronic funds  
7 transfer. A taxpayer will be considered to have complied with the  
8 reporting requirements of this paragraph if, on or before the  
9 twentieth day of such month, the taxpayer paid at least ninety  
10 percent (90%) of the liability for that fifteen-day period or at  
11 least fifty percent (50%) of the taxpayer's liability in the  
12 immediate preceding calendar year for the same month as the month in  
13 which the fifteen-day period occurs; and

14 2. For sales from the sixteenth day through the end of each  
15 month, the tax shall be due and payable on the twentieth day of the  
16 following month and remitted to the Tax Commission by electronic  
17 funds transfer.

18 Every person required to remit the tax due pursuant to this  
19 subsection shall file its monthly sales tax report in accordance  
20 with the Tax Commission's electronic data interchange program on the  
21 twentieth day of the month following the month the sales occurred.  
22 Provided, persons primarily engaged in selling lumber and other  
23 building materials, including cement and concrete, except for home  
24 centers classified under Industry No. 444110 of the North American

1 Industrial Classification System (NAICS) Manual, shall remit and  
2 report as required in subsection A of this section, with the  
3 exception of taxes due on sales made during the periods of June 1  
4 through June 15, 2002, which shall be remitted and reported on June  
5 20, 2002, and June 1 through June 15, 2003, which shall be remitted  
6 and reported on June 20, 2003.

7 Taxes not paid on or before the due dates specified in this  
8 subsection shall be delinquent from such dates.

9 D. ~~Effective~~ Except as provided in subsection J of this  
10 section, effective October 1, 2003, every person owing an average of  
11 Two Thousand Five Hundred Dollars (\$2,500.00) or more per month in  
12 total sales taxes in the previous fiscal year shall remit the tax  
13 due and shall participate in the Tax Commission's electronic funds  
14 transfer and electronic data interchange program, according to the  
15 following schedule:

16 1. For sales from the first day through the fifteenth day of  
17 each month, the tax shall be due and payable on the twentieth day of  
18 such month and remitted to the Tax Commission by electronic funds  
19 transfer. A taxpayer will be considered to have complied with the  
20 reporting requirements of this paragraph if, on or before the  
21 twentieth day of such month, the taxpayer paid at least ninety  
22 percent (90%) of the liability for that fifteen-day period or at  
23 least fifty percent (50%) of the taxpayer's liability in the  
24

1 immediate preceding calendar year for the same month as the month in  
2 which the fifteen-day period occurs; and

3 2. For sales from the sixteenth day through the end of each  
4 month, the tax shall be due and payable on the twentieth day of the  
5 following month and remitted to the Tax Commission by electronic  
6 funds transfer.

7 Every person required to remit the tax due pursuant to this  
8 subsection shall file its monthly sales tax report in accordance  
9 with the Tax Commission's electronic data interchange program on the  
10 twentieth day of the month following the month the sales occurred.  
11 Provided, persons primarily engaged in selling lumber and other  
12 building materials, including cement and concrete, except for home  
13 centers classified under Industry No. 444110 of the North American  
14 Industrial Classification System (NAICS) Manual, shall remit and  
15 report as required in subsection A of this section.

16 Taxes not paid on or before the due dates specified in this  
17 subsection shall be delinquent from such dates.

18 E. In lieu of monthly reports, tax remitters or taxpayers who  
19 are classified as Group Three vendors in ~~Section 1350 et seq. of~~  
20 ~~this title~~ the Oklahoma Sales Tax Code or tax remitters or taxpayers  
21 whose total amount of tax liability for any one month does not  
22 exceed Fifty Dollars (\$50.00) may file semiannual reports and remit  
23 taxes due thereunder to the Tax Commission on or before the  
24 twentieth day of January and July of each year for the preceding

1 six-month period. If not paid on or before the twentieth day of  
2 such month, the tax shall be delinquent.

