

1 **SENATE FLOOR VERSION**

2 February 15, 2023

3 SENATE BILL NO. 387

By: Rader

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7 [sales tax exemption - refund - effective date]
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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

16 Section 1357. Exemptions - General.

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

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

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

1 3. Sales for resale to persons engaged in the business of
2 reselling the articles purchased, whether within or without the
3 state, provided that such sales to residents of this state are made
4 to persons to whom sales tax permits have been issued as provided in
5 the Oklahoma Sales Tax Code. This exemption shall not apply to the
6 sales of articles made to persons holding permits when such persons
7 purchase items for their use and which they are not regularly
8 engaged in the business of reselling; neither shall this exemption
9 apply to sales of tangible personal property to peddlers, solicitors
10 and other salespersons who do not have an established place of
11 business and a sales tax permit. The exemption provided by this
12 paragraph shall apply to sales of motor fuel or diesel fuel to a
13 Group Five vendor, but the use of such motor fuel or diesel fuel by
14 the Group Five vendor shall not be exempt from the tax levied by the
15 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
16 is exempt from sales tax when the motor fuel is for shipment outside
17 this state and consumed by a common carrier by rail in the conduct
18 of its business. The sales tax shall apply to the purchase of motor
19 fuel or diesel fuel in Oklahoma by a common carrier by rail when
20 such motor fuel is purchased for fueling, within this state, of any
21 locomotive or other motorized flanged wheel equipment;

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

23 5. Sales of programs relating to sporting and entertainment
24 events, and sales of advertising on billboards (including signage,

1 posters, panels, marquees, or on other similar surfaces, whether
2 indoors or outdoors) or in programs relating to sporting and
3 entertainment events, and sales of any advertising, to be displayed
4 at or in connection with a sporting event, via the Internet,
5 electronic display devices or through public address or broadcast
6 systems. The exemption authorized by this paragraph shall be
7 effective for all sales made on or after January 1, 2001;

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

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

1 business. The vendor shall certify to the Oklahoma Tax Commission
2 that the price of the items has been reduced to grant the full
3 benefit of the exemption. Violation hereof by the purchaser or
4 vendor shall be a misdemeanor;

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

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

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

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

23 12. Sales of food or food products for home consumption which
24 are purchased in whole or in part with coupons issued pursuant to

1 the federal food stamp program as authorized by Sections 2011
2 through 2029 of Title 7 of the United States Code, as to that
3 portion purchased with such coupons. The exemption provided for
4 such sales shall be inapplicable to such sales upon the effective
5 date of any federal law that removes the requirement of the
6 exemption as a condition for participation by the state in the
7 federal food stamp program;

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

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

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

24

1 14. a. Sales of tangible personal property or services to or
2 by organizations which are exempt from taxation
3 pursuant to the provisions of Section 501(c)(3) of the
4 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
5 and:

6 (1) are primarily involved in the collection and
7 distribution of food and other household products
8 to other organizations that facilitate the
9 distribution of such products to the needy and
10 such distributee organizations are exempt from
11 taxation pursuant to the provisions of Section
12 501(c)(3) of the Internal Revenue Code, 26
13 U.S.C., Section 501(c)(3), or

14 (2) facilitate the distribution of such products to
15 the needy.

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

20 c. The exemption provided by this paragraph shall include
21 sales of tangible personal property or taxable
22 services consumed or incorporated in the construction
23 of a facility placed in service during calendar year
24 2023. The exemption shall include sales and taxable

1 services to the organization and to any person,
2 entity, contractor, or subcontractor with whom the
3 organization has duly entered into a construction
4 contract necessary for carrying out the contract. For
5 sales tax paid on purchases that would otherwise be
6 exempt pursuant to this subparagraph but occurred
7 before the effective date of this act, the Tax
8 Commission shall make refunds to the purchasers in the
9 full amount of the sales tax paid, as documented by
10 the purchaser and verified by the Tax Commission;

