

1 **SENATE FLOOR VERSION**
February 27, 2023
2 **AS AMENDED**

3 SENATE BILL NO. 392

By: Stanley of the Senate

4 and

5 Boles of the House

6
7
8 **[sales tax exemption - limit on sales - effective**
9 **date]**

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 68 O.S. 2021, Section 1357, as
13 amended by Section 1, Chapter 206, O.S.L. 2022 (68 O.S. Supp. 2022,
14 Section 1357), is amended to read as follows:

15 Section 1357. Exemptions - General.

16 There are hereby specifically exempted from the tax levied by
17 the Oklahoma Sales Tax Code:

18 1. Transportation of school pupils to and from elementary
19 schools or high schools in motor or other vehicles;

20 2. Transportation of persons where the fare of each person does
21 not exceed One Dollar (\$1.00), or local transportation of persons
22 within the corporate limits of a municipality except by taxicabs;

23 3. Sales for resale to persons engaged in the business of
24 reselling the articles purchased, whether within or without the

1 state, provided that such sales to residents of this state are made
2 to persons to whom sales tax permits have been issued as provided in
3 the Oklahoma Sales Tax Code. This exemption shall not apply to the
4 sales of articles made to persons holding permits when such persons
5 purchase items for their use and which they are not regularly
6 engaged in the business of reselling; neither shall this exemption
7 apply to sales of tangible personal property to peddlers, solicitors
8 and other salespersons who do not have an established place of
9 business and a sales tax permit. The exemption provided by this
10 paragraph shall apply to sales of motor fuel or diesel fuel to a
11 Group Five vendor, but the use of such motor fuel or diesel fuel by
12 the Group Five vendor shall not be exempt from the tax levied by the
13 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
14 is exempt from sales tax when the motor fuel is for shipment outside
15 this state and consumed by a common carrier by rail in the conduct
16 of its business. The sales tax shall apply to the purchase of motor
17 fuel or diesel fuel in Oklahoma by a common carrier by rail when
18 such motor fuel is purchased for fueling, within this state, of any
19 locomotive or other motorized flanged wheel equipment;

20 4. Sales of advertising space in newspapers and periodicals;

21 5. Sales of programs relating to sporting and entertainment
22 events, and sales of advertising on billboards (including signage,
23 posters, panels, marquees or on other similar surfaces, whether
24 indoors or outdoors) or in programs relating to sporting and

1 entertainment events, and sales of any advertising, to be displayed
2 at or in connection with a sporting event, via the Internet,
3 electronic display devices or through public address or broadcast
4 systems. The exemption authorized by this paragraph shall be
5 effective for all sales made on or after January 1, 2001;

6 6. Sales of any advertising, other than the advertising
7 described by paragraph 5 of this section, via the Internet,
8 electronic display devices or through the electronic media including
9 radio, public address or broadcast systems, television (whether
10 through closed circuit broadcasting systems or otherwise), and cable
11 and satellite television, and the servicing of any advertising
12 devices;

13 7. Eggs, feed, supplies, machinery, and equipment purchased by
14 persons regularly engaged in the business of raising worms, fish,
15 any insect, or any other form of terrestrial or aquatic animal life
16 and used for the purpose of raising same for marketing. This
17 exemption shall only be granted and extended to the purchaser when
18 the items are to be used and in fact are used in the raising of
19 animal life as set out above. Each purchaser shall certify, in
20 writing, on the invoice or sales ticket retained by the vendor that
21 the purchaser is regularly engaged in the business of raising such
22 animal life and that the items purchased will be used only in such
23 business. The vendor shall certify to the Oklahoma Tax Commission
24 that the price of the items has been reduced to grant the full

1 benefit of the exemption. Violation hereof by the purchaser or
2 vendor shall be a misdemeanor;

3 8. Sale of natural or artificial gas and electricity, and
4 associated delivery or transmission services, when sold exclusively
5 for residential use. Provided, this exemption shall not apply to
6 any sales tax levied by a city or town, or a county or any other
7 jurisdiction in this state;

