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March 25, 2024

ENGROSSED HOUSE
BILL NO. 3346

By: Pfeiffer and Menz of the
House

and

Rader of the Senate

An Act relating to revenue and taxation; amending 68 O.S. 2021, Section 1364, as last amended by Section 3, Chapter 359, O.S.L. 2023 (68 O.S. Supp. 2023, Section 1364), which relate to state revenue administration; modifying provisions related to revocation of sales tax permit with respect to certain places of business based upon cessation of business activity; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 1364, as last amended by Section 3, Chapter 359, O.S.L. 2023 (68 O.S. Supp. 2023, Section 1364), is amended to read as follows:

Section 1364. Permits to do business.

A. Every person desiring to engage in a business within this state who would be designated as a Group One or Group Three vendor, pursuant to Section 1363 of this title, shall be required to secure from the Oklahoma Tax Commission every three (3) years a written

1 permit for a fee of Twenty Dollars (\$20.00) prior to engaging in
2 such business in this state. Each such person shall file with the
3 Tax Commission an application for a permit to engage in or transact
4 business in this state, setting forth such information as the Tax
5 Commission may require. The application shall be signed by the
6 owner of the business or representative of the business entity and
7 as a natural person, and, in the case of a corporation, as a legally
8 constituted officer thereof. To obtain a sales tax permit, an
9 individual or sole proprietor must be at least eighteen (18) years
10 of age. A parent or legal guardian may apply for a permit on behalf
11 of an individual or sole proprietor who is not at least eighteen
12 (18) years of age, provided the parent or legal guardian will be
13 considered the authorized user responsible for remitting state tax.

14 B. Upon receipt of an initial application, the Tax Commission
15 may issue a probationary permit effective for six (6) months which
16 will automatically renew for an additional thirty (30) months unless
17 the applicant receives written notification of the refusal of the
18 Commission to renew the permit. Within twenty (20) days of the date
19 of the written notification of the notice of refusal, the applicant
20 may request a hearing to show cause why the permit should be
21 renewed. Upon receipt of a request for a hearing, the Tax
22 Commission shall set the matter for hearing and give ten (10) days'
23 notice in writing of the time and place of the hearing. At the
24 hearing, the applicant shall set forth the qualifications of the

1 applicant for a permit and proof of compliance with all state tax
2 laws.

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

7 D. Upon verification that the applicant is a Group Three
8 vendor, the Tax Commission may require such applicant to furnish a
9 surety bond or other security as the Commission may deem necessary
10 to secure payment of taxes under this article, prior to issuance of
11 a permit for the place of business set forth in the application for
12 permit. Provided, the Tax Commission is hereby authorized to set
13 guidelines, by adoption of regulations, for the issuance of sales
14 tax permits. Pursuant to the guidelines the Tax Commission may
15 refuse to issue permits to any Group Three vendors, or any class of
16 vendors included in the whole classification of Group Three vendors,
17 if the Tax Commission determines that it is likely this state will
18 lose tax revenue due to the difficulty of enforcing this article for
19 any reasons stated in paragraph 21 of Section 1354 of this title.

20 E. A separate permit for each additional place of business to
21 be operated must be obtained from the Tax Commission for a fee of
22 Ten Dollars (\$10.00). Such permit shall be good for a period of
23 three (3) years. The Tax Commission shall grant and issue to each
24 applicant a separate permit for each place of business in this

1 state, upon proper application therefor and verification thereof by
2 the Tax Commission.

3 F. A permit is not assignable and shall be valid only for the
4 person in whose name it is issued and for the transaction of
5 business at the place designated therein. The permit shall at all
6 times be conspicuously displayed at the place of business for which
7 issued in a position where it can be easily seen. The permit shall
8 be in addition to all other permits required by the laws of this
9 state. Provided, if the location of the business is changed, such
10 person shall file with the Tax Commission an application for a
11 permit to engage in or transact business at the new location. Upon
12 issuance of the permit to the new location of such business, no
13 additional permit fee shall be due until the expiration of the
14 permit issued to the previous location of such business.