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

16 16. Sales of computers, data processing equipment, related
17 peripherals, and telephone, telegraph or telecommunications service
18 and equipment for use in a qualified aircraft maintenance or
19 manufacturing facility. For purposes of this paragraph, "qualified
20 aircraft maintenance or manufacturing facility" means a new or
21 expanding facility primarily engaged in aircraft repair, building,
22 or rebuilding whether or not on a factory basis, whose total cost of
23 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)
24 and which employs at least two hundred fifty (250) new full-time-

1 equivalent employees, as certified by the Oklahoma Employment
2 Security Commission, upon completion of the facility. In order to
3 qualify for the exemption provided for by this paragraph, the cost
4 of the items purchased by the qualified aircraft maintenance or
5 manufacturing facility shall equal or exceed the sum of Two Million
6 Dollars (\$2,000,000.00);

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

16 18. Sales of the following telecommunications services:

17 a. Interstate and International "800 service". "800
18 service" means a "telecommunications service" that
19 allows a caller to dial a toll-free number without
20 incurring a charge for the call. The service is
21 typically marketed under the name "800", "855", "866",
22 "877" and "888" toll-free calling, and any subsequent
23 numbers designated by the Federal Communications
24 Commission,

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

14 c. Interstate and International "private communications
15 service". "Private communications service" means a
16 "telecommunications service" that entitles the
17 customer to exclusive or priority use of a
18 communications channel or group of channels between or
19 among termination points, regardless of the manner in
20 which such channel or channels are connected, and
21 includes switching capacity, extension lines, stations
22 and any other associated services that are provided in
23 connection with the use of such channel or channels,
24

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

8 e. Interstate and International telecommunications
9 service which is:

10 (1) rendered by a company for private use within its
11 organization, or

12 (2) used, allocated or distributed by a company to
13 its affiliated group,

14 f. Regulatory assessments and charges including charges
15 to fund the Oklahoma Universal Service Fund, the
16 Oklahoma Lifeline Fund and the Oklahoma High Cost
17 Fund, and

18 g. Telecommunications nonrecurring charges including but
19 not limited to the installation, connection, change,
20 or initiation of telecommunications services which are
21 not associated with a retail consumer sale;

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

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

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

23 a. as defined under Industrial Group Numbers 7372 and
24 7373 of the Standard Industrial Classification (SIC)

1 Manual, latest version, which derive at least fifty
2 percent (50%) of their annual gross revenues from the
3 sale of a product or service to an out-of-state buyer
4 or consumer, and

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

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

18 22. Sales of prosthetic devices to an individual for use by
19 such individual. For purposes of this paragraph, "prosthetic
20 device" shall have the same meaning as provided in Section 1357.6 of
21 this title, but shall not include corrective eye glasses, contact
22 lenses, or hearing aids;

23 23. Sales of tangible personal property or services to a motion
24 picture or television production company to be used or consumed in

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

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

16 25. Sales of tangible personal property or services to tax-
17 exempt independent nonprofit biomedical research foundations that
18 provide educational programs for Oklahoma science students and
19 teachers and to tax-exempt independent nonprofit community blood
20 banks headquartered in this state;

21 26. Effective May 6, 1992, sales of wireless telecommunications
22 equipment to a vendor who subsequently transfers the equipment at no
23 charge or for a discounted charge to a consumer as part of a
24

1 promotional package or as an inducement to commence or continue a
2 contract for wireless telecommunications services;

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

6 28. Beginning July 1, 2005, sales of aircraft engine repairs,
7 modification, and replacement parts, sales of aircraft frame repairs
8 and modification, aircraft interior modification, and paint, and
9 sales of services employed in the repair, modification, and
10 replacement of parts of aircraft engines, aircraft frame and
11 interior repair and modification, and paint;

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

15 a. are loaded on the ship, motor vessel, or barge and
16 used in the maintenance and operation of the ship,
17 motor vessel, or barge, or

18 b. enter into and become component parts of the ship,
19 motor vessel, or barge;

20 30. Sales of tangible personal property made at estate sales at
21 which such property is offered for sale on the premises of the
22 former residence of the decedent by a person who is not required to
23 be licensed pursuant to the Transient Merchant Licensing Act, or who
24 is not otherwise required to obtain a sales tax permit for the sale