8 9. In addition to the exemptions authorized by Section 1357.6
9 of this title, sales of drugs sold pursuant to a prescription
10 written for the treatment of human beings by a person licensed to
11 prescribe the drugs, and sales of insulin and medical oxygen.
12 Provided, this exemption shall not apply to over-the-counter drugs;

13 10. Transfers of title or possession of empty, partially
14 filled, or filled returnable oil and chemical drums to any person
15 who is not regularly engaged in the business of selling, reselling
16 or otherwise transferring empty, partially filled or filled
17 returnable oil drums;

18 11. Sales of one-way utensils, paper napkins, paper cups,
19 disposable hot containers, and other one-way carry out materials to
20 a vendor of meals or beverages;

21 12. Sales of food or food products for home consumption which
22 are purchased in whole or in part with coupons issued pursuant to
23 the federal food stamp program as authorized by Sections 2011
24 through 2029 of Title 7 of the United States Code, as to that

1 portion purchased with such coupons. The exemption provided for
2 such sales shall be inapplicable to such sales upon the effective
3 date of any federal law that removes the requirement of the
4 exemption as a condition for participation by the state in the
5 federal food stamp program;

6 13. Sales of food or food products, or any equipment or
7 supplies used in the preparation of the food or food products to or
8 by an organization which:

9 a. is exempt from taxation pursuant to the provisions of
10 Section 501(c)(3) of the Internal Revenue Code, 26
11 U.S.C., Section 501(c)(3), and which provides and
12 delivers prepared meals for home consumption to
13 elderly or homebound persons as part of a program
14 commonly known as "Meals on Wheels" or "Mobile Meals",
15 or

16 b. is exempt from taxation pursuant to the provisions of
17 Section 501(c)(3) of the Internal Revenue Code, 26
18 U.S.C., Section 501(c)(3), and which receives federal
19 funding pursuant to the Older Americans Act of 1965,
20 as amended, for the purpose of providing nutrition
21 programs for the care and benefit of elderly persons;

22 14. a. Sales of tangible personal property or services to or
23 by organizations which are exempt from taxation
24 pursuant to the provisions of Section 501(c)(3) of the

1 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
2 and:

3 (1) are primarily involved in the collection and
4 distribution of food and other household products
5 to other organizations that facilitate the
6 distribution of such products to the needy and
7 such distributee organizations are exempt from
8 taxation pursuant to the provisions of Section
9 501(c)(3) of the Internal Revenue Code, 26
10 U.S.C., Section 501(c)(3), or

11 (2) facilitate the distribution of such products to
12 the needy.

13 b. Sales made in the course of business for profit or
14 savings, competing with other persons engaged in the
15 same or similar business shall not be exempt under
16 this paragraph;

17 15. Sales of tangible personal property or services to
18 children's homes which are located on church-owned property and are
19 operated by organizations exempt from taxation pursuant to the
20 provisions of the Internal Revenue Code, 26 U.S.C., Section
21 501(c)(3);

22 16. Sales of computers, data processing equipment, related
23 peripherals, and telephone, telegraph or telecommunications service
24 and equipment for use in a qualified aircraft maintenance or

1 manufacturing facility. For purposes of this paragraph, "qualified
2 aircraft maintenance or manufacturing facility" means a new or
3 expanding facility primarily engaged in aircraft repair, building or
4 rebuilding whether or not on a factory basis, whose total cost of
5 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)
6 and which employs at least two hundred fifty (250) new full-time-
7 equivalent employees, as certified by the Oklahoma Employment
8 Security Commission, upon completion of the facility. In order to
9 qualify for the exemption provided for by this paragraph, the cost
10 of the items purchased by the qualified aircraft maintenance or
11 manufacturing facility shall equal or exceed the sum of Two Million
12 Dollars (\$2,000,000.00);

13 17. Sales of tangible personal property consumed or
14 incorporated in the construction or expansion of a qualified
15 aircraft maintenance or manufacturing facility as defined in
16 paragraph 16 of this section. For purposes of this paragraph, sales
17 made to a contractor or subcontractor that has previously entered
18 into a contractual relationship with a qualified aircraft
19 maintenance or manufacturing facility for construction or expansion
20 of such a facility shall be considered sales made to a qualified
21 aircraft maintenance or manufacturing facility;

