

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2355

By: Caldwell (Chad)

4
5
6 AS INTRODUCED

7 An Act relating to motor vehicles sales and
8 registration; amending 68 O.S. 2011, Section 1352, as
9 amended by Section 2, Chapter 311, O.S.L. 2016 (68
10 O.S. Supp. 2018, Section 1352), which relates to
11 definitions; modifying certain definition; amending
12 68 O.S. 2011, Section 1355, as last amended by
13 Section 1, Chapter 356, O.S.L. 2017 (68 O.S. Supp.
14 2018, Section 1355), which relates to sales tax
15 exemptions; adjusting amount upon which sales tax is
16 levied for motor vehicle sales; amending 68 O.S.
17 2011, Section 2103, as amended by Section 4, Chapter
18 316, O.S.L. 2012 (68 O.S. Supp. 2018, Section 2103),
19 which relates to taxes on transfer of vehicles;
20 providing that certain excise tax payment on certain
21 vehicles be in lieu of all sales and use taxes;
22 providing an effective date; and declaring an
23 emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 1352, as
amended by Section 2, Chapter 311, O.S.L. 2016 (68 O.S. Supp. 2018,
Section 1352), is amended to read as follows:

Section 1352. As used in the Oklahoma Sales Tax Code:

1. "Bundled transaction" means the retail sale of two or more
products, except real property and services to real property, where

1 the products are otherwise distinct and identifiable, and the
2 products are sold for one nonitemized price. A "bundled
3 transaction" does not include the sale of any products in which the
4 sales price varies, or is negotiable, based on the selection by the
5 purchaser of the products included in the transaction. As used in
6 this paragraph:

7 a. "distinct and identifiable products" does not include:

- 8 (1) packaging such as containers, boxes, sacks, bags,
9 and bottles, or other materials such as wrapping,
10 labels, tags, and instruction guides, that
11 accompany the retail sale of the products and are
12 incidental or immaterial to the retail sale
13 thereof, including but not limited to, grocery
14 sacks, shoeboxes, dry cleaning garment bags and
15 express delivery envelopes and boxes,
- 16 (2) a product provided free of charge with the
17 required purchase of another product. A product
18 is provided free of charge if the sales price of
19 the product purchased does not vary depending on
20 the inclusion of the product provided free of
21 charge, or
- 22 (3) items included in the definition of gross
23 receipts or sales price, pursuant to this
24 section,

1 b. "one nonitemized price" does not include a price that
2 is separately identified by product on binding sales
3 or other supporting sales-related documentation made
4 available to the customer in paper or electronic form
5 including, but not limited to an invoice, bill of
6 sale, receipt, contract, service agreement, lease
7 agreement, periodic notice of rates and services, rate
8 card, or price list.

9 A transaction that otherwise meets the definition of a bundled
10 transaction shall not be considered a bundled transaction if it is:

11 (1) the retail sale of tangible personal property and
12 a service where the tangible personal property is
13 essential to the use of the service, and is
14 provided exclusively in connection with the
15 service, and the true object of the transaction
16 is the service,

17 (2) the retail sale of services where one service is
18 provided that is essential to the use or receipt
19 of a second service and the first service is
20 provided exclusively in connection with the
21 second service and the true object of the
22 transaction is the second service,

23 (3) a transaction that includes taxable products and
24 nontaxable products and the purchase price or

1 sales price of the taxable products is de
2 minimis. For purposes of this subdivision, "de
3 minimis" means the seller's purchase price or
4 sales price of taxable products is ten percent
5 (10%) or less of the total purchase price or
6 sales price of the bundled products. Sellers
7 shall use either the purchase price or the sales
8 price of the products to determine if the taxable
9 products are de minimis. Sellers may not use a
10 combination of the purchase price and sales price
11 of the products to determine if the taxable
12 products are de minimis. Sellers shall use the
13 full term of a service contract to determine if
14 the taxable products are de minimis, or

15 (4) the retail sale of exempt tangible personal
16 property and taxable tangible personal property
17 where:

