

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1625

By: Brown

6 AS INTRODUCED

7 An Act relating to revenue and taxation; enacting the
8 Buy Oklahoma First Act of 2011; amending 68 O.S.
9 2001, Sections 1367.1, as last amended by Section 14,
10 Chapter 412, O.S.L. 2010 and 1353, as last amended by
11 Section 1, Chapter 466, O.S.L. 2010 (68 O.S. Supp.
12 2010, Sections 1367.1 and 1353), which relate to
13 sales tax revenue and vendor discounts; modifying
14 percentage of sales tax collections authorized to be
15 retained by vendors; imposing duty upon Oklahoma Tax
16 Commission; imposing duty on Oklahoma Department of
17 Commerce with respect to goods made in Oklahoma;
18 modifying provisions related to maximum amount of
19 discount; providing for apportionment of certain
20 sales tax revenues to the Buy Oklahoma First College
21 Scholarship Revolving Fund; creating Buy Oklahoma
22 First College Scholarship Revolving Fund; providing
23 for apportionment of revenues; providing for
24 expenditures of revenues; imposing standard by
reference to the Oklahoma Higher Learning Access
Program; providing for codification; providing for
noncodification; providing an effective date; and
declaring an emergency.

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

22 SECTION 1. NEW LAW A new section of law not to be
23 codified in the Oklahoma Statutes reads as follows:

1 This act shall be known and may be cited as the "Buy Oklahoma
2 First Act of 2011".

3 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1367.1, as
4 last amended by Section 14, Chapter 412, O.S.L. 2010 (68 O.S. Supp.
5 2010, Section 1367.1), is amended to read as follows:

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

11 Such deduction shall not be allowed with respect to a direct
12 payment permit.

13 B. Effective July 1, 2011, a vendor may retain three percent
14 (3%) of the tax due under the applicable provisions of this title
15 for goods that have been certified as having been made or
16 manufactured in Oklahoma. The Oklahoma Tax Commission shall modify
17 the sales tax report or sales tax reporting system in a manner that
18 allows a vendor to separately identify goods for which the discount
19 prescribed by this subsection is authorized from other goods not
20 made or manufactured in Oklahoma. If a vendor sells goods that are
21 not identified as having been made or manufactured in Oklahoma, a
22 vendor may retain one percent (1%) of the tax due under the
23 applicable provisions of this title. The Oklahoma Department of
24 Commerce shall develop and implement a system for the identification

1 of goods made or manufactured in Oklahoma to allow a vendor to
2 clearly identify such goods in the inventory of the vendor and at
3 the time such goods are sold for purposes of computing the discount
4 amount authorized by this subsection with respect to goods made or
5 manufactured in Oklahoma. The provisions of this subsection shall
6 not be applicable to the sale of food items or agricultural
7 products.

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

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

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

1 E. D. Notwithstanding the provisions of subsections A, B, C
2 and D of this section, in the event that federal authority
3 authorizes this state to require remote sellers to collect and remit
4 sales and use taxes, the Oklahoma Tax Commission is authorized and
5 directed to promulgate rules which provide for deductions in the
6 amounts and subject to the limitations provided in the Streamlined
7 Sales and Use Tax Agreement. All sellers or vendors shall be
8 eligible for such deductions beginning on the date this state
9 acquires such collection authority pursuant to federal
10 authorization.

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

16 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1353, as
17 last amended by Section 1, Chapter 466, O.S.L. 2010 (68 O.S. Supp.
18 2010, Section 1353), is amended to read as follows:

19 Section 1353. A. It is hereby declared to be the purpose of
20 the Oklahoma Sales Tax Code to provide funds for the financing of
21 the program provided for by the Oklahoma Social Security Act and to
22 provide revenues for the support of the functions of the state
23 government of Oklahoma, and for this purpose it is hereby expressly
24 provided that, revenues derived pursuant to the provisions of the

1 Oklahoma Sales Tax Code, subject to the apportionment requirements
2 for the Oklahoma Tax Commission and Office of State Finance Joint
3 Computer Enhancement Fund provided by Section 265 of this title,
4 shall be apportioned as follows:

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

Fiscal Year	Amount
FY 2003 and FY 2004	86.04%
FY 2005	85.83%
FY 2006	85.54%
FY 2007	85.04%
FY 2008 and each fiscal year thereafter	83.61%

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

22 2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-
23 hundredths percent (10.42%), shall be paid to the State Treasurer to
24 be placed to the credit of the Education Reform Revolving Fund of

1 the State Department of Education and for FY 2006 and each fiscal
2 year thereafter, ten and forty-six one-hundredths percent (10.46%)
3 shall be paid to the State Treasurer to be placed to the credit of
4 the Education Reform Revolving Fund of the State Department of
5 Education;

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

Fiscal Year	Amount
FY 2003 and FY 2004	3.54%
FY 2005	3.75%
FY 2006	4.0%
FY 2007	4.5%
FY 2008 and each fiscal 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

1 5. For the fiscal year beginning July 1, 2010, and for each
2 fiscal year thereafter, six one-hundredths percent (0.06%) shall be
3 placed to the credit of the Oklahoma Historical Society Capital
4 Improvement and Operations Revolving Fund.

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

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

23 C. Effective July 1, 2011, before any other apportionment of
24 revenue is made pursuant to the provisions of this section, the

1 amount of sales tax revenue attributable to the increase in sales
2 tax collections resulting from the discount provisions of subsection
3 B of Section 1367.1 of this title and as amended by Section 2 of
4 this act shall be apportioned to the Buy Oklahoma First College
5 Scholarship Revolving Fund created by Section 4 of this act for use
6 by the Oklahoma State Regents for Higher Education.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2605.1 of Title 70, unless there
9 is created a duplication in numbering, reads as follows:

10 There is hereby created in the State Treasury a revolving fund
11 for the Oklahoma State Regents for Higher Education to be designated
12 the "Buy Oklahoma First College Scholarship Revolving Fund". The
13 fund shall be a continuing fund, not subject to fiscal year
14 limitations, and shall consist of all monies received by the
15 Oklahoma State Regents for Higher Education from the apportionment
16 of sales tax revenue provided by Section 1353 of Title 68 of the
17 Oklahoma Statutes. All monies accruing to the credit of said fund
18 are hereby appropriated and may be budgeted and expended by the
19 Oklahoma State Regents for Higher Education for the purpose of
20 providing college scholarships under the same terms and conditions
21 as prescribed by law for the Oklahoma Higher Learning Access
22 Program. Expenditures from said fund shall be made upon warrants
23 issued by the State Treasurer against claims filed as prescribed by
24

1 law with the Director of the Office of State Finance for approval
2 and payment.

3 SECTION 5. This act shall become effective July 1, 2011.

4 SECTION 6. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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