22 18. Sales of the following telecommunications services:

23 a. Interstate and International "800 service". "800
24 service" means a "telecommunications service" that

1 allows a caller to dial a toll-free number without
2 incurring a charge for the call. The service is
3 typically marketed under the name "800", "855", "866",
4 "877" and "888" toll-free calling, and any subsequent
5 numbers designated by the Federal Communications
6 Commission,

7 b. Interstate and International "900 service". "900
8 service" means an inbound toll "telecommunications
9 service" purchased by a subscriber that allows the
10 subscriber's customers to call in to the subscriber's
11 prerecorded announcement or live service. "900
12 service" does not include the charge for: collection
13 services provided by the seller of the
14 "telecommunications services" to the subscriber, or
15 service or product sold by the subscriber to the
16 subscriber's customer. The service is typically
17 marketed under the name "900" service, and any
18 subsequent numbers designated by the Federal
19 Communications Commission,

20 c. Interstate and International "private communications
21 service". "Private communications service" means a
22 "telecommunications service" that entitles the
23 customer to exclusive or priority use of a
24 communications channel or group of channels between or

1 among termination points, regardless of the manner in
2 which such channel or channels are connected, and
3 includes switching capacity, extension lines, stations
4 and any other associated services that are provided in
5 connection with the use of such channel or channels,

6 d. "Value-added nonvoice data service". "Value-added
7 nonvoice data service" means a service that otherwise
8 meets the definition of "telecommunications services"
9 in which computer processing applications are used to
10 act on the form, content, code or protocol of the
11 information or data primarily for a purpose other than
12 transmission, conveyance, or routing,

13 e. Interstate and International telecommunications
14 service which is:

15 (1) rendered by a company for private use within its
16 organization, or

17 (2) used, allocated or distributed by a company to
18 its affiliated group,

19 f. Regulatory assessments and charges including charges
20 to fund the Oklahoma Universal Service Fund, the
21 Oklahoma Lifeline Fund and the Oklahoma High Cost
22 Fund, and

23 g. Telecommunications nonrecurring charges including but
24 not limited to the installation, connection, change,

1 or initiation of telecommunications services which are
2 not associated with a retail consumer sale;

3 19. Sales of railroad track spikes manufactured and sold for
4 use in this state in the construction or repair of railroad tracks,
5 switches, sidings, and turnouts;

6 20. Sales of aircraft and aircraft parts provided such sales
7 occur at a qualified aircraft maintenance facility. As used in this
8 paragraph, "qualified aircraft maintenance facility" means a
9 facility operated by an air common carrier including one or more
10 component overhaul support buildings or structures in an area owned,
11 leased, or controlled by the air common carrier, at which there were
12 employed at least two thousand (2,000) full-time-equivalent
13 employees in the preceding year as certified by the Oklahoma
14 Employment Security Commission and which is primarily related to the
15 fabrication, repair, alteration, modification, refurbishing,
16 maintenance, building, or rebuilding of commercial aircraft or
17 aircraft parts used in air common carriage. For purposes of this
18 paragraph, "air common carrier" shall also include members of an
19 affiliated group as defined by Section 1504 of the Internal Revenue
20 Code, 26 U.S.C., Section 1504. Beginning July 1, 2012, sales of
21 machinery, tools, supplies, equipment, and related tangible personal
22 property and services used or consumed in the repair, remodeling, or
23 maintenance of aircraft, aircraft engines or aircraft component
24 parts which occur at a qualified aircraft maintenance facility;

1 21. Sales of machinery and equipment purchased and used by
2 persons and establishments primarily engaged in computer services
3 and data processing:

4 a. as defined under Industrial Group Numbers 7372 and
5 7373 of the Standard Industrial Classification (SIC)
6 Manual, latest version, which derive at least fifty
7 percent (50%) of their annual gross revenues from the
8 sale of a product or service to an out-of-state buyer
9 or consumer, and

10 b. as defined under Industrial Group Number 7374 of the
11 SIC Manual, latest version, which derive at least
12 eighty percent (80%) of their annual gross revenues
13 from the sale of a product or service to an out-of-
14 state buyer or consumer.