18 (a) the transaction includes food and food
19 ingredients, drugs, durable medical
20 equipment, mobility enhancing equipment,
21 over-the-counter drugs, prosthetic devices
22 or medical supplies, and

23 (b) the seller's purchase price or sales price
24 of the taxable tangible personal property is

1 fifty percent (50%) or less of the total
2 purchase price or sales price of the bundled
3 tangible personal property. Sellers may not
4 use a combination of the purchase price and
5 sales price of the tangible personal
6 property when making the fifty percent (50%)
7 determination for a transaction;

8 2. "Business" means any activity engaged in or caused to be
9 engaged in by any person with the object of gain, benefit, or
10 advantage, either direct or indirect;

11 3. "Commission" or "Tax Commission" means the Oklahoma Tax
12 Commission;

13 4. "Computer" means an electronic device that accepts
14 information in digital or similar form and manipulates it for a
15 result based on a sequence of instructions;

16 5. "Computer software" means a set of coded instructions
17 designed to cause a "computer" or automatic data processing
18 equipment to perform a task;

19 6. "Consumer" or "user" means a person to whom a taxable sale
20 of tangible personal property is made or to whom a taxable service
21 is furnished. "Consumer" or "user" includes all contractors to whom
22 a taxable sale of materials, supplies, equipment, or other tangible
23 personal property is made or to whom a taxable service is furnished
24 to be used or consumed in the performance of any contract;

1 7. "Contractor" means any person who performs any improvement
2 upon real property and who, as a necessary and incidental part of
3 performing such improvement, incorporates tangible personal property
4 belonging to or purchased by the person into the real property being
5 improved;

6 8. "Drug" means a compound, substance or preparation, and any
7 component of a compound, substance or preparation:

8 a. recognized in the official United States

9 Pharmacopoeia, official Homeopathic Pharmacopoeia of
10 the United States, or official National Formulary, and
11 supplement to any of them,

12 b. intended for use in the diagnosis, cure, mitigation,
13 treatment, or prevention of disease, or

14 c. intended to affect the structure or any function of
15 the body;

16 9. "Electronic" means relating to technology having electrical,
17 digital, magnetic, wireless, optical, electromagnetic, or similar
18 capabilities;

19 10. "Established place of business" means the location at which
20 any person regularly engages in, conducts, or operates a business in
21 a continuous manner for any length of time, that is open to the
22 public during the hours customary to such business, in which a stock
23 of merchandise for resale is maintained, and which is not exempted
24 by law from attachment, execution, or other species of forced sale

1 barring any satisfaction of any delinquent tax liability accrued
2 under the Oklahoma Sales Tax Code;

3 11. "Fair authority" means:

4 a. any county, municipality, school district, public
5 trust or any other political subdivision of this
6 state, or

7 b. any not-for-profit corporation acting pursuant to an
8 agency, operating or management agreement which has
9 been approved or authorized by the governing body of
10 any of the entities specified in subparagraph a of
11 this paragraph which conduct, operate or produce a
12 fair commonly understood to be a county, district or
13 state fair;

14 12. a. "Gross receipts", "gross proceeds" or "sales price"
15 means the total amount of consideration, including
16 cash, credit, property and services, for which
17 personal property or services are sold, leased or
18 rented, valued in money, whether received in money or
19 otherwise, without any deduction for the following:
20 (1) the seller's cost of the property sold,
21 (2) the cost of materials used, labor or service
22 cost,

23
24

- 1 (3) interest, losses, all costs of transportation to
2 the seller, all taxes imposed on the seller, and
3 any other expense of the seller,
4 (4) charges by the seller for any services necessary
5 to complete the sale, other than delivery and
6 installation charges, and
7 (5) delivery charges and installation charges, unless
8 separately stated on the invoice, billing or
9 similar document given to the purchaser, ~~and~~
10 ~~(6) credit for any trade-in.~~

11 b. Such term shall not include:

- 12 (1) discounts, including cash, term, or coupons that
13 are not reimbursed by a third party that are
14 allowed by a seller and taken by a purchaser on a
15 sale,
16 (2) interest, financing, and carrying charges from
17 credit extended on the sale of personal property
18 or services, if the amount is separately stated
19 on the invoice, bill of sale or similar document
20 given to the purchaser, and
21 (3) any taxes legally imposed directly on the
22 consumer that are separately stated on the
23 invoice, bill of sale or similar document given
24 to the purchaser.

