

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1236

By: Humphrey

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2021, Section 1355, as amended by Section 1,
9 Chapter 370, O.S.L. 2023 (68 O.S. Supp. 2024, Section
10 1355), which relates to exemptions subject to other
11 tax; modifying exemption amount; amending 68 O.S.
12 2021, Section 2106, which relates to exemptions in
13 lieu of treatment for motor vehicle excise tax;
14 removing exemption; amending 68 O.S. 2021, Section
15 1361, which relates to payment and collection
16 responsibilities for sales tax; removing payment
17 responsibility; amending 68 O.S. 2021, Section 1402,
18 which relates to tax on the storage, use, or other
19 consumption of property; removing payment
20 responsibility; amending 68 O.S. 2021, Section 1404,
21 as amended by Section 2, Chapter 370, O.S.L. 2023 (68
22 O.S. Supp. 2024, Section 1404), which relates to
23 exemptions from use tax; removing exemption;
24 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 1355, as
amended by Section 1, Chapter 370, O.S.L. 2023 (68 O.S. Supp. 2024,
Section 1355), is amended to read as follows:

Section 1355. Exemptions - Subject to other tax.

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

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

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

23 3. Sale of crude petroleum or natural or casinghead gas, and
24 other products subject to gross production tax pursuant to the

1 provisions of Section 1001 et seq. and Section 1101 et seq. of this
2 title. This exemption shall not apply when such products are sold
3 to a consumer or user for consumption or use, except when used for
4 injection into the earth for the purpose of promoting or
5 facilitating the production of oil or gas. This paragraph shall not
6 operate to increase or repeal the gross production tax levied by the
7 laws of this state;

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

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

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

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

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

3 b. a group home for mentally disabled individuals exempt
4 from taxation pursuant to the provisions of paragraph
5 (3) of subsection (c) of Section 501 of the United
6 States Internal Revenue Code of 1986, as amended, 26
7 U.S.C., Section 501(c) et seq., or

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

13 8. Sales of cigarettes or tobacco products to:

14 a. a federally recognized Indian tribe or nation which
15 has entered into a compact with the State of Oklahoma
16 pursuant to the provisions of subsection C of Section
17 346 of this title or to a licensee of such a tribe or
18 nation, upon which the payment in lieu of taxes
19 required by the compact has been paid, or

20 b. a federally recognized Indian tribe or nation or to a
21 licensee of such a tribe or nation upon which the tax
22 levied pursuant to the provisions of Section 349.1 or
23 Section 426 of this title has been paid;

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

5 10. The sale of low-speed or medium-speed electrical vehicles
6 on which the Oklahoma Motor Vehicle Excise Tax levied in Section
7 2101 et seq. of this title has been or will be paid;

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

12 12. Sales of electricity at charging stations as defined by
13 Section 6502 of this title when the electricity is sold by a
14 charging station owner or operator for purposes of charging an
15 electric vehicle as defined by Section 6502 of this title and the
16 tax imposed pursuant to Section 6504 of this title is collected and
17 remitted to the Oklahoma Tax Commission.

18 SECTION 2. AMENDATORY 68 O.S. 2021, Section 2106, is
19 amended to read as follows:

20 Section 2106. (a) The excise tax levied by this article is in
21 lieu of all other taxes on the transfer or the first registration in
22 this state of vehicles, including the optional equipment and
23 accessories attached thereto at the time of sale and sold as a part
24 thereof, except:

1 (1) Annual vehicle registration and license fees;

2 (2) The fee of One Dollar (\$1.00) for the issuance of a
3 certificate of title; and

4 (3) Any fee charged under the jurisdiction of the Corporation
5 Commission; ~~and~~

6 ~~(4) One and twenty-five hundredths percent (1.25%) of the gross~~
7 ~~receipts upon which the tax is levied by Section 1354 of this title.~~
8 ~~Provided, the sale of motor vehicles shall not be subject to any~~
9 ~~sales and use taxes levied by cities, counties or other~~
10 ~~jurisdictions of the state.~~

11 (b) This section shall not relieve any new or used motor
12 vehicle dealer or any other vendor of vehicles from liability for
13 the sales tax on all sales of accessories or optional equipment, or
14 parts, which are not attached to, and sold as a part thereof and
15 included in the sale of such vehicles.

16 SECTION 3. AMENDATORY 68 O.S. 2021, Section 1361, is
17 amended to read as follows:

18 Section 1361. Consumer to pay tax - Vendor to collect tax -
19 Penalties for failure to collect.

20 A. 1. Except as otherwise provided by subsection C of this
21 section, the tax levied by Section 1350 et seq. of this title shall
22 be paid by the consumer or user to the vendor as trustee for and on
23 account of this state. Except as otherwise provided by subsection C
24 of this section, each and every vendor in this state shall collect

1 from the consumer or user the full amount of the tax levied by
2 Section 1350 et seq. of this title, or an amount equal as nearly as
3 possible or practicable to the average equivalent thereof. Every
4 person required to collect any tax imposed by Section 1350 et seq.
5 of this title shall be personally liable for the tax.