15 Eligibility for the exemption set out in this paragraph shall be
16 established, subject to review by the Tax Commission, by annually
17 filing an affidavit with the Tax Commission stating that the
18 facility so qualifies and such information as required by the Tax
19 Commission. For purposes of determining whether annual gross
20 revenues are derived from sales to out-of-state buyers or consumers,
21 all sales to the federal government shall be considered to be to an
22 out-of-state buyer or consumer;

23 22. Sales of prosthetic devices to an individual for use by
24 such individual. For purposes of this paragraph, "prosthetic

1 device" shall have the same meaning as provided in Section 1357.6 of
2 this title, but shall not include corrective eye glasses, contact
3 lenses, or hearing aids;

4 23. Sales of tangible personal property or services to a motion
5 picture or television production company to be used or consumed in
6 connection with an eligible production. For purposes of this
7 paragraph, "eligible production" means a documentary, special, music
8 video or a television commercial or television program that will
9 serve as a pilot for or be a segment of an ongoing dramatic or
10 situation comedy series filmed or taped for network or national or
11 regional syndication or a feature-length motion picture intended for
12 theatrical release or for network or national or regional
13 syndication or broadcast. The provisions of this paragraph shall
14 apply to sales occurring on or after July 1, 1996. In order to
15 qualify for the exemption, the motion picture or television
16 production company shall file any documentation and information
17 required to be submitted pursuant to rules promulgated by the Tax
18 Commission;

19 24. Sales of diesel fuel sold for consumption by commercial
20 vessels, barges and other commercial watercraft;

21 25. Sales of tangible personal property or services to tax-
22 exempt independent nonprofit biomedical research foundations that
23 provide educational programs for Oklahoma science students and
24

1 teachers and to tax-exempt independent nonprofit community blood
2 banks headquartered in this state;

3 26. Effective May 6, 1992, sales of wireless telecommunications
4 equipment to a vendor who subsequently transfers the equipment at no
5 charge or for a discounted charge to a consumer as part of a
6 promotional package or as an inducement to commence or continue a
7 contract for wireless telecommunications services;

8 27. Effective January 1, 1991, leases of rail transportation
9 cars to haul coal to coal-fired plants located in this state which
10 generate electric power;

11 28. Beginning July 1, 2005, sales of aircraft engine repairs,
12 modification, and replacement parts, sales of aircraft frame repairs
13 and modification, aircraft interior modification, and paint, and
14 sales of services employed in the repair, modification, and
15 replacement of parts of aircraft engines, aircraft frame and
16 interior repair and modification, and paint;

17 29. Sales of materials and supplies to the owner or operator of
18 a ship, motor vessel, or barge that is used in interstate or
19 international commerce if the materials and supplies:

- 20 a. are loaded on the ship, motor vessel, or barge and
21 used in the maintenance and operation of the ship,
22 motor vessel, or barge, or
23 b. enter into and become component parts of the ship,
24 motor vessel, or barge;

1 30. Sales of tangible personal property made at estate sales at
2 which such property is offered for sale on the premises of the
3 former residence of the decedent by a person who is not required to
4 be licensed pursuant to the Transient Merchant Licensing Act, or who
5 is not otherwise required to obtain a sales tax permit for the sale
6 of such property pursuant to the provisions of Section 1364 of this
7 title; provided:

- 8 a. such sale or event may not be held for a period
9 exceeding three (3) consecutive days,
- 10 b. the sale must be conducted within six (6) months of
11 the date of death of the decedent, and
- 12 c. the exemption allowed by this paragraph shall not be
13 allowed for property that was not part of the
14 decedent's estate;

15 31. Beginning January 1, 2004, sales of electricity and
16 associated delivery and transmission services, when sold exclusively
17 for use by an oil and gas operator for reservoir dewatering projects
18 and associated operations commencing on or after July 1, 2003, in
19 which the initial water-to-oil ratio is greater than or equal to
20 five-to-one water-to-oil, and such oil and gas development projects
21 have been classified by the Corporation Commission as a reservoir
22 dewatering unit;

23 32. Sales of prewritten computer software that is delivered
24 electronically. For purposes of this paragraph, "delivered