1 c. Such term shall include consideration received by the
2 seller from third parties if:

3 (1) the seller actually receives consideration from a
4 party other than the purchaser and the
5 consideration is directly related to a price
6 reduction or discount on the sale,

7 (2) the seller has an obligation to pass the price
8 reduction or discount through to the purchaser,

9 (3) the amount of the consideration attributable to
10 the sale is fixed and determinable by the seller
11 at the time of the sale of the item to the
12 purchaser, and

13 (4) one of the following criteria is met:

14 (a) the purchaser presents a coupon, certificate
15 or other documentation to the seller to
16 claim a price reduction or discount where
17 the coupon, certificate or documentation is
18 authorized, distributed or granted by a
19 third party with the understanding that the
20 third party will reimburse any seller to
21 whom the coupon, certificate or
22 documentation is presented,

23 (b) the purchaser identifies himself or herself
24 to the seller as a member of a group or

1 organization entitled to a price reduction
2 or discount; provided, a "preferred
3 customer" card that is available to any
4 patron does not constitute membership in
5 such a group, or

6 (c) the price reduction or discount is
7 identified as a third-party price reduction
8 or discount on the invoice received by the
9 purchaser or on a coupon, certificate or
10 other documentation presented by the
11 purchaser;

12 13. a. "Maintaining a place of business in this state" means
13 and shall be presumed to include:

14 (1) (a) utilizing or maintaining in this state,
15 directly or by subsidiary, an office,
16 distribution house, sales house, warehouse,
17 or other physical place of business, whether
18 owned or operated by the vendor or any other
19 person, other than a common carrier acting
20 in its capacity as such, or

21 (b) having agents operating in this state,
22 whether the place of business or agent
23 is within this state temporarily or
24 permanently or whether the person or

1 agent is authorized to do business
2 within this state, and

3 (2) the presence of any person, other than a common
4 carrier acting in its capacity as such, that has
5 substantial nexus in this state and that:

6 (a) sells a similar line of products as the
7 vendor and does so under the same or a
8 similar business name,

9 (b) uses trademarks, service marks or trade
10 names in this state that are the same
11 or substantially similar to those used
12 by the vendor,

13 (c) delivers, installs, assembles or
14 performs maintenance services for the
15 vendor,

16 (d) facilitates the vendor's delivery of
17 property to customers in the state by
18 allowing the vendor's customers to pick
19 up property sold by the vendor at an
20 office, distribution facility,
21 warehouse, storage place or similar
22 place of business maintained by the
23 person in this state, or
24

1 (e) conducts any other activities in this state
2 that are significantly associated with the
3 vendor's ability to establish and maintain a
4 market in this state for the vendor's sale.

5 b. The presumptions in divisions (1) and (2) of
6 subparagraph a of this paragraph may be rebutted by
7 demonstrating that the person's activities in this
8 state are not significantly associated with the
9 vendor's ability to establish and maintain a market in
10 this state for the vendor's sales.