1 of such property pursuant to the provisions of Section 1364 of this
2 title; provided:

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

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

18 32. Sales of prewritten computer software that is delivered
19 electronically. For purposes of this paragraph, "delivered
20 electronically" means delivered to the purchaser by means other than
21 tangible storage media;

22 33. Sales of modular dwelling units when built at a production
23 facility and moved in whole or in parts, to be assembled on-site,
24 and permanently affixed to the real property and used for

1 residential or commercial purposes. The exemption provided by this
2 paragraph shall equal forty-five percent (45%) of the total sales
3 price of the modular dwelling unit. For purposes of this paragraph,
4 "modular dwelling unit" means a structure that is not subject to the
5 motor vehicle excise tax imposed pursuant to Section 2103 of this
6 title;

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

- 8 a. persons who are residents of Oklahoma and have been
9 honorably discharged from active service in any branch
10 of the Armed Forces of the United States or Oklahoma
11 National Guard and who have been certified by the
12 United States Department of Veterans Affairs or its
13 successor to be in receipt of disability compensation
14 at the one-hundred-percent rate and the disability
15 shall be permanent and have been sustained through
16 military action or accident or resulting from disease
17 contracted while in such active service and registered
18 with the veterans registry created by the Oklahoma
19 Department of Veterans Affairs; provided, that if the
20 veteran received the sales tax exemption prior to
21 November 1, 2020, he or she shall be required to
22 register with the veterans registry prior to July 1,
23 2023, in order to remain qualified, or

24

1 b. the surviving spouse of the person in subparagraph a
2 of this paragraph if the person is deceased and the
3 spouse has not remarried and the surviving spouse of a
4 person who is determined by the United States
5 Department of Defense or any branch of the United
6 States military to have died while in the line of duty
7 if the spouse has not remarried. Sales for the
8 benefit of an eligible person to a spouse of the
9 eligible person or to a member of the household in
10 which the eligible person resides and who is
11 authorized to make purchases on the person's behalf,
12 when such eligible person is not present at the sale,
13 shall also be exempt for purposes of this paragraph.
14 The Oklahoma Tax Commission shall issue a separate
15 exemption card to a spouse of an eligible person or to
16 a member of the household in which the eligible person
17 resides who is authorized to make purchases on the
18 person's behalf, if requested by the eligible person.
19 Sales qualifying for the exemption authorized by this
20 paragraph shall not exceed Twenty-five Thousand
21 Dollars (\$25,000.00) per year per individual while the
22 disabled veteran is living. Sales qualifying for the
23 exemption authorized by this paragraph shall not
24 exceed One Thousand Dollars (\$1,000.00) per year for

1 an unremarried surviving spouse. Upon request of the
2 Tax Commission, a person asserting or claiming the
3 exemption authorized by this paragraph shall provide a
4 statement, executed under oath, that the total sales
5 amounts for which the exemption is applicable have not
6 exceeded Twenty-five Thousand Dollars (\$25,000.00) per
7 year per living disabled veteran or One Thousand
8 Dollars (\$1,000.00) per year for an unremarried
9 surviving spouse. If the amount of such exempt sales
10 exceeds such amount, the sales tax in excess of the
11 authorized amount shall be treated as a direct sales
12 tax liability and may be recovered by the Tax
13 Commission in the same manner provided by law for
14 other taxes including penalty and interest. The Tax
15 Commission shall promulgate any rules necessary to
16 implement the provisions of this paragraph, which
17 shall include rules providing for the disclosure of
18 information about persons eligible for the exemption
19 authorized in this paragraph to the Oklahoma
20 Department of ~~Veteran's~~ Veterans Affairs, as
21 authorized in Section 205 of this title;

22 35. Sales of electricity to the operator, specifically
23 designated by the Corporation Commission, of a spacing unit or lease
24 from which oil is produced or attempted to be produced using