1 electronically" means delivered to the purchaser by means other than
2 tangible storage media;

3 33. Sales of modular dwelling units when built at a production
4 facility and moved in whole or in parts, to be assembled on-site,
5 and permanently affixed to the real property and used for
6 residential or commercial purposes. The exemption provided by this
7 paragraph shall equal forty-five percent (45%) of the total sales
8 price of the modular dwelling unit. For purposes of this paragraph,
9 "modular dwelling unit" means a structure that is not subject to the
10 motor vehicle excise tax imposed pursuant to Section 2103 of this
11 title;

12 34. Sales of tangible personal property or services to:

13 a. persons who are residents of Oklahoma and have been
14 honorably discharged from active service in any branch
15 of the Armed Forces of the United States or Oklahoma
16 National Guard and who have been certified by the
17 United States Department of Veterans Affairs or its
18 successor to be ~~in receipt of~~ awarded disability
19 compensation at the one-hundred-percent rate and the
20 disability shall be permanent and have been sustained
21 through military action or accident or resulting from
22 disease contracted while in such active service and
23 registered with the veterans registry created by the
24 Oklahoma Department of Veterans Affairs; provided,

1 that if the veteran received the sales tax exemption
2 prior to November 1, 2020, he or she shall be required
3 to register with the veterans registry prior to July
4 1, 2023, in order to remain qualified, or

5 b. the surviving spouse of the person in subparagraph a
6 of this paragraph if the person is deceased and the
7 spouse has not remarried and the surviving spouse of a
8 person who is determined by the United States
9 Department of Defense or any branch of the United
10 States military to have died while in the line of duty
11 if the spouse has not remarried. Sales for the
12 benefit of an eligible person to a spouse of the
13 eligible person or to a member of the household in
14 which the eligible person resides and who is
15 authorized to make purchases on the person's behalf,
16 when such eligible person is not present at the sale,
17 shall also be exempt for purposes of this paragraph.
18 The Oklahoma Tax Commission shall issue a separate
19 exemption card to a spouse of an eligible person or to
20 ~~a member~~ up to two (2) members of the household in
21 which the eligible person resides who ~~is~~ are
22 authorized to make purchases on the person's behalf,
23 if requested by the eligible person. Nothing herein
24 shall preclude the surviving spouse of a deceased

1 veteran from eligibility for the sales tax exemption
2 on the basis that the disability rating was awarded on
3 or after the veteran's date of death. Sales
4 qualifying for the exemption authorized by this
5 paragraph shall not exceed Twenty-five Thousand
6 Dollars (\$25,000.00) per year per individual while the
7 disabled veteran is living. Sales qualifying for the
8 exemption authorized by this paragraph shall not
9 exceed ~~One Thousand Dollars (\$1,000.00)~~ Ten Thousand
10 Dollars (\$10,000.00) per year for an unremarried
11 surviving spouse. Upon request of the Tax Commission,
12 a person asserting or claiming the exemption
13 authorized by this paragraph shall provide a
14 statement, executed under oath, that the total sales
15 amounts for which the exemption is applicable have not
16 exceeded Twenty-five Thousand Dollars (\$25,000.00) per
17 year per living disabled veteran or ~~One Thousand~~
18 ~~Dollars (\$1,000.00)~~ Ten Thousand Dollars (\$10,000.00)
19 per year for an unremarried surviving spouse. If the
20 amount of such exempt sales exceeds such amount, the
21 sales tax in excess of the authorized amount shall be
22 treated as a direct sales tax liability and may be
23 recovered by the Tax Commission in the same manner
24 provided by law for other taxes including penalty and

1 interest. The Tax Commission shall promulgate any
2 rules necessary to implement the provisions of this
3 paragraph, which shall include rules providing for the
4 disclosure of information about persons eligible for
5 the exemption authorized in this paragraph to the
6 Oklahoma Department of ~~Veteran's~~ Veterans Affairs, as
7 authorized in Section 205 of this title;