11 c. Any ruling, agreement or contract, whether written or
12 oral, express or implied, between a person and
13 executive branch of this state, or any other state
14 agency or department, stating, agreeing or ruling that
15 the person is not "maintaining a place of business in
16 this state" or is not required to collect sales and
17 use tax in this state despite the presence of a
18 warehouse, distribution center or fulfillment center
19 in this state that is owned or operated by the vendor
20 or an affiliated person of the vendor shall be null
21 and void unless it is specifically approved by a
22 majority vote of each house of the Oklahoma
23 Legislature;

24

1 14. "Manufacturing" means and includes the activity of
2 converting or conditioning tangible personal property by changing
3 the form, composition, or quality of character of some existing
4 material or materials, including natural resources, by procedures
5 commonly regarded by the average person as manufacturing,
6 compounding, processing or assembling, into a material or materials
7 with a different form or use. "Manufacturing" does not include
8 extractive industrial activities such as mining, quarrying, logging,
9 and drilling for oil, gas and water, nor oil and gas field
10 processes, such as natural pressure reduction, mechanical
11 separation, heating, cooling, dehydration and compression;

12 15. "Manufacturing operation" means the designing,
13 manufacturing, compounding, processing, assembling, warehousing, or
14 preparing of articles for sale as tangible personal property. A
15 manufacturing operation begins at the point where the materials
16 enter the manufacturing site and ends at the point where a finished
17 product leaves the manufacturing site. "Manufacturing operation"
18 does not include administration, sales, distribution,
19 transportation, site construction, or site maintenance. Extractive
20 activities and field processes shall not be deemed to be a part of a
21 manufacturing operation even when performed by a person otherwise
22 engaged in manufacturing;

23 16. "Manufacturing site" means a location where a manufacturing
24 operation is conducted, including a location consisting of one or

1 more buildings or structures in an area owned, leased, or controlled
2 by a manufacturer;

3 17. "Over-the-counter drug" means a drug that contains a label
4 that identifies the product as a drug as required by 21 C.F.R.,
5 Section 201.66. The over-the-counter-drug label includes:

- 6 a. a "Drug Facts" panel, or
- 7 b. a statement of the "active ingredient(s)" with a list
8 of those ingredients contained in the compound,
9 substance or preparation;

10 18. "Person" means any individual, company, partnership, joint
11 venture, joint agreement, association, mutual or otherwise, limited
12 liability company, corporation, estate, trust, business trust,
13 receiver or trustee appointed by any state or federal court or
14 otherwise, syndicate, this state, any county, city, municipality,
15 school district, any other political subdivision of the state, or
16 any group or combination acting as a unit, in the plural or singular
17 number;

18 19. "Prescription" means an order, formula or recipe issued in
19 any form of oral, written, electronic, or other means of
20 transmission by a duly licensed "practitioner" as defined in Section
21 1357.6 of this title;

22 20. "Prewritten computer software" means "computer software",
23 including prewritten upgrades, which is not designed and developed
24 by the author or other creator to the specifications of a specific

1 purchaser. The combining of two or more prewritten computer
2 software programs or prewritten portions thereof does not cause the
3 combination to be other than prewritten computer software.
4 Prewritten software includes software designed and developed by the
5 author or other creator to the specifications of a specific
6 purchaser when it is sold to a person other than the purchaser.
7 Where a person modifies or enhances computer software of which the
8 person is not the author or creator, the person shall be deemed to
9 be the author or creator only of such person's modifications or
10 enhancements. Prewritten software or a prewritten portion thereof
11 that is modified or enhanced to any degree, where such modification
12 or enhancement is designed and developed to the specifications of a
13 specific purchaser, remains prewritten software; provided, however,
14 that where there is a reasonable, separately stated charge or an
15 invoice or other statement of the price given to the purchaser for
16 such modification or enhancement, such modification or enhancement
17 shall not constitute prewritten computer software;

18 21. "Repairman" means any person who performs any repair
19 service upon tangible personal property of the consumer, whether or
20 not the repairman, as a necessary and incidental part of performing
21 the service, incorporates tangible personal property belonging to or
22 purchased by the repairman into the tangible personal property being
23 repaired;

24

1 22. "Sale" means the transfer of either title or possession of
2 tangible personal property for a valuable consideration regardless
3 of the manner, method, instrumentality, or device by which the
4 transfer is accomplished in this state, or other transactions as
5 provided by this paragraph, including but not limited to:

