

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1487

By: Montgomery

6 AS INTRODUCED

7 An Act relating to sales tax code; amending 68 O.S.
8 2021, Sections 1355 and 1361, which relate to
9 exemptions and consumer to pay tax; requiring sales
10 tax to be paid in one or two installments; requiring
installments to be paid in certain period and manner;
and providing an effective date.

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

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

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

18 1. Sale of gasoline, motor fuel, methanol, "M-85" which is a
19 mixture of methanol and gasoline containing at least eighty-five
20 percent (85%) methanol, compressed natural gas, liquefied natural
21 gas, or liquefied petroleum gas on which the Motor Fuel Tax,
22 Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special
23 Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or
24 Section 701 et seq. of this title has been, or will be paid;

1 2. For the sale of motor vehicles or any optional equipment or
2 accessories attached to motor vehicles on which the Oklahoma Motor
3 Vehicle Excise Tax levied in Section 2101 et seq. of this title has
4 been, or will be paid, all but a portion of the levy provided under
5 Section 1354 of this title, equal to one and twenty-five-hundredths
6 percent (1.25%) of the gross receipts of such sales. Provided, the
7 sale of motor vehicles shall not be subject to any sales and use
8 taxes levied by cities, counties, or other jurisdictions of the
9 state. The portion of the tax levy provided under Section 1354 of
10 this title for the sale of motor vehicles or any optional equipment
11 or accessories attached to motor vehicles may be paid in one (1)
12 installment by the consumer in the same manner and time as the motor
13 vehicle excise tax for the motor vehicle is due and shall include a
14 quarter, half, or the full amount of tax levied, but shall be paid
15 in no more than two (2) installments. If paid in two (2)
16 installments the consumer shall pay the remaining amount of tax
17 levied during the first period for registration renewal pursuant to
18 the Oklahoma Vehicle License and Registration Act, Section 1101 et
19 seq. of Title 47 of the Oklahoma Statutes;

20 3. Sale of crude petroleum or natural or casinghead gas and
21 other products subject to gross production tax pursuant to the
22 provisions of Section 1001 et seq. and Section 1101 et seq. of this
23 title. This exemption shall not apply when such products are sold
24 to a consumer or user for consumption or use, except when used for

1 injection into the earth for the purpose of promoting or
2 facilitating the production of oil or gas. This paragraph shall not
3 operate to increase or repeal the gross production tax levied by the
4 laws of this state;

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

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

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

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

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

23 b. a group home for mentally disabled individuals exempt
24 from taxation pursuant to the provisions of paragraph
25

1 (3) of subsection (c) of Section 501 of the United
2 States Internal Revenue Code of 1986, as amended, 26
3 U.S.C., Section 501(c) et seq., or

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

9 8. Sales of cigarettes or tobacco products to:

10 a. a federally recognized Indian tribe or nation which
11 has entered into a compact with the State of Oklahoma
12 pursuant to the provisions of subsection C of Section
13 346 of this title or to a licensee of such a tribe or
14 nation, upon which the payment in lieu of taxes
15 required by the compact has been paid, or

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

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

1 10. The sale of low-speed or medium-speed electrical vehicles
2 on which the Oklahoma Motor Vehicle Excise Tax levied in Section
3 2101 et seq. of this title has been or will be paid;

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

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

15 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1361, is
16 amended to read as follows:

17 Section 1361. A. 1. Except as otherwise provided by
18 subsection C of this section, the tax levied by Section 1350 et seq.
19 of this title shall be paid by the consumer or user to the vendor as
20 trustee for and on account of this state. Except as otherwise
21 provided by subsection C of this section, each and every vendor in
22 this state shall collect from the consumer or user the full amount
23 of the tax levied by Section 1350 et seq. of this title, or an
24 amount equal as nearly as possible or practicable to the average

1 equivalent thereof. Every person required to collect any tax
2 imposed by Section 1350 et seq. of this title shall be personally
3 liable for the tax.

4 2. However, the Oklahoma Tax Commission shall relieve sellers
5 or certified service providers that follow the requirements of this
6 section from the tax otherwise applicable if it is determined that
7 the purchaser improperly claimed an exemption and to hold the
8 purchaser liable for the nonpayment of tax. This relief from
9 liability does not apply to:

- 10 a. a seller or certified service provider (CSP) who
11 fraudulently fails to collect tax,
- 12 b. a seller who solicits purchasers to participate in the
13 unlawful claim of an exemption, or
- 14 c. a seller who accepts an exemption certificate when the
15 purchaser claims an entity-based exemption when:
 - 16 (1) the subject of the transaction sought to be
17 covered by the exemption certificate is actually
18 received by the purchaser at a location operated
19 by the seller, and
 - 20 (2) the Tax Commission provides an exemption
21 certificate that clearly and affirmatively
22 indicates that the claimed exemption is not
23 available in this state.

1 3. The Tax Commission shall relieve a seller or CSP of the tax
2 otherwise applicable if the seller obtains a fully completed
3 exemption certificate or captures the relevant data elements
4 required by the Tax Commission within ninety (90) days subsequent to
5 the date of sale.

