

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1392

By: Quinn

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to sales tax; amending 68 O.S. 2011,
9 Section 1358.1, which relates to agricultural
10 exemptions; modifying renewal time period for
11 exemption permits; modifying qualification for
12 exemption and prescribing verification procedures;
13 establishing refund provision for specified
14 circumstance; authorizing Oklahoma Tax Commission to
15 develop certain forms and procedures; and providing
16 an effective date.

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

18 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1358.1, is
19 amended to read as follows:

20 Section 1358.1. A. In order to qualify for any exemption
21 claimed at the time of sale and authorized by Section 1358 of this
22 title, ~~at the time of sale,~~ the person to whom the sale is made
23 shall be required to furnish the vendor proof of eligibility for the
24 exemption as required by this section.

25 B. All vendors shall honor the proof of eligibility for sales
26 tax exemption as authorized by this section and sales to a person

1 providing such proof shall be exempt at the time of sale from the
2 tax levied by this article, Section 1350 et seq. of this title
3 except as provided in subsection I of this section.

4 C. The agricultural exemption permit, the size and design of
5 which shall be prescribed by the Oklahoma Tax Commission, shall
6 constitute proof of eligibility for sales tax exemptions authorized
7 by Section 1358 of this title. The permit shall be obtained by
8 listing personal property used in farming or ranching by the person
9 with the county assessor each year as provided by law. If the
10 assessor determines that the personal property is correctly listed
11 and assessed for ad valorem taxation and the county treasurer
12 certifies whether the person has delinquent accounts appearing on
13 the personal property tax lien docket in the county treasurer's
14 office, the assessor shall certify the assessment upon a form
15 prescribed by the Oklahoma Tax Commission. One copy shall be
16 retained by the assessor, one copy shall be forwarded to the
17 Oklahoma Tax Commission and one copy shall be given to the person
18 listing the personal property. Upon verification that the applicant
19 qualifies for the exemptions authorized by Section 1358 of this
20 title, subject to the provisions of subsection I of this section,
21 and that the applicant has no delinquent accounts appearing on the
22 personal property tax lien docket in the office of the county
23 treasurer, a permit shall be issued by the Tax Commission as
24 prescribed by this section. The permit shall be renewable ~~every~~

1 ~~three (3) years~~ annually in the manner provided by this section.

2 All applications filed on or after November 1, 2018, shall be
3 renewable on an annual basis.

4 D. A person who does not otherwise qualify for a permit
5 pursuant to subsection C of this section, except as provided in
6 subsection E of this section, shall file with the Oklahoma Tax
7 Commission an application for an agricultural exemption permit
8 constituting proof of eligibility for the sales tax exemptions
9 authorized by Section 1358 of this title, setting forth such
10 information as the Tax Commission may require. The application
11 shall be certified by the applicant that the applicant is engaged in
12 custom farming operations or in the business of farming or ranching.
13 If the applicant is a corporation, the application shall be
14 certified by a legally constituted officer thereof.

15 E. Except as provided in this subsection, for a person who is a
16 resident of another state and who is engaged in custom farming
17 operations in this state, the person shall provide the vendor proof
18 of residency, the name, address and telephone number of the person
19 engaging the custom farmer and certification on the face of the
20 invoice, under the penalty of perjury, that the property purchased
21 shall be used in agricultural production as proof of eligibility for
22 the sales tax exemption authorized by Section 1358 of this title.
23 Any person who is a resident of another state and who is engaged in
24 custom farming operations in this state and who owns property in

1 this state, shall obtain proof of eligibility as provided in
2 subsection C or D of this section.

3 F. If an agricultural exemption permit holder purchases
4 tangible personal property from a vendor on a regular basis, the
5 permit holder may furnish the vendor proof of eligibility as
6 provided for in subsections C and D of this section and the vendor
7 may subsequently make sales of tangible personal property to the
8 permit holder without requiring proof of eligibility for each
9 subsequent sale. Provided, the permit holder shall notify the
10 vendor of all purchases which are not exempt from sales tax under
11 the provisions of Section 1358 of this title and remit the
12 applicable amount of tax thereon. If the permit holder fails to
13 notify the vendor of purchases not exempt from sales tax, then
14 sufficient grounds shall exist for the Oklahoma Tax Commission to
15 cancel the agricultural exemption permit of the permit holder who so
16 failed to notify the vendor.

17 G. If an out-of-state agricultural exemption permit holder
18 purchases tangible personal property from a vendor within this state
19 who is not in the business of shipping the tangible personal
20 property purchased, then the out-of-state agricultural exemption
21 permit holder is responsible for providing an export bill of lading
22 or other documentation to the vendor from whom the tangible personal
23 property was purchased showing that the point of delivery of such
24 goods for use and consumption is outside the State of Oklahoma.

1 H. A purchaser who uses an agricultural exemption permit or
2 provides proof of eligibility pursuant to subsection E of this
3 section to purchase, exempt from sales tax, items not authorized for
4 exemption under Section 1358 of this title shall be subject to a
5 penalty in the amount of Five Hundred Dollars (\$500.00).

6 I. 1. For applications filed on or after November 1, 2018,
7 under the provisions of subsections C and D of this section, the Tax
8 Commission shall verify that the applicant has reported income from
9 farming for income tax purposes. Such verification may be made from
10 its own records or satisfactory proof submitted with the
11 application. No permit shall be issued until the Tax Commission has
12 verified the reporting of farming income by the applicant.

13 2. If an applicant that would otherwise qualify for a permit is
14 denied a permit as provided in this subsection, the applicant may
15 submit a claim for refund for sales taxes paid on purchases exempt
16 pursuant to Section 1358 of this title. Provided, the applicant
17 must submit a copy of its income tax return documenting the
18 reporting of farming income with its refund claim. The period for
19 which a claim may be filed shall be within one (1) year of the date
20 of application for permit under this section and no claim for refund
21 may be filed more than two (2) years from the date of application
22 for permit.

23 3. The Oklahoma Tax Commission shall develop such forms and
24 procedures as may be necessary to issue permits and refunds for

1 sales tax paid which is subject to the exemption authorized by
2 Section 1358 of this title as provided in this act.

3 SECTION 2. This act shall become effective November 1, 2018.

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