- 6 a. the exchange, barter, lease, or rental of tangible
7 personal property resulting in the transfer of the
8 title to or possession of the property,
- 9 b. the disposition for consumption or use in any business
10 or by any person of all goods, wares, merchandise, or
11 property which has been purchased for resale,
12 manufacturing, or further processing,
- 13 c. the sale, gift, exchange, or other disposition of
14 admission, dues, or fees to clubs, places of
15 amusement, or recreational or athletic events or for
16 the privilege of having access to or the use of
17 amusement, recreational, athletic or entertainment
18 facilities,
- 19 d. the furnishing or rendering of services taxable under
20 the Oklahoma Sales Tax Code, and
- 21 e. any use of motor fuel or diesel fuel by a supplier, as
22 defined in Section 500.3 of this title, upon which
23 sales tax has not previously been paid, for purposes
24 other than to propel motor vehicles over the public

1 highways of this state. Motor fuel or diesel fuel
2 purchased outside the state and used for purposes
3 other than to propel motor vehicles over the public
4 highways of this state shall not constitute a sale
5 within the meaning of this paragraph;

6 23. "Sale for resale" means:

- 7 a. a sale of tangible personal property to any purchaser
8 who is purchasing tangible personal property for the
9 purpose of reselling it within the geographical limits
10 of the United States of America or its territories or
11 possessions, in the normal course of business either
12 in the form or condition in which it is purchased or
13 as an attachment to or integral part of other tangible
14 personal property,
- 15 b. a sale of tangible personal property to a purchaser
16 for the sole purpose of the renting or leasing, within
17 the geographical limits of the United States of
18 America or its territories or possessions, of the
19 tangible personal property to another person by the
20 purchaser, but not if incidental to the renting or
21 leasing of real estate,
- 22 c. a sale of tangible goods and products within this
23 state if, simultaneously with the sale, the vendor
24 issues an export bill of lading, or other

1 documentation that the point of delivery of such goods
2 for use and consumption is in a foreign country and
3 not within the territorial confines of the United
4 States. If the vendor is not in the business of
5 shipping the tangible goods and products that are
6 purchased from the vendor, the buyer or purchaser of
7 the tangible goods and products is responsible for
8 providing an export bill of lading or other
9 documentation to the vendor from whom the tangible
10 goods and products were purchased showing that the
11 point of delivery of such goods for use and
12 consumption is a foreign country and not within the
13 territorial confines of the United States, or

14 d. a sales of any carrier access services, right of
15 access services, telecommunications services to be
16 resold, or telecommunications used in the subsequent
17 provision of, use as a component part of, or
18 integrated into, end-to-end telecommunications
19 service;

20 24. "Tangible personal property" means personal property that
21 can be seen, weighed, measured, felt, or touched or that is in any
22 other manner perceptible to the senses. "Tangible personal
23 property" includes electricity, water, gas, steam and prewritten
24

1 computer software. This definition shall be applicable only for
2 purposes of the Oklahoma Sales Tax Code;

3 25. "Taxpayer" means any person liable to pay a tax imposed by
4 the Oklahoma Sales Tax Code;

5 26. "Tax period" or "taxable period" means the calendar period
6 or the taxpayer's fiscal period for which a taxpayer has obtained a
7 permit from the Tax Commission to use a fiscal period in lieu of a
8 calendar period;

9 27. "Tax remitter" means any person required to collect,
10 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
11 tax remitter who fails, for any reason, to collect, report, or remit
12 the tax shall be considered a taxpayer for purposes of assessment,
13 collection, and enforcement of the tax imposed by the Oklahoma Sales
14 Tax Code; and

15 28. "Vendor" means:

16 a. any person making sales of tangible personal property
17 or services in this state, the gross receipts or gross
18 proceeds from which are taxed by the Oklahoma Sales
19 Tax Code,

20 b. any person maintaining a place of business in this
21 state and making sales of tangible personal property
22 or services, whether at the place of business or
23 elsewhere, to persons within this state, the gross
24

