

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1850

By: David

AS INTRODUCED

An Act relating to sales and use tax; amending 68 O.S. 2011, Sections 1355 and 1404, which relate to exemption subject to other tax; modifying the basis upon which gross receipts are calculated for the purposes of sales tax and purchase price is calculated for the purposes of use tax; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 1355, is amended to read as follows:

Section 1355. There are hereby specifically exempted from the tax levied pursuant to the provisions of Section 1350 et seq. of this title:

1. Sale of gasoline, motor fuel, methanol, "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special

1 Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or
2 Section 701 et seq. of this title has been, or will be paid;

3 2. For the sale of motor vehicles or any optional equipment or
4 accessories attached to motor vehicles on which the Oklahoma Motor
5 Vehicle Excise Tax levied in Section 2101 et seq. of this title has
6 been, or will be paid, all but a portion of the levy provided under
7 Section 1354 of this title, equal to one and twenty-five-hundredths
8 percent (1.25%) of the gross receipts of such sales. For the
9 purposes of this paragraph, if the sale of a motor vehicle includes
10 a trade-in, gross receipts shall be calculated based only on the
11 difference between the value of the vehicle trade-in and the actual
12 sales price of the vehicle being purchased. Provided, the sale of
13 motor vehicles shall not be subject to any sales and use taxes
14 levied by cities, counties or other jurisdictions of the state;

15 3. Sale of crude petroleum or natural or casinghead gas and
16 other products subject to gross production tax pursuant to the
17 provisions of Section 1001 et seq. and Section 1101 et seq. of this
18 title. This exemption shall not apply when such products are sold
19 to a consumer or user for consumption or use, except when used for
20 injection into the earth for the purpose of promoting or
21 facilitating the production of oil or gas. This paragraph shall not
22 operate to increase or repeal the gross production tax levied by the
23 laws of this state;

1 4. Sale of aircraft on which the tax levied pursuant to the
2 provisions of Sections 6001 through 6007 of this title has been, or
3 will be paid or which are specifically exempt from such tax pursuant
4 to the provisions of Section 6003 of this title;

5 5. Sales from coin-operated devices on which the fee imposed by
6 Sections 1501 through 1512 of this title has been paid;

7 6. Leases of twelve (12) months or more of motor vehicles in
8 which the owners of the vehicles have paid the vehicle excise tax
9 levied by Section 2103 of this title;

10 7. Sales of charity game equipment on which a tax is levied
11 pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of
12 Title 3A of the Oklahoma Statutes, or which is sold to an
13 organization that is:

14 a. a veterans' organization exempt from taxation pursuant
15 to the provisions of paragraph (4), (7), (8), (10) or
16 (19) of subsection (c) of Section 501 of the United
17 States Internal Revenue Code of 1986, as amended, 26
18 U.S.C., Section 501(c) et seq.,

19 b. a group home for mentally disabled individuals exempt
20 from taxation pursuant to the provisions of paragraph
21 (3) of subsection (c) of Section 501 of the United
22 States Internal Revenue Code of 1986, as amended, 26
23 U.S.C., Section 501(c) et seq., or
24
25

1 c. a charitable health care organization which is exempt
2 from taxation pursuant to the provisions of paragraph
3 (3) of subsection (c) of Section 501 of the United
4 States Internal Revenue Code of 1986, as amended, 26
5 U.S.C., Section 501(c) et seq.;

6 8. Sales of cigarettes or tobacco products to:

7 a. a federally recognized Indian tribe or nation which
8 has entered into a compact with the State of Oklahoma
9 pursuant to the provisions of subsection C of Section
10 346 of this title or to a licensee of such a tribe or
11 nation, upon which the payment in lieu of taxes
12 required by the compact has been paid, or

13 b. a federally recognized Indian tribe or nation or to a
14 licensee of such a tribe or nation upon which the tax
15 levied pursuant to the provisions of Section 349.1 or
16 Section 426 of this title has been paid;