6 If the seller or CSP has not obtained an exemption certificate
7 or all relevant data elements as provided by the Tax Commission, the
8 seller may, within one hundred twenty (120) days subsequent to a
9 request for substantiation, either prove that the transaction was
10 not subject to tax by other means or obtain a fully completed
11 exemption certificate from the purchaser, taken in good faith.

12 The Tax Commission shall relieve a seller or CSP of the tax
13 otherwise applicable if it obtains a blanket exemption certificate
14 for a purchaser with which the seller has a recurring business
15 relationship. The Tax Commission shall not request from the seller
16 or CSP renewal of blanket certificates or updates of exemption
17 certificate information or data elements when there is a recurring
18 business relationship between the buyer and seller. For purposes of
19 this section, a recurring business relationship exists when a period
20 of no more than twelve (12) months elapses between sales
21 transactions.

22 4. Upon the granting of relief from liability to the vendor as
23 provided in this section, the purchaser shall be liable for the
24 remittance of the tax, interest and penalty due thereon and the Tax

1 Commission shall pursue collection thereof from the purchaser in any
2 manner in which sales tax may be collected from a vendor.

3 B. Except as otherwise provided by subsection C of this
4 section, vendors shall add the tax imposed by Section 1350 et seq.
5 of this title, or the average equivalent thereof, to the sales
6 price, charge, consideration, gross receipts or gross proceeds of
7 the sale of tangible personal property or services taxed by Section
8 1350 et seq. of this title, and when added such tax shall constitute
9 a part of such price or charge, shall be a debt from the consumer or
10 user to vendor until paid, and shall be recoverable at law in the
11 same manner as other debts.

12 C. A person who has obtained a direct payment permit as
13 provided in Section 1364.1 of this title shall accrue all taxes
14 imposed pursuant to Section 1354 or 1402 of this title on all
15 purchases made by the person pursuant to the permit at the time the
16 purchased items are first used or consumed in a taxable manner and
17 pay the accrued tax directly to the Oklahoma Tax Commission on
18 reports as required by Section 1365 of this title.

19 D. Except as otherwise provided by subsection C of this
20 section, a vendor who willfully or intentionally fails, neglects or
21 refuses to collect the full amount of the tax levied by Section 1350
22 et seq. of this title, or willfully or intentionally fails, neglects
23 or refuses to comply with the provisions of Section 1350 et seq. of
24 this title, or remits or rebates to a consumer or user, either

1 directly or indirectly, and by whatsoever means, all or any part of
2 the tax levied by Section 1350 et seq. of this title, or makes in
3 any form of advertising, verbally or otherwise, any statement which
4 implies that the vendor is absorbing the tax, or paying the tax for
5 the consumer or user by an adjustment of prices or at a price
6 including the tax, or in any manner whatsoever, shall be deemed
7 guilty of a misdemeanor, and upon conviction thereof shall be fined
8 not more than Five Hundred Dollars (\$500.00), and upon conviction
9 for a second or other subsequent offense shall be fined not more
10 than One Thousand Dollars (\$1,000.00), or incarcerated for not more
11 than sixty (60) days, or both. Provided, sales by vending machines
12 may be made at a stated price which includes state and any municipal
13 sales tax.

14 E. A consumer or user who willfully or intentionally fails,
15 neglects or refuses to pay the full amount of tax levied by Section
16 1350 et seq. of this title or willfully or intentionally uses a
17 sales tax permit or direct payment permit which is invalid, expired,
18 revoked, canceled or otherwise limited to a specific line of
19 business or willfully or intentionally issues a resale certificate
20 to a vendor to evade the tax levied by Section 1350 et seq. of this
21 title shall be subject to a penalty in the amount of Five Hundred
22 Dollars (\$500.00) per reporting period upon determination thereof,
23 which shall be apportioned as provided for the apportionment of the
24 tax.

1 F. Any sum or sums collected or accrued or required to be
2 collected or accrued in Section 1350 et seq. of this title shall be
3 deemed to be held in trust for the State of Oklahoma, and, as
4 trustee, the collecting vendor or holder of a direct payment permit
5 as provided for in Section 1364.1 of this title shall have a
6 fiduciary duty to the State of Oklahoma in regards to such sums and
7 shall be subject to the trust laws of this state.

8 G. Notwithstanding the provisions of this section, the sales
9 tax associated with the purchase of a motor vehicle ~~shall~~ may be
10 paid by the consumer in ~~the same manner and time as the motor~~
11 ~~vehicle excise tax for said motor vehicle is due~~ in one (1)
12 installment in the same manner and time as the motor vehicle excise
13 tax for the motor vehicle is due and shall include a quarter, half,
14 or the full amount of tax levied, but shall be paid in no more than
15 two (2) installments. If paid in two (2) installments the consumer
16 shall pay the remaining amount of tax levied during the first period
17 for registration renewal pursuant to the Oklahoma Vehicle License
18 and Registration Act, Section 1101 et seq. of Title 47 of the
19 Oklahoma Statutes.

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

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