1 receipts or gross proceeds from which are taxed by the
2 Oklahoma Sales Tax Code,

3 c. any person who solicits business by employees,
4 independent contractors, agents, or other
5 representatives in this state, and thereby makes sales
6 to persons within this state of tangible personal
7 property or services, the gross receipts or gross
8 proceeds from which are taxed by the Oklahoma Sales
9 Tax Code, or

10 d. any person, pursuant to an agreement with the person
11 with an ownership interest in or title to tangible
12 personal property, who has been entrusted with the
13 possession of any such property and has the power to
14 designate who is to obtain title, to physically
15 transfer possession of, or otherwise make sales of the
16 property.

17 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1355, as
18 last amended by Section 1, Chapter 356, O.S.L. 2017 (68 O.S. Supp.
19 2018, Section 1355), is amended to read as follows:

20 Section 1355. There are hereby specifically exempted from the
21 tax levied pursuant to the provisions of Section 1350 et seq. of
22 this title:

23 1. Sale of gasoline, motor fuel, methanol, "M-85" which is a
24 mixture of methanol and gasoline containing at least eighty-five

1 percent (85%) methanol, compressed natural gas, liquefied natural
2 gas, or liquefied petroleum gas on which the Motor Fuel Tax,
3 Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special
4 Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or
5 Section 701 et seq. of this title has been, or will be paid;

6 2. For the sale of motor vehicles or any optional equipment or
7 accessories attached to motor vehicles on which the Oklahoma Motor
8 Vehicle Excise Tax levied in Section 2101 et seq. of this title has
9 been, or will be paid, all but a portion of the levy provided under
10 Section 1354 of this title, equal to one and twenty-five-hundredths
11 percent (1.25%) of the gross receipts less the amount of credit for
12 any trade-in of such sales. Provided, the sale of motor vehicles
13 shall not be subject to any sales and use taxes levied by cities,
14 counties or other jurisdictions of the state;

15 3. Sale of crude petroleum or natural or casinghead gas and
16 other products subject to gross production tax pursuant to the
17 provisions of Section 1001 et seq. and Section 1101 et seq. of this
18 title. This exemption shall not apply when such products are sold
19 to a consumer or user for consumption or use, except when used for
20 injection into the earth for the purpose of promoting or
21 facilitating the production of oil or gas. This paragraph shall not
22 operate to increase or repeal the gross production tax levied by the
23 laws of this state;

24

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

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

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

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

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

19 b. a group home for mentally disabled individuals exempt
20 from taxation pursuant to the provisions of paragraph
21 (3) of subsection (c) of Section 501 of the United
22 States Internal Revenue Code of 1986, as amended, 26
23 U.S.C., Section 501(c) et seq., or
24

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

6 8. Sales of cigarettes or tobacco products to:

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

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

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

21 10. The sale of low-speed or medium-speed electrical vehicles
22 on which the Oklahoma Motor Vehicle Excise Tax levied in Section
23 2101 et seq. of this title has been or will be paid; and
24

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

5 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2103, as
6 amended by Section 4, Chapter 316, O.S.L. 2012 (68 O.S. Supp. 2018,
7 Section 2103), is amended to read as follows:

8 Section 2103. A. 1. Except as otherwise provided in Sections
9 2101 through 2108 of this title, there shall be levied an excise tax
10 upon the transfer of legal ownership of any vehicle registered in
11 this state and upon the use of any vehicle registered in this state
12 and upon the use of any vehicle registered for the first time in
13 this state. Except for persons that possess an agricultural
14 exemption pursuant to Section 1358.1 of this title, the excise tax
15 shall be levied upon transfers of legal ownership of all-terrain
16 vehicles and motorcycles used exclusively off roads and highways
17 which occur on or after July 1, 2005, and upon transfers of legal
18 ownership of utility vehicles used exclusively off roads and
19 highways which occur on or after July 1, 2008. The excise tax for
20 new and used all-terrain vehicles, utility vehicles and motorcycles
21 used exclusively off roads and highways shall be levied at four and
22 one-half percent (4 1/2%) of the actual sales price of each new and
23 used all-terrain vehicle and motorcycle used exclusively off roads
24 and highways before any discounts or credits are given for a trade-

