

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1595

By: Treat

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5
6 AS INTRODUCED

7 An Act relating to sales tax; amending 68 O.S. 2011,
8 Section 1364, which relates to permits; modifying
9 duration of certain permit required to do business
10 and related renewal period; updating statutory
11 references; modifying duration of permit for
12 additional place of business; modifying expiration
13 date of permits; and providing an effective date.

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1364, is
16 amended to read as follows:

17 Section 1364. Permits to do business.

18 A. Every person desiring to engage in a business within this
19 state who would be designated as a Group One or Group Three vendor,
20 pursuant to Section 1363 of this title, shall be required to secure
21 from the Oklahoma Tax Commission ~~every three (3) years~~ annually a
22 written permit for a fee of Twenty Dollars (\$20.00) prior to
23 engaging in such business in this state. Each such person shall
24 file with the Tax Commission an application for a permit to engage
in or transact business in this state, setting forth such

1 information as the Tax Commission may require. The application
2 shall be signed by the owner of the business or representative of
3 the business entity and as a natural person, and, in the case of a
4 corporation, as a legally constituted officer thereof.

5 B. Upon receipt of an initial application, the Tax Commission
6 may issue a probationary permit effective for six (6) months which
7 will automatically renew for an additional ~~thirty (30)~~ six (6)
8 months unless the applicant receives written notification of the
9 refusal of the Commission to renew the permit. If the applicant
10 receives a notice of refusal, the applicant may request a hearing to
11 show cause why the permit should be renewed. Upon receipt of a
12 request for a hearing, the Tax Commission shall set the matter for
13 hearing and give ten (10) days' notice in writing of the time and
14 place of the hearing. At the hearing, the applicant shall set forth
15 the qualifications of the applicant for a permit and proof of
16 compliance with all state tax laws.

17 C. Holders of a probationary permit as provided in subsection B
18 of this section shall not be permitted to present the permit to
19 obtain a commercial license plate for their motor vehicle as
20 provided in Section 1133.1 of Title 47 of the Oklahoma Statutes.

21 D. Upon verification that the applicant is a Group Three
22 vendor, the Tax Commission may require such applicant to furnish a
23 surety bond or other security as the Commission may deem necessary
24 to secure payment of taxes under ~~this article~~ the Oklahoma Sales Tax

1 Code, prior to issuance of a permit for the place of business set
2 forth in the application for permit. Provided, the Tax Commission
3 is hereby authorized to set guidelines, by adoption of regulations,
4 for the issuance of sales tax permits. Pursuant to ~~said~~ the
5 guidelines the Tax Commission may refuse to issue permits to any
6 Group Three vendors, or any class of vendors included in the whole
7 classification of Group Three vendors, if the Tax Commission
8 determines that it is likely this state will lose tax revenue due to
9 the difficulty of enforcing ~~this article~~ the Oklahoma Sales Tax Code
10 for any reasons stated in ~~subsection (T)~~ paragraph 21 of subsection
11 A of Section 1354 of this title.

12 E. A separate permit for each additional place of business to
13 be operated must be obtained from the Tax Commission for a fee of
14 Ten Dollars (\$10.00). Such permit shall be good for a period of
15 ~~three (3) years~~ one (1) year. The Tax Commission shall grant and
16 issue to each applicant a separate permit for each place of business
17 in this state, upon proper application therefor and verification
18 thereof by the Tax Commission.

19 F. A permit is not assignable and shall be valid only for the
20 person in whose name it is issued and for the transaction of
21 business at the place designated therein. The permit shall at all
22 times be conspicuously displayed at the place of business for which
23 issued in a position where it can be easily seen. The permit shall
24 be in addition to all other permits required by the laws of this

1 state. Provided, if the location of the business is changed, such
2 person shall file with the Tax Commission an application for a
3 permit to engage in or transact business at the new location. Upon
4 issuance of the permit to the new location of such business, no
5 additional permit fee shall be due until the expiration of the
6 permit issued to the previous location of such business.

7 G. It shall be unlawful for any person coming within the class
8 designated as Group One or the class designated as Group Three to
9 engage in or transact a business of reselling tangible personal
10 property or services within this state unless a written permit or
11 permits shall have been issued to such person. Any person who
12 engages in a business subject to the provisions of this section
13 without a permit or permits, or after a permit has been suspended,
14 upon conviction, shall be guilty of a misdemeanor punishable by a
15 fine of not more than One Thousand Dollars (\$1,000.00). Any person
16 convicted of a second or subsequent violation hereof shall be guilty
17 of a felony and punishable by a fine of not more than Five Thousand
18 Dollars (\$5,000.00) or by a term of imprisonment in the State
19 Penitentiary for not more than two (2) years, or both such fine and
20 imprisonment.