15 G. It shall be unlawful for any person coming within the class
16 designated as Group One or the class designated as Group Three to
17 engage in or transact a business of reselling tangible personal
18 property or services within this state unless a written permit or
19 permits shall have been issued to such person. Any person who
20 engages in a business subject to the provisions of this section
21 without a permit or permits, or after a permit has been suspended,
22 upon conviction, shall be guilty of a misdemeanor punishable by a
23 fine of not more than One Thousand Dollars (\$1,000.00). Any person
24 convicted of a second or subsequent violation hereof shall be guilty

1 of a felony and punishable by a fine of not more than Five Thousand
2 Dollars (\$5,000.00) or by a term of imprisonment in the custody of
3 the Department of Corrections for not more than two (2) years, or
4 both such fine and imprisonment.

5 H. Any person operating under a permit as provided in this
6 article shall, upon discontinuance of business by sale or otherwise,
7 return such permit to the Tax Commission for cancellation, together
8 with a remittance for any unpaid or accrued taxes. Failure to
9 surrender a permit and pay any and all accrued taxes will be
10 sufficient cause for the Tax Commission to refuse to issue a permit
11 subsequently to such person to engage in or transact any other
12 business in this state. In the case of a sale of any business, the
13 tax shall be deemed to be due on the sale of the fixtures and
14 equipment, and the Tax Commission shall not issue a permit to
15 continue or conduct the business to the purchaser until all tax
16 claims due this state have been settled.

17 I. All permits issued under the provisions of this article
18 shall expire three (3) years from the date of issuance at the close
19 of business at each place or location of the business within this
20 state. No refund of the fee shall be made if the business is
21 terminated prior to the expiration of the permit. Whenever the
22 sales tax reports required to be filed by Section 1365 of this title
23 indicate there is no business activity at a place of business for a
24 period of twelve (12) months, the Tax Commission, after giving

1 twenty (20) days' notice to the permit holder in writing of the time
2 and place of hearing to show cause why the sales tax permit for that
3 place of business should not be revoked, may revoke or suspend the
4 permit pursuant to an order of the Tax Commission after failure to
5 show cause or failure to appear by the permit holder.

6 J. Whenever a holder of a permit fails to comply with any
7 provisions of this article, the Tax Commission, after giving twenty
8 (20) days' notice in writing of the time and place of hearing to
9 show cause why the permit should not be revoked, may revoke or
10 suspend the permit pursuant to an order of the Tax Commission after
11 failure to show cause or failure to appear by the permit holder, the
12 permit to be renewed upon removal of cause or causes of revocation
13 or suspension. However, if a holder of a permit becomes delinquent
14 for a period of three (3) months or more in reporting or paying of
15 any tax due under this article, any duly authorized agent of the Tax
16 Commission may remove the permit from the taxpayer's premises and it
17 shall be returned or renewed only upon the filing of proper reports
18 and payment of all taxes due under this article.

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

1 L. Nothing in this article shall be construed to allow a permit
2 holder to purchase, tax exempt, anything for resale that the permit
3 holder is not regularly in the business of reselling.

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

7 N. Notwithstanding the provisions of Section 205 of this title,
8 the Oklahoma Tax Commission is authorized to release the following
9 information contained in the Master Sales and Use Tax File to
10 vendors:

- 11 1. Permit number;
- 12 2. Name in which permit is issued;
- 13 3. Name of business operation if different from ownership
14 (DBA);
- 15 4. Mailing address;
- 16 5. Business address;
- 17 6. Business class, North American Industry Classification
18 System (NAICS), or Standard Industrial Classification (SIC); and
- 19 7. Effective date and expiration or cancellation date of
20 permit.

21 Release of such information shall be limited to tax remitters
22 for the express purpose of determining the validity of sales permits
23 presented as evidence of purchasers' sales tax resale status under
24 this Oklahoma Tax Code.

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

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

14 O. If the Tax Commission enters into the Streamlined Sales and
15 Use Tax Agreement under Section 1354.18 of this title, the Tax
16 Commission is authorized to participate in its online sales and use
17 tax registration system and shall not require the payment of the
18 registration fees or other charges provided in this section from a
19 vendor who registers within the online system if the vendor has no
20 legal requirement to register.

21 SECTION 2. This act shall become effective July 1, 2024.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
4 March 25, 2024 - DO PASS
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