1 in. Provided, the minimum excise tax assessment for such all-
2 terrain vehicles, utility vehicles and motorcycles used exclusively
3 off roads and highways shall be Five Dollars (\$5.00). The excise
4 tax for new vehicles shall be levied at three and one-fourth percent
5 (3 1/4%) of the value of each new vehicle. The excise tax for used
6 vehicles shall be as follows:

- 7 a. from October 1, 2000, until June 30, 2001, Twenty
8 Dollars (\$20.00) on the first One Thousand Dollars
9 (\$1,000.00) or less of value of such vehicle, and
10 three and one-fourth percent (3 1/4%) of the remaining
11 value of such vehicle,
- 12 b. for the year beginning July 1, 2001, and ending June
13 30, 2002, Twenty Dollars (\$20.00) on the first One
14 Thousand Two Hundred Fifty Dollars (\$1,250.00) or less
15 of value of such vehicle, and three and one-fourth
16 percent (3 1/4%) of the remaining value of such
17 vehicle, and
- 18 c. for the year beginning July 1, 2002, and all
19 subsequent years, Twenty Dollars (\$20.00) on the first
20 One Thousand Five Hundred Dollars (\$1,500.00) or less
21 of value of such vehicle, and three and one-fourth
22 percent (3 1/4%) of the remaining value of such
23 vehicle.

24

1 2. There shall be levied an excise tax of Ten Dollars (\$10.00)
2 for any:

3 a. truck or truck-tractor registered under the provisions
4 of subsection A of Section 1133 of Title 47 of the
5 Oklahoma Statutes, for a laden weight or combined
6 laden weight of fifty-five thousand (55,000) pounds or
7 more,

8 b. trailer or semitrailer registered under subsection C
9 of Section 1133 of Title 47 of the Oklahoma Statutes,
10 which is primarily designed to transport cargo over
11 the highways of this state and generally recognized as
12 such, and

13 c. frac tank, as defined by Section 54 of Title 17 of the
14 Oklahoma Statutes, and registered under subsection C
15 of Section 1133 of Title 47 of the Oklahoma Statutes.

16 Except for frac tanks, the excise tax levied pursuant to this
17 paragraph shall not apply to special mobilized machinery, trailers,
18 or semitrailers manufactured, modified or remanufactured for the
19 purpose of providing services other than transporting cargo over the
20 highways of this state. The excise tax levied pursuant to this
21 paragraph shall also not apply to pickup trucks, vans, or sport
22 utility vehicles.

23 3. The tax levied pursuant to this section shall be due at the
24 time of the transfer of legal ownership or first registration in

1 this state of such vehicle; provided, the tax shall not be due at
2 the time of the issuance of a certificate of title for an all-
3 terrain vehicle, utility vehicle or motorcycle used exclusively off
4 roads and highways which is not required to be registered but which
5 the owner chooses to register pursuant to the provisions of
6 subsection B of Section 1115.3 of Title 47 of the Oklahoma Statutes,
7 and shall be collected by the Oklahoma Tax Commission or Corporation
8 Commission, as applicable, or an appointed motor license agent, at
9 the time of the issuance of a certificate of title for any such
10 vehicle. In the event an excise tax is collected on the transfer of
11 legal ownership or use of the vehicle during any calendar year, then
12 an additional excise tax must be collected upon all subsequent
13 transfers of legal ownership. In computing the motor vehicle excise
14 tax, the amount collected shall be rounded to the nearest dollar.
15 The excise tax levied by this section shall be delinquent from and
16 after the thirtieth day after the legal ownership or possession of
17 any vehicle is obtained. Any person failing or refusing to pay the
18 tax as herein provided on or before date of delinquency shall pay in
19 addition to the tax a penalty of One Dollar (\$1.00) per day for each
20 day of delinquency, but such penalty shall in no event exceed the
21 amount of the tax. Of each dollar penalty collected pursuant to
22 this subsection:
23 a. twenty-five cents (\$0.25) shall be apportioned as
24 provided in Section 1104 of this title.