8 35. Sales of electricity to the operator, specifically
9 designated by the Corporation Commission, of a spacing unit or lease
10 from which oil is produced or attempted to be produced using
11 enhanced recovery methods including, but not limited to, increased
12 pressure in a producing formation through the use of water or
13 saltwater if the electrical usage is associated with and necessary
14 for the operation of equipment required to inject or circulate
15 fluids in a producing formation for the purpose of forcing oil or
16 petroleum into a wellbore for eventual recovery and production from
17 the wellhead. In order to be eligible for the sales tax exemption
18 authorized by this paragraph, the total content of oil recovered
19 after the use of enhanced recovery methods shall not exceed one
20 percent (1%) by volume. The exemption authorized by this paragraph
21 shall be applicable only to the state sales tax rate and shall not
22 be applicable to any county or municipal sales tax rate;

23 36. Sales of intrastate charter and tour bus transportation.
24 As used in this paragraph, "intrastate charter and tour bus

1 transportation" means the transportation of persons from one
2 location in this state to another location in this state in a motor
3 vehicle which has been constructed in such a manner that it may
4 lawfully carry more than eighteen persons, and which is ordinarily
5 used or rented to carry persons for compensation. Provided, this
6 exemption shall not apply to regularly scheduled bus transportation
7 for the general public;

8 37. Sales of vitamins, minerals, and dietary supplements by a
9 licensed chiropractor to a person who is the patient of such
10 chiropractor at the physical location where the chiropractor
11 provides chiropractic care or services to such patient. The
12 provisions of this paragraph shall not be applicable to any drug,
13 medicine, or substance for which a prescription by a licensed
14 physician is required;

15 38. Sales of goods, wares, merchandise, tangible personal
16 property, machinery, and equipment to a web search portal located in
17 this state which derives at least eighty percent (80%) of its annual
18 gross revenue from the sale of a product or service to an out-of-
19 state buyer or consumer. For purposes of this paragraph, "web
20 search portal" means an establishment classified under NAICS code
21 519130 which operates websites that use a search engine to generate
22 and maintain extensive databases of Internet addresses and content
23 in an easily searchable format;

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1 39. Sales of tangible personal property consumed or
2 incorporated in the construction or expansion of a facility for a
3 corporation organized under Section 437 et seq. of Title 18 of the
4 Oklahoma Statutes as a rural electric cooperative. For purposes of
5 this paragraph, sales made to a contractor or subcontractor that has
6 previously entered into a contractual relationship with a rural
7 electric cooperative for construction or expansion of a facility
8 shall be considered sales made to a rural electric cooperative;

9 40. Sales of tangible personal property or services to a
10 business primarily engaged in the repair of consumer electronic
11 goods including, but not limited to, cell phones, compact disc
12 players, personal computers, MP3 players, digital devices for the
13 storage and retrieval of information through hard-wired or wireless
14 computer or Internet connections, if the devices are sold to the
15 business by the original manufacturer of such devices and the
16 devices are repaired, refitted or refurbished for sale by the entity
17 qualifying for the exemption authorized by this paragraph directly
18 to retail consumers or if the devices are sold to another business
19 entity for sale to retail consumers;

20 41. On or after July 1, 2019, and prior to July 1, 2024, sales
21 or leases of rolling stock when sold or leased by the manufacturer,
22 regardless of whether the purchaser is a public services corporation
23 engaged in business as a common carrier of property or passengers by
24 railway, for use or consumption by a common carrier directly in the

1 rendition of public service. For purposes of this paragraph,
2 "rolling stock" means locomotives, autocars, and railroad cars and
3 "sales or leases" includes railroad car maintenance and retrofitting
4 of railroad cars for their further use only on the railways; and

5 42. Sales of gold, silver, platinum, palladium or other bullion
6 items such as coins and bars and legal tender of any nation, which
7 legal tender is sold according to its value as precious metal or as
8 an investment. As used in the paragraph, "bullion" means any
9 precious metal including, but not limited to, gold, silver,
10 platinum, and palladium, that is in such a state or condition that
11 its value depends upon its precious metal content and not its form.
12 The exemption authorized by this paragraph shall not apply to
13 fabricated metals that have been processed or manufactured for
14 artistic use or as jewelry.

15 SECTION 2. This act shall become effective November 1, 2023.

16 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
17 February 27, 2023 - DO PASS AS AMENDED
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