17 9. Leases of aircraft upon which the owners have paid the
18 aircraft excise tax levied by Section 6001 et seq. of this title or
19 which are specifically exempt from such tax pursuant to the
20 provisions of Section 6003 of this title;

21 10. The sale of low-speed or medium-speed electrical vehicles
22 on which the Oklahoma Motor Vehicle Excise Tax levied in Section
23 2101 et seq. of this title has been or will be paid;

1 11. Effective January 1, 2005, sales of cigarettes on which the
2 tax levied in Section 301 et seq. of this title or tobacco products
3 on which the tax levied in Section 401 et seq. of this title has
4 been paid; and

5 12. Sales of electricity at charging stations as defined by
6 ~~Section 2 of this act~~ 6502 of this title when the electricity is
7 sold by a charging station owner or operator for purposes of
8 charging an electric vehicle as defined by ~~Section 2 of this act~~
9 6502 of this title and the tax imposed pursuant to ~~Section 4 of this~~
10 ~~act~~ 6504 of this title is collected and remitted to the Oklahoma Tax
11 Commission.

12 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1404, is
13 amended to read as follows:

14 Section 1404. The provisions of Section 1401 et seq. of this
15 title shall not apply:

16 1. In respect to the use of any article of tangible personal
17 property brought into the State of Oklahoma by a nonresident
18 individual, visiting in this state, for his or her personal use or
19 enjoyment, while within the state;

20 2. In respect to the use of tangible personal property
21 purchased for resale before being used;

22 3. In respect to the use of any article of tangible personal
23 property on which a tax, equal to or in excess of that levied by
24 Section 1401 et seq. of this title, has been paid by the person
25

1 using such tangible personal property in this state, whether such
2 tax was levied under the laws of this state or some other state of
3 the United States. If any article of tangible personal property has
4 already been subjected to a tax, by this or any other state, in
5 respect to its sale or use, in an amount less than the tax imposed
6 by Section 1401 et seq. of this title, the provisions of Section
7 1401 et seq. of this title shall apply to it by a rate measured by
8 the difference only between the rate herein provided and the rate by
9 which the previous tax upon the sale or use was computed. Provided,
10 that no credit shall be given for taxes paid in another state, if
11 that state does not grant like credit for taxes paid in Oklahoma;

12 4. In respect to the use of tangible personal property now
13 specifically exempted from taxation under Oklahoma Sales Tax Code.
14 Provided, for the sale of motor vehicles or any optional equipment
15 or accessories attached to motor vehicles on which the Oklahoma
16 Motor Vehicle Excise Tax levied pursuant to Sections 2101 through
17 2108 of this title has been, or will be paid, the exceptions shall
18 apply to all but a portion of the levy provided under Section 1402
19 of this title, equal to one and twenty-five-hundredths percent
20 (1.25%) of the purchase price. For the purposes of this paragraph,
21 if the sale of a motor vehicle includes a trade-in, gross receipts
22 shall be calculated based only on the difference between the value
23 of the vehicle trade-in and the actual sales price of the vehicle
24 being purchased. Provided further, the sale of motor vehicles shall

1 not be subject to any sales and use taxes levied by cities, counties
2 or other jurisdictions of the state;

3 5. In respect to the use of any article or tangible personal
4 property brought into the state by an individual with intent to
5 become a resident of this state where such personal property is for
6 such individual's personal use or enjoyment;

7 6. In respect to the use of any article of tangible personal
8 property used or to be used by commercial airlines or railroads;

9 7. In respect to livestock purchased outside this state and
10 brought into this state for feeding or breeding purposes, and which
11 is later resold; and

12 8. Effective January 1, 1991, in respect to the use of rail
13 transportation cars to haul coal to coal-fired plants located in
14 this state which generate electric power.

15 SECTION 3. This act shall become effective November 1, 2022.

16
17 58-2-2542 QD 1/21/2022 2:35:48 PM
18
19
20
21
22
23
24
25