1 b. twenty-five cents (\$0.25) shall be retained by the
2 motor license agent~~r~~, and

3 c. fifty cents (\$0.50) shall be deposited in the General
4 Revenue Fund for the fiscal year beginning on July 1,
5 2011, and for all subsequent fiscal years, shall be
6 deposited in the State Highway Construction and
7 Maintenance Fund.

8 B. The excise tax levied in subsection A of this section
9 assessed on all commercial vehicles registered pursuant to Section
10 1120 of Title 47 of the Oklahoma Statutes, trucks and truck-tractors
11 registered under subsection A of Section 1133 of Title 47 of the
12 Oklahoma Statutes for a laden weight or combined laden weight of
13 fifty-five thousand (55,000) pounds or more, trailers and
14 semitrailers registered under subsection C of Section 1133 of Title
15 47 of the Oklahoma Statutes to transport cargo over the highways of
16 this state and frac tanks registered under subsection C of Section
17 1133 of Title 47 of the Oklahoma Statutes shall be in lieu of all
18 sales and use taxes levied pursuant to the Sales Tax Code or the Use
19 Tax Code. The transfer of legal ownership of any motor vehicle as
20 used in this section and the Sales Tax Code and the Use Tax Code
21 shall include the lease, lease purchase or lease finance agreement
22 involving any truck in excess of eight thousand (8,000) pounds
23 combined laden weight or any truck-tractor provided the vehicle is
24 registered in Oklahoma pursuant to Section 1120 of Title 47 of the

1 Oklahoma Statutes or any frac tank, trailer, semitrailer or open
2 commercial vehicle registered pursuant to Section 1133 of Title 47
3 of the Oklahoma Statutes. The excise tax levied pursuant to this
4 section shall not be subsequently collected at the end of the lease
5 period if the lessee acquires complete legal title of the vehicle.

6 C. The provisions of this section shall not apply to transfers
7 made without consideration between:

8 1. Husband and wife;

9 2. Parent and child; or

10 3. An individual and an express trust which that individual or
11 the spouse, child or parent of that individual has a right to
12 revoke.

13 D. 1. There shall be a credit allowed with respect to the
14 excise tax paid for a new vehicle which is a replacement for:

15 a. a new original vehicle which is stolen from the
16 purchaser/registrant within ninety (90) days of the
17 date of purchase of the original vehicle as certified
18 by a police report or other documentation as required
19 by the Tax Commission, or

20 b. a defective new original vehicle returned by the
21 purchaser/registrant to the seller within six (6)
22 months of the date of purchase of the defective new
23 original vehicle as certified by the manufacturer.

24

1 2. The credit allowed pursuant to paragraph 1 of this
2 subsection shall be in the amount of the excise tax which was paid
3 for the new original vehicle and shall be applied to the excise tax
4 due on the replacement vehicle. In no event shall the credit be
5 refunded.

6 E. Despite any other definitions of the terms "new vehicle" and
7 "used vehicle", to the contrary, contained in any other law, the
8 term "new vehicle" as used in this section shall also include any
9 vehicle of the latest manufactured model which is owned or acquired
10 by a licensed used motor vehicle dealer which has not previously
11 been registered in this state and upon which the motor vehicle
12 excise tax as set forth in this section has not been paid. However,
13 upon the sale or transfer by a licensed used motor vehicle dealer
14 located in this state of any such vehicle which is the latest
15 manufactured model, the vehicle shall be considered a used vehicle
16 for purposes of determining excise tax.

17 F. The provisions of this section shall not apply to state
18 government entities.

19 SECTION 4. This act shall become effective July 1, 2019.

20 SECTION 5. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
22
23
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

4 57-1-7065 MB 01/11/19

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24