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

- 12 a. a seller or certified service provider (CSP) who
13 fraudulently fails to collect tax,
- 14 b. a seller who solicits purchasers to participate in the
15 unlawful claim of an exemption, or
- 16 c. a seller who accepts an exemption certificate when the
17 purchaser claims an entity-based exemption when:
 - 18 (1) the subject of the transaction sought to be
19 covered by the exemption certificate is actually
20 received by the purchaser at a location operated
21 by the seller, and
 - 22 (2) the Tax Commission provides an exemption
23 certificate that clearly and affirmatively

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1 indicates that the claimed exemption is not
2 available in this state.

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

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

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

1 4. Upon the granting of relief from liability to the vendor as
2 provided in this section, the purchaser shall be liable for the
3 remittance of the tax, interest and penalty due thereon and the Tax
4 Commission shall pursue collection thereof from the purchaser in any
5 manner in which sales tax may be collected from a vendor.

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

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

22 D. Except as otherwise provided by subsection C of this
23 section, a vendor who willfully or intentionally fails, neglects or
24 refuses to collect the full amount of the tax levied by Section 1350

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

17 E. A consumer or user who willfully or intentionally fails,
18 neglects or refuses to pay the full amount of tax levied by Section
19 1350 et seq. of this title or willfully or intentionally uses a
20 sales tax permit or direct payment permit which is invalid, expired,
21 revoked, canceled or otherwise limited to a specific line of
22 business or willfully or intentionally issues a resale certificate
23 to a vendor to evade the tax levied by Section 1350 et seq. of this
24 title shall be subject to a penalty in the amount of Five Hundred

1 Dollars (\$500.00) per reporting period upon determination thereof,
2 which shall be apportioned as provided for the apportionment of the
3 tax.

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

11 ~~G. Notwithstanding the provisions of this section, the sales~~
12 ~~tax associated with the purchase of a motor vehicle shall be paid by~~
13 ~~the consumer in the same manner and time as the motor vehicle excise~~
14 ~~tax for said motor vehicle is due.~~

15 SECTION 4. AMENDATORY 68 O.S. 2021, Section 1402, is
16 amended to read as follows:

17 Section 1402. There is hereby levied and there shall be paid by
18 every person storing, using, or otherwise consuming within this
19 state, tangible personal property purchased or brought into this
20 state, an excise tax on the storage, use, or other consumption in
21 this state of such property at the rate of four and one-half percent
22 (4.5%) of the purchase price of such property. Said tax shall not
23 be levied on tangible personal property intended solely for use in
24 other states, but which is stored in Oklahoma pending shipment to

1 such other states or which is temporarily retained in Oklahoma for
2 the purpose of fabrication, repair, testing, alteration,
3 maintenance, or other service. The tax in such instances shall be
4 paid at the time of importation or storage of the property within
5 the state and a subsequent credit shall be taken by the taxpayer for
6 the amount so paid upon removal of the property from the state.
7 Such tax is hereby levied and shall be paid in an amount equal to
8 four and one-half percent (4.5%) of the purchase price of such
9 tangible personal property. ~~Notwithstanding the provisions of this~~
10 ~~section, the tax associated with a motor vehicle shall be paid by~~
11 ~~the consumer in the same manner and time as the motor vehicle excise~~
12 ~~tax for said motor vehicle is due.~~

13 SECTION 5. AMENDATORY 68 O.S. 2021, Section 1404, as
14 amended by Section 2, Chapter 370, O.S.L. 2023 (68 O.S. Supp. 2024,
15 Section 1404), is amended to read as follows:

16 Section 1404. ~~1.~~ A. In respect to the use of any article of
17 tangible personal property brought into the State of Oklahoma by a
18 nonresident individual, visiting in this state, for his or her
19 personal use or enjoyment, while within the state~~;~~.

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

22 ~~3.~~ C. 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

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 this state.

12 ~~4. D.~~ 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, the purchase~~
22 ~~price shall be calculated based only on the difference between the~~
23 ~~value of the trade-in vehicle and the actual purchase price of the~~
24 ~~vehicle being purchased. Provided further, the sale of motor~~

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

3 ~~5. E.~~ 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. F.~~ 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. G.~~ 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. H.~~ 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 6. This act shall become effective July 1, 2025.

16 SECTION 7. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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