

1 ENGROSSED HOUSE
2 BILL NO. 1900

By: Johnson, Sherrer and Russ
of the House

3 and

4 Barrington of the Senate
5
6

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 1365, which relates to sales tax;
9 increasing the vendor sales tax threshold that
10 requires semimonthly sales tax remittance; clarifying
11 process, required reporting and limitations;
12 requiring certain notice; requiring certain monthly
13 reporting and monthly electronic remittance; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1365, is
17 amended to read as follows:

18 Section 1365. When Tax Due - Reports - Records.

19 A. The tax levied hereunder shall be due and payable on the
20 first day of each month, except as herein provided, by any person
21 liable to remit or pay any tax due under Section 1350 et seq. of
22 this title. For the purpose of ascertaining the amount of the tax
23 payable, it shall be the duty of all tax remitters, on or before the
24 twentieth day of each month, to deliver to the Oklahoma Tax
Commission, upon forms prescribed and furnished by it, sales tax
reports signed under oath, showing the gross receipts or gross

1 proceeds arising from all sales taxable or nontaxable under Section
2 1350 et seq. of this title during the preceding calendar month.
3 Such reports shall show such further information as the Tax
4 Commission may require to enable it to compute correctly and collect
5 the tax herein levied. In addition to the information required on
6 reports, the Tax Commission may request and the taxpayer must
7 furnish any information deemed necessary for a correct computation
8 of the tax levied herein. Such tax remitter shall compute and remit
9 to the Tax Commission the required tax due for the preceding
10 calendar month, the remittance or remittances of the tax to
11 accompany the reports herein required. If not filed on or before
12 the twentieth day of such month, the tax shall be delinquent from
13 such date. Reports timely mailed shall be considered timely filed.
14 If a report is not timely filed, interest shall be charged from the
15 date the report should have been filed until the report is actually
16 filed.

17 B. Effective July 1, 2001, every person owing an average of One
18 Hundred Thousand Dollars (\$100,000.00) or more per month in total
19 sales taxes in the previous fiscal year shall remit the tax due and
20 shall participate in the Tax Commission's electronic funds transfer
21 and electronic data interchange program, according to the following
22 schedule:

23 1. For sales from the first day through the fifteenth day of
24 each month, the tax shall be due and payable on the twentieth day of

1 such month and remitted to the Tax Commission by electronic funds
2 transfer. A taxpayer will be considered to have complied with the
3 reporting requirements of this paragraph if, on or before the
4 twentieth day of such month, the taxpayer paid at least ninety
5 percent (90%) of the liability for that fifteen-day period or at
6 least fifty percent (50%) of the taxpayer's liability in the
7 immediate preceding calendar year for the same month as the month in
8 which the fifteen-day period occurs; and

9 2. For sales from the sixteenth day through the end of each
10 month, the tax shall be due and payable on the twentieth day of the
11 following month and remitted to the Tax Commission by electronic
12 funds transfer.

13 Every person required to remit the tax due pursuant to this
14 subsection shall file its monthly sales tax report in accordance
15 with the Tax Commission's electronic data interchange program on the
16 twentieth day of the month following the month the sales occurred.

17 Taxes not paid on or before the due dates specified in this
18 subsection shall be delinquent from such dates.

19 C. Effective March 1, 2002, every person owing an average of
20 Twenty-five Thousand Dollars (\$25,000.00) or more per month in total
21 sales taxes in the previous fiscal year shall remit the tax due and
22 shall participate in the Tax Commission's electronic funds transfer
23 and electronic data interchange program, according to the following
24 schedule:

1 1. For sales from the first day through the fifteenth day of
2 each month, the tax shall be due and payable on the twentieth day of
3 such month and remitted to the Tax Commission by electronic funds
4 transfer. A taxpayer will be considered to have complied with the
5 reporting requirements of this paragraph if, on or before the
6 twentieth day of such month, the taxpayer paid at least ninety
7 percent (90%) of the liability for that fifteen-day period or at
8 least fifty percent (50%) of the taxpayer's liability in the
9 immediate preceding calendar year for the same month as the month in
10 which the fifteen-day period occurs; and

11 2. For sales from the sixteenth day through the end of each
12 month, the tax shall be due and payable on the twentieth day of the
13 following month and remitted to the Tax Commission by electronic
14 funds transfer.

15 Every person required to remit the tax due pursuant to this
16 subsection shall file its monthly sales tax report in accordance
17 with the Tax Commission's electronic data interchange program on the
18 twentieth day of the month following the month the sales occurred.
19 Provided, persons primarily engaged in selling lumber and other
20 building materials, including cement and concrete, except for home
21 centers classified under Industry No. 444110 of the North American
22 Industrial Classification System (NAICS) Manual, shall remit and
23 report as required in subsection A of this section, with the
24 exception of taxes due on sales made during the periods of June 1

1 through June 15, 2002, which shall be remitted and reported on June
2 20, 2002, and June 1 through June 15, 2003, which shall be remitted
3 and reported on June 20, 2003.

