

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1130

By: Allen

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5  
6 AS INTRODUCED

7 An Act relating to sales and use tax; amending 68  
8 O.S. 2011, Section 1355, as last amended by Section  
9 1, Chapter 356, O.S.L. 2017 and 1404, as amended by  
10 Section 5, Chapter 356, O.S.L. 2017 (68 O.S. Supp.  
11 2019, Sections 1355 and 1404), which relate to the  
12 sale of a motor vehicle; modifying the basis upon  
13 which gross receipts are calculated for the purposes  
14 of sales tax and purchase price is calculated for the  
15 purposes of use tax; and providing an effective date.

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

17 SECTION 1. 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 2019, 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  
percent (85%) methanol, compressed natural gas, liquefied natural  
gas, or liquefied petroleum gas on which the Motor Fuel Tax,

1 Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special  
2 Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or  
3 Section 701 et seq. of this title has been, or will be paid;

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

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

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

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 2. AMENDATORY 68 O.S. 2011, Section 1404, as  
6 amended by Section 5, Chapter 356, O.S.L. 2017 (68 O.S. Supp. 2019,  
7 Section 1404), is amended to read as follows:

8 Section 1404. The provisions of Section 1401 et seq. of this  
9 title shall not apply:

10 1. In respect to the use of any article of tangible personal  
11 property brought into the State of Oklahoma by a nonresident  
12 individual, visiting in this state, for his or her personal use or  
13 enjoyment, while within the state;

14 2. In respect to the use of tangible personal property  
15 purchased for resale before being used;

16 3. In respect to the use of any article of tangible personal  
17 property on which a tax, equal to or in excess of that levied by  
18 Section 1401 et seq. of this title, has been paid by the person  
19 using such tangible personal property in this state, whether such  
20 tax was levied under the laws of this state or some other state of  
21 the United States. If any article of tangible personal property has  
22 already been subjected to a tax, by this or any other state, in  
23 respect to its sale or use, in an amount less than the tax imposed  
24 by Section 1401 et seq. of this title, the provisions of Section

1 1401 et seq. of this title shall apply to it by a rate measured by  
2 the difference only between the rate herein provided and the rate by  
3 which the previous tax upon the sale or use was computed. Provided,  
4 that no credit shall be given for taxes paid in another state, if  
5 that state does not grant like credit for taxes paid in Oklahoma;

6 4. In respect to the use of tangible personal property now  
7 specifically exempted from taxation under Oklahoma Sales Tax Code.  
8 Provided, for the sale of motor vehicles or any optional equipment  
9 or accessories attached to motor vehicles on which the Oklahoma  
10 Motor Vehicle Excise Tax levied pursuant to Sections 2101 through  
11 2108 of this title has been, or will be paid, the exceptions shall  
12 apply to all but a portion of the levy provided under Section 1402  
13 of this title, equal to one and twenty-five-hundredths percent  
14 (1.25%) of the purchase price. For the purposes of this paragraph,  
15 if the sale of a motor vehicle includes a trade-in, the purchase  
16 price shall be calculated based only on the difference between the  
17 value of the traded-in vehicle and the actual purchase price of the  
18 vehicle being purchased. Provided further, the sale of motor  
19 vehicles shall not be subject to any sales and use taxes levied by  
20 cities, counties or other jurisdictions of the state;

21 5. In respect to the use of any article or tangible personal  
22 property brought into the state by an individual with intent to  
23 become a resident of this state where such personal property is for  
24 such individual's personal use or enjoyment;

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6. In respect to the use of any article of tangible personal property used or to be used by commercial airlines or railroads;

7. In respect to livestock purchased outside this state and brought into this state for feeding or breeding purposes, and which is later resold; and

8. Effective January 1, 1991, in respect to the use of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power.

SECTION 3. This act shall become effective November 1, 2020.

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