3 F. It shall be the duty of every tax remitter required to make  
4 a sales tax report and pay any tax under ~~Section 1350 et seq. of~~  
5 ~~this title~~ the Oklahoma Sales Tax Code to keep and preserve suitable  
6 records of the gross daily sales together with invoices of purchases  
7 and sales, bills of lading, bills of sale and other pertinent  
8 records and documents which may be necessary to determine the amount  
9 of tax due hereunder and such other records of goods, wares and  
10 merchandise, and other subjects of taxation under ~~Section 1350 et~~  
11 ~~seq. of this title~~ the Oklahoma Sales Tax Code as will substantiate  
12 and prove the accuracy of such returns. It shall also be the duty  
13 of every person who makes sales for resale to keep records of such  
14 sales which shall be subject to examination by the Tax Commission or  
15 any authorized employee thereof while engaged in checking or  
16 auditing the records of any person required to make a report under  
17 the terms of ~~Section 1350 et seq. of this title~~ the Oklahoma Sales  
18 Tax Code. All such records shall remain in Oklahoma and be  
19 preserved for a period of three (3) years, unless the Tax  
20 Commission, in writing, has authorized their destruction or disposal  
21 at an earlier date, and shall be open to examination at any time by  
22 the Tax Commission or by any of its duly authorized agents. The  
23 burden of proving that a sale was not a taxable sale shall be upon  
24 the person who made the sale.

1 G. The purchaser must provide the vendor with the purchaser's  
2 sales tax permit number, the direct payment permit number or a copy  
3 of the direct payment permit if the sale is made within Oklahoma.  
4 In addition to furnishing the sales tax permit number to the vendor,  
5 the purchaser must certify in writing to the vendor that the  
6 purchaser is engaged in the business of reselling the articles  
7 purchased. Failure to so certify, or to falsely certify with the  
8 knowledge that the items purchased are not for resale, shall be  
9 sufficient grounds upon which the Tax Commission may cause the  
10 purchaser's sales tax permit to be canceled. Certification may be  
11 made on the bill, invoice or sales slip retained by the vendor or by  
12 furnishing a certification letter to the seller which contains the  
13 following:

14 1. The name and address of the purchaser;

15 2. The sales tax permit number of the permit issued to the  
16 purchaser;

17 3. A statement that the purchaser is engaged in the business of  
18 reselling the articles purchased, if applicable;

19 4. A statement that the articles purchased are purchased for  
20 resale, if applicable; and

21 5. The signature of the purchaser or a person authorized to  
22 legally bind the purchaser.

23 H. If a sales tax permit holder purchases goods, wares and  
24 merchandise from a vendor on a regular basis, then the permit holder

1 may furnish the certification letter described in subsection G of  
2 this section to the vendor and the vendor may subsequently make  
3 sales of tangible personal property to the permit holder without  
4 requiring a certification letter or certification statement for each  
5 subsequent sale. The permit holder must notify the seller of all  
6 purchases which are not for resale and remit the applicable amount  
7 of tax thereon. If the permit holder fails to notify the vendor of  
8 purchases not intended for resale, then sufficient grounds shall  
9 exist for the Tax Commission to cancel the sales tax permit of the  
10 permit holder who so failed to notify the vendor.

11 I. In lieu of filing reports as required in subsection A of  
12 this section, tax remitters or taxpayers who agree to participate in  
13 the Tax Commission's electronic funds transfer and electronic data  
14 interchange programs may file according to the following schedule:

15 1. For sales from the first day through the fifteenth day of  
16 each month, the tax shall be due and payable on the twentieth day of  
17 such month and remitted to the Tax Commission by electronic funds  
18 transfer. A taxpayer will be considered to have complied with the  
19 reporting requirements of this paragraph if, on or before the  
20 twentieth day of such month, the taxpayer paid at least ninety  
21 percent (90%) of the liability for that fifteen-day period or at  
22 least fifty percent (50%) of the taxpayer's liability in the  
23 immediate preceding calendar year for the same month as the month in  
24 which the fifteen-day period occurs; and

1           2. For sales from the sixteenth day through the end of each  
2 month, the tax shall be due and payable on the twentieth day of the  
3 following month and remitted to the Tax Commission by electronic  
4 funds transfer.

5           Every person required to remit the tax due pursuant to this  
6 subsection shall file its monthly sales tax report in accordance  
7 with the Tax Commission's electronic data interchange program on the  
8 twentieth day of the month following the month the sales occurred.

9           Taxes not paid on or before the due dates specified in this  
10 subsection shall be delinquent from such dates.

11           J. Upon the request of any persons subject to subsections B, C  
12 or D of this section, the Tax Commission shall grant a permanent  
13 exception to the requirement that the person remit the amount of tax  
14 payable to the Tax Commission by electronic funds transfer; provided  
15 no exception shall be granted to the requirements for participation  
16 in the electronic data interchange program. The Tax Commission  
17 shall prescribe by rule any necessary procedures for remittance by  
18 means other than electronic funds transfer.

19           SECTION 2. This act shall become effective November 1, 2014.

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