4 Taxes not paid on or before the due dates specified in this
5 subsection shall be delinquent from such dates.

6 D. Effective October 1, 2003, every person owing an average of
7 Two Thousand Five Hundred Dollars (\$2,500.00) or more per month in
8 total sales taxes in the previous fiscal year shall remit the tax
9 due and shall participate in the Tax Commission's electronic funds
10 transfer and electronic data interchange program, according to the
11 following schedule:

12 1. For sales from the first day through the fifteenth day of
13 each month, the tax shall be due and payable on the twentieth day of
14 such month and remitted to the Tax Commission by electronic funds
15 transfer. A taxpayer will be considered to have complied with the
16 reporting requirements of this paragraph if, on or before the
17 twentieth day of such month, the taxpayer paid at least ninety
18 percent (90%) of the liability for that fifteen-day period or at
19 least fifty percent (50%) of the taxpayer's liability in the
20 immediate preceding calendar year for the same month as the month in
21 which the fifteen-day period occurs; and

22 2. For sales from the sixteenth day through the end of each
23 month, the tax shall be due and payable on the twentieth day of the
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1 following month and remitted to the Tax Commission by electronic
2 funds transfer.

3 Every person required to remit the tax due pursuant to this
4 subsection shall file its monthly sales tax report in accordance
5 with the Tax Commission's electronic data interchange program on the
6 twentieth day of the month following the month the sales occurred.
7 Provided, persons primarily engaged in selling lumber and other
8 building materials, including cement and concrete, except for home
9 centers classified under Industry No. 444110 of the North American
10 Industrial Classification System (NAICS) Manual, shall remit and
11 report as required in subsection A of this section.

12 Taxes not paid on or before the due dates specified in this
13 subsection shall be delinquent from such dates.

14 E. Effective October 1, 2016, every person owing an average of
15 Five Thousand Dollars (\$5,000.00) or more per month in total sales
16 taxes in the previous fiscal year shall remit the tax due and shall
17 participate in the Tax Commission's electronic funds transfer and
18 electronic data interchange program, according to the following
19 schedule:

20 1. For sales from the first day through the fifteenth day of
21 each month, the tax shall be due and payable on the twentieth day of
22 such month and remitted to the Tax Commission by electronic funds
23 transfer. A taxpayer will be considered to have complied with the
24 reporting requirements of this paragraph if, on or before the

1 twentieth day of such month, the taxpayer paid at least ninety
2 percent (90%) of the liability for that fifteen-day period or at
3 least fifty percent (50%) of the taxpayer's liability in the
4 immediate preceding calendar year for the same month as the month in
5 which the fifteen-day period occurs; and

6 2. For sales from the sixteenth day through the end of each
7 month, the tax shall be due and payable on the twentieth day of the
8 following month and remitted to the Tax Commission by electronic
9 funds transfer.

10 Every person required to remit the tax due pursuant to this
11 subsection shall file its monthly sales tax report in accordance
12 with the Tax Commission's electronic data interchange program on the
13 twentieth day of the month following the month the sales occurred.
14 Provided, persons primarily engaged in selling lumber and other
15 building materials, including cement and concrete, except for home
16 centers classified under Industry No. 444110 of the North American
17 Industrial Classification System (NAICS) Manual, shall remit and
18 report as required in subsection A of this section.

19 The Oklahoma Tax Commission shall notify each taxpayer whose
20 remittances for the previous year will subject them to the
21 provisions of this subsection. The taxpayer will not be subject to
22 any penalties and interest for not complying with the provisions of
23 this subsection until sixty (60) days after the receipt of such
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1 notice. Taxes not paid on or before the due dates specified in this
2 subsection shall be delinquent from such dates.

3 F. Effective October 1, 2016, every person owing an average of
4 Two Thousand Five Hundred Dollars (\$2,500.00) or more per month in
5 total sales taxes in the previous fiscal year shall compute and
6 remit the required tax due for the preceding calendar month
7 accompanied by the reports required by this section. The taxpayer
8 shall participate in the Tax Commission's electronic funds transfer
9 and electronic data interchange program. If not filed on or before
10 the twentieth day of such month, the tax shall be delinquent from
11 such date.