1 enhanced recovery methods including, but not limited to, increased
2 pressure in a producing formation through the use of water or
3 saltwater if the electrical usage is associated with and necessary
4 for the operation of equipment required to inject or circulate
5 fluids in a producing formation for the purpose of forcing oil or
6 petroleum into a wellbore for eventual recovery and production from
7 the wellhead. In order to be eligible for the sales tax exemption
8 authorized by this paragraph, the total content of oil recovered
9 after the use of enhanced recovery methods shall not exceed one
10 percent (1%) by volume. The exemption authorized by this paragraph
11 shall be applicable only to the state sales tax rate and shall not
12 be applicable to any county or municipal sales tax rate;

13 36. Sales of intrastate charter and tour bus transportation.
14 As used in this paragraph, "intrastate charter and tour bus
15 transportation" means the transportation of persons from one
16 location in this state to another location in this state in a motor
17 vehicle which has been constructed in such a manner that it may
18 lawfully carry more than eighteen persons, and which is ordinarily
19 used or rented to carry persons for compensation. Provided, this
20 exemption shall not apply to regularly scheduled bus transportation
21 for the general public;

22 37. Sales of vitamins, minerals, and dietary supplements by a
23 licensed chiropractor to a person who is the patient of such
24 chiropractor at the physical location where the chiropractor

1 provides chiropractic care or services to such patient. The
2 provisions of this paragraph shall not be applicable to any drug,
3 medicine, or substance for which a prescription by a licensed
4 physician is required;

5 38. Sales of goods, wares, merchandise, tangible personal
6 property, machinery, and equipment to a web search portal located in
7 this state which derives at least eighty percent (80%) of its annual
8 gross revenue from the sale of a product or service to an out-of-
9 state buyer or consumer. For purposes of this paragraph, "web
10 search portal" means an establishment classified under NAICS code
11 519130 which operates websites that use a search engine to generate
12 and maintain extensive databases of Internet addresses and content
13 in an easily searchable format;

14 39. Sales of tangible personal property consumed or
15 incorporated in the construction or expansion of a facility for a
16 corporation organized under Section 437 et seq. of Title 18 of the
17 Oklahoma Statutes as a rural electric cooperative. For purposes of
18 this paragraph, sales made to a contractor or subcontractor that has
19 previously entered into a contractual relationship with a rural
20 electric cooperative for construction or expansion of a facility
21 shall be considered sales made to a rural electric cooperative;

22 40. Sales of tangible personal property or services to a
23 business primarily engaged in the repair of consumer electronic
24 goods including, but not limited to, cell phones, compact disc

1 players, personal computers, MP3 players, digital devices for the
2 storage and retrieval of information through hard-wired or wireless
3 computer or Internet connections, if the devices are sold to the
4 business by the original manufacturer of such devices and the
5 devices are repaired, refitted or refurbished for sale by the entity
6 qualifying for the exemption authorized by this paragraph directly
7 to retail consumers or if the devices are sold to another business
8 entity for sale to retail consumers;

9 41. On or after July 1, 2019, and prior to July 1, 2024, sales
10 or leases of rolling stock when sold or leased by the manufacturer,
11 regardless of whether the purchaser is a public services corporation
12 engaged in business as a common carrier of property or passengers by
13 railway, for use or consumption by a common carrier directly in the
14 rendition of public service. For purposes of this paragraph,
15 "rolling stock" means locomotives, autocars, and railroad cars and
16 "sales or leases" includes railroad car maintenance and retrofitting
17 of railroad cars for their further use only on the railways; and

18 42. Sales of gold, silver, platinum, palladium, or other
19 bullion items such as coins and bars and legal tender of any nation,
20 which legal tender is sold according to its value as precious metal
21 or as an investment. As used in the paragraph, "bullion" means any
22 precious metal including, but not limited to, gold, silver,
23 platinum, and palladium, that is in such a state or condition that
24 its value depends upon its precious metal content and not its form.

1 The exemption authorized by this paragraph shall not apply to
2 fabricated metals that have been processed or manufactured for
3 artistic use or as jewelry.

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

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
6 February 15, 2023 - DO PASS
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