21 H. Any person operating under a permit as provided in ~~this~~
22 ~~article~~ the Oklahoma Sales Tax Code shall, upon discontinuance of
23 business by sale or otherwise, return such permit to the Tax
24 Commission for cancellation, together with a remittance for any

1 unpaid or accrued taxes. Failure to surrender a permit and pay any
2 and all accrued taxes will be sufficient cause for the Tax
3 Commission to refuse to issue a permit subsequently to such person
4 to engage in or transact any other business in this state. In the
5 case of a sale of any business, the tax shall be deemed to be due on
6 the sale of the fixtures and equipment, and the Tax Commission shall
7 not issue a permit to continue or conduct the business to the
8 purchaser until all tax claims due the State of Oklahoma have been
9 settled.

10 I. All permits issued under the provisions of ~~this article~~ the
11 Oklahoma Sales Tax Code shall expire ~~three (3) years~~ one (1) year
12 from the date of issuance at the close of business at each place or
13 location of the business within this state. No refund of the fee
14 shall be made if the business is terminated prior to the expiration
15 of the permit.

16 J. Whenever a holder of a permit fails to comply with any
17 provisions of ~~this article~~ the Oklahoma Sales Tax Code, the Tax
18 Commission, after giving ten (10) days' notice in writing of the
19 time and place of hearing to show cause why the permit should not be
20 revoked, may revoke or suspend the permit, the permit to be renewed
21 upon removal of cause or causes of revocation or suspension.
22 However, if a holder of a permit becomes delinquent for a period of
23 three (3) months or more in reporting or paying of any tax due under
24 ~~this article~~ the Oklahoma Sales Tax Code, any duly authorized agent

1 of the Tax Commission may remove the permit from the taxpayer's
2 premises and it shall be returned or renewed only upon the filing of
3 proper reports and payment of all taxes due under ~~this article~~ the
4 Oklahoma Sales Tax Code.

5 K. Permits are not required of persons coming within the
6 classification designated as Group Two. The Oklahoma Tax Commission
7 shall issue a limited permit to Group Five vendors. The permit
8 shall be in such form as the Tax Commission may prescribe.

9 L. Nothing in ~~this article~~ the Oklahoma Sales Tax Code shall be
10 construed to allow a permit holder to purchase, tax exempt, anything
11 for resale that the permit holder is not regularly in the business
12 of reselling.

13 M. All monies received pursuant to issuance of such permits to
14 do business shall be paid to the State Treasurer and placed to the
15 credit of the General Revenue Fund of the State Treasury.

16 N. Notwithstanding the provisions of Section 205 of this title,
17 the Oklahoma Tax Commission is authorized to release the following
18 information contained in the Master Sales and Use Tax File to
19 vendors:

- 20 1. Permit number;
- 21 2. Name in which permit is issued;
- 22 3. Name of business operation if different from ownership
23 (DBA);
- 24 4. Mailing address;

1 5. Business address;

2 6. Business class or Standard Industrial Code (SIC); and

3 7. Effective date and expiration or cancellation date of
4 permit.

5 Release of such information shall be limited to tax remitters
6 for the express purpose of determining the validity of sales permits
7 presented as evidence of purchasers' sales tax resale status under
8 this Code.

9 The provisions of this subsection shall be strictly interpreted
10 and shall not be construed as permitting the disclosure of any other
11 information contained in the records and files of the Tax Commission
12 relating to sales tax or to any other taxes.

13 This information may be provided on a subscription basis, with
14 periodic updates, and sufficient fee charged, not to exceed One
15 Hundred Fifty Dollars (\$150.00) per year, to offset the
16 administrative costs of providing the list. All revenue received by
17 the Oklahoma Tax Commission from such fees shall be deposited to the
18 credit of the Oklahoma Tax Commission Revolving Fund. No liability
19 whatsoever, civil or criminal, shall attach to any member of the Tax
20 Commission or any employee thereof for any error or omission in the
21 disclosure of information pursuant to this subsection.

22 O. If the Tax Commission enters into the Streamlined Sales and
23 Use Tax Agreement under Section 1354.18 of this title, the Tax
24 Commission is authorized to participate in its online sales and use

1 tax registration system and shall not require the payment of the
2 registration fees or other charges provided in this section from a
3 vendor who registers within the online system if the vendor has no
4 legal requirement to register.

5 SECTION 2. This act shall become effective July 1, 2021.

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