12 G. In lieu of monthly reports, tax remitters or taxpayers who
13 are classified as Group Three vendors in Section 1350 et seq. of
14 this title or tax remitters or taxpayers whose total amount of tax
15 liability for any one month does not exceed Fifty Dollars (\$50.00)
16 may file semiannual reports and remit taxes due thereunder to the
17 Tax Commission on or before the twentieth day of January and July of
18 each year for the preceding six-month period. If not paid on or
19 before the twentieth day of such month, the tax shall be delinquent.

20 ~~F.~~ H. It shall be the duty of every tax remitter required to
21 make a sales tax report and pay any tax under Section 1350 et seq.
22 of this title to keep and preserve suitable records of the gross
23 daily sales together with invoices of purchases and sales, bills of
24 lading, bills of sale and other pertinent records and documents

1 which may be necessary to determine the amount of tax due hereunder
2 and such other records of goods, wares and merchandise, and other
3 subjects of taxation under Section 1350 et seq. of this title as
4 will substantiate and prove the accuracy of such returns. It shall
5 also be the duty of every person who makes sales for resale to keep
6 records of such sales which shall be subject to examination by the
7 Tax Commission or any authorized employee thereof while engaged in
8 checking or auditing the records of any person required to make a
9 report under the terms of Section 1350 et seq. of this title. All
10 such records shall remain in Oklahoma and be preserved for a period
11 of three (3) years, unless the Tax Commission, in writing, has
12 authorized their destruction or disposal at an earlier date, and
13 shall be open to examination at any time by the Tax Commission or by
14 any of its duly authorized agents. The burden of proving that a
15 sale was not a taxable sale shall be upon the person who made the
16 sale.

17 ~~G.~~ I. The purchaser must provide the vendor with the
18 purchaser's sales tax permit number, the direct payment permit
19 number or a copy of the direct payment permit if the sale is made
20 within Oklahoma. In addition to furnishing the sales tax permit
21 number to the vendor, the purchaser must certify in writing to the
22 vendor that the purchaser is engaged in the business of reselling
23 the articles purchased. Failure to so certify, or to falsely
24 certify with the knowledge that the items purchased are not for

1 resale, shall be sufficient grounds upon which the Tax Commission
2 may cause the purchaser's sales tax permit to be canceled.

3 Certification may be made on the bill, invoice or sales slip
4 retained by the vendor or by furnishing a certification letter to
5 the seller which contains the following:

6 1. The name and address of the purchaser;

7 2. The sales tax permit number of the permit issued to the
8 purchaser;

9 3. A statement that the purchaser is engaged in the business of
10 reselling the articles purchased, if applicable;

11 4. A statement that the articles purchased are purchased for
12 resale, if applicable; and

13 5. The signature of the purchaser or a person authorized to
14 legally bind the purchaser.

15 ~~H.~~ J. If a sales tax permit holder purchases goods, wares and
16 merchandise from a vendor on a regular basis, then the permit holder
17 may furnish the certification letter described in subsection ~~6~~ I of
18 this section to the vendor and the vendor may subsequently make
19 sales of tangible personal property to the permit holder without
20 requiring a certification letter or certification statement for each
21 subsequent sale. The permit holder must notify the seller of all
22 purchases which are not for resale and remit the applicable amount
23 of tax thereon. If the permit holder fails to notify the vendor of
24 purchases not intended for resale, then sufficient grounds shall

1 exist for the Tax Commission to cancel the sales tax permit of the
2 permit holder who so failed to notify the vendor.

3 ~~F.~~ K. In lieu of filing reports as required in subsection A of
4 this section, tax remitters or taxpayers who agree to participate in
5 the Tax Commission's electronic funds transfer and electronic data
6 interchange programs may file according to the following schedule:

7 1. For sales from the first day through the fifteenth day of
8 each month, the tax shall be due and payable on the twentieth day of
9 such month and remitted to the Tax Commission by electronic funds
10 transfer. A taxpayer will be considered to have complied with the
11 reporting requirements of this paragraph if, on or before the
12 twentieth day of such month, the taxpayer paid at least ninety
13 percent (90%) of the liability for that fifteen-day period or at
14 least fifty percent (50%) of the taxpayer's liability in the
15 immediate preceding calendar year for the same month as the month in
16 which the fifteen-day period occurs; and

17 2. For sales from the sixteenth day through the end of each
18 month, the tax shall be due and payable on the twentieth day of the
19 following month and remitted to the Tax Commission by electronic
20 funds transfer.

21 Every person required to remit the tax due pursuant to this
22 subsection shall file its monthly sales tax report in accordance
23 with the Tax Commission's electronic data interchange program on the
24 twentieth day of the month following the month the sales occurred.

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Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

SECTION 2. This act shall become effective October 1, 2015.

Passed the House of Representatives the 3rd day of March, 2015.

Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2015.

Presiding Officer of the Senate