

1 **SENATE FLOOR VERSION**

2 February 22, 2023

3 SENATE BILL NO. 463

By: Thompson (Roger)

4
5 [sales tax exemption - rolling stock - effective
6 date]
7

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

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

12 Section 1357. Exemptions - General.

13 There are hereby specifically exempted from the tax levied by
14 the Oklahoma Sales Tax Code:

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

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

20 3. Sales for resale to persons engaged in the business of
21 reselling the articles purchased, whether within or without the
22 state, provided that such sales to residents of this state are made
23 to persons to whom sales tax permits have been issued as provided in
24 the Oklahoma Sales Tax Code. This exemption shall not apply to the

1 sales of articles made to persons holding permits when such persons
2 purchase items for their use and which they are not regularly
3 engaged in the business of reselling; neither shall this exemption
4 apply to sales of tangible personal property to peddlers, solicitors
5 and other salespersons who do not have an established place of
6 business and a sales tax permit. The exemption provided by this
7 paragraph shall apply to sales of motor fuel or diesel fuel to a
8 Group Five vendor, but the use of such motor fuel or diesel fuel by
9 the Group Five vendor shall not be exempt from the tax levied by the
10 Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel
11 is exempt from sales tax when the motor fuel is for shipment outside
12 this state and consumed by a common carrier by rail in the conduct
13 of its business. The sales tax shall apply to the purchase of motor
14 fuel or diesel fuel in Oklahoma by a common carrier by rail when
15 such motor fuel is purchased for fueling, within this state, of any
16 locomotive or other motorized flanged wheel equipment;

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

18 5. Sales of programs relating to sporting and entertainment
19 events, and sales of advertising on billboards (including signage,
20 posters, panels, marquees or on other similar surfaces, whether
21 indoors or outdoors) or in programs relating to sporting and
22 entertainment events, and sales of any advertising, to be displayed
23 at or in connection with a sporting event, via the Internet,
24 electronic display devices or through public address or broadcast

1 systems. The exemption authorized by this paragraph shall be
2 effective for all sales made on or after January 1, 2001;

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

10 7. Eggs, feed, supplies, machinery, and equipment purchased by
11 persons regularly engaged in the business of raising worms, fish,
12 any insect, or any other form of terrestrial or aquatic animal life
13 and used for the purpose of raising same for marketing. This
14 exemption shall only be granted and extended to the purchaser when
15 the items are to be used and in fact are used in the raising of
16 animal life as set out above. Each purchaser shall certify, in
17 writing, on the invoice or sales ticket retained by the vendor that
18 the purchaser is regularly engaged in the business of raising such
19 animal life and that the items purchased will be used only in such
20 business. The vendor shall certify to the Oklahoma Tax Commission
21 that the price of the items has been reduced to grant the full
22 benefit of the exemption. Violation hereof by the purchaser or
23 vendor shall be a misdemeanor;

24

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

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

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

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

19 12. Sales of food or food products for home consumption which
20 are purchased in whole or in part with coupons issued pursuant to
21 the federal food stamp program as authorized by Sections 2011
22 through 2029 of Title 7 of the United States Code, as to that
23 portion purchased with such coupons. The exemption provided for
24 such sales shall be inapplicable to such sales upon the effective

1 date of any federal law that removes the requirement of the
2 exemption as a condition for participation by the state in the
3 federal food stamp program;

4 13. Sales of food or food products, or any equipment or
5 supplies used in the preparation of the food or food products to or
6 by an organization which:

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

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

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

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

9 (2) facilitate the distribution of such products to
10 the needy.

11 b. Sales made in the course of business for profit or
12 savings, competing with other persons engaged in the
13 same or similar business shall not be exempt under
14 this paragraph;

15 15. Sales of tangible personal property or services to
16 children's homes which are located on church-owned property and are
17 operated by organizations exempt from taxation pursuant to the
18 provisions of the Internal Revenue Code, 26 U.S.C., Section
19 501(c) (3);

20 16. Sales of computers, data processing equipment, related
21 peripherals, and telephone, telegraph or telecommunications service
22 and equipment for use in a qualified aircraft maintenance or
23 manufacturing facility. For purposes of this paragraph, "qualified
24 aircraft maintenance or manufacturing facility" means a new or

1 expanding facility primarily engaged in aircraft repair, building or
2 rebuilding whether or not on a factory basis, whose total cost of
3 construction exceeds the sum of Five Million Dollars (\$5,000,000.00)
4 and which employs at least two hundred fifty (250) new full-time-
5 equivalent employees, as certified by the Oklahoma Employment
6 Security Commission, upon completion of the facility. In order to
7 qualify for the exemption provided for by this paragraph, the cost
8 of the items purchased by the qualified aircraft maintenance or
9 manufacturing facility shall equal or exceed the sum of Two Million
10 Dollars (\$2,000,000.00);

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

20 18. Sales of the following telecommunications services:

21 a. Interstate and International "800 service". "800
22 service" means a "telecommunications service" that
23 allows a caller to dial a toll-free number without
24 incurring a charge for the call. The service is

1 typically marketed under the name "800", "855", "866",
2 "877" and "888" toll-free calling, and any subsequent
3 numbers designated by the Federal Communications
4 Commission,

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

19 c. Interstate and International "private communications
20 service". "Private communications service" means a
21 ~~"telecommunications service"~~ telecommunications
22 service that entitles the customer to exclusive or
23 priority use of a communications channel or group of
24 channels between or among termination points,

1 regardless of the manner in which such channel or
2 channels are connected, and includes switching
3 capacity, extension lines, stations and any other
4 associated services that are provided in connection
5 with the use of such channel or channels,

6 d. "Value-added nonvoice data service". "Value-added
7 nonvoice data service" means a service that otherwise
8 meets the definition of ~~"telecommunications services"~~
9 telecommunications services in which computer
10 processing applications are used to act on the form,
11 content, code or protocol of the information or data
12 primarily for a purpose other than transmission,
13 conveyance, or routing,

14 e. Interstate and International telecommunications
15 service which is:

16 (1) rendered by a company for private use within its
17 organization, or

18 (2) used, allocated or distributed by a company to
19 its affiliated group,

20 f. Regulatory assessments and charges including charges
21 to fund the Oklahoma Universal Service Fund, the
22 Oklahoma Lifeline Fund and the Oklahoma High Cost
23 Fund, and
24

1 g. Telecommunications nonrecurring charges including but
2 not limited to the installation, connection, change,
3 or initiation of telecommunications services which are
4 not associated with a retail consumer sale;

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

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

1 maintenance of aircraft, aircraft engines or aircraft component
2 parts which occur at a qualified aircraft maintenance facility;

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

6 a. as defined under Industrial Group Numbers 7372 and
7 7373 of the Standard Industrial Classification (SIC)
8 Manual, latest version, which derive at least fifty
9 percent (50%) of their annual gross revenues from the
10 sale of a product or service to an out-of-state buyer
11 or consumer, and

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

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

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

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

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

23 25. Sales of tangible personal property or services to tax-
24 exempt independent nonprofit biomedical research foundations that

1 provide educational programs for Oklahoma science students and
2 teachers and to tax-exempt independent nonprofit community blood
3 banks headquartered in this state;

4 26. Effective May 6, 1992, sales of wireless telecommunications
5 equipment to a vendor who subsequently transfers the equipment at no
6 charge or for a discounted charge to a consumer as part of a
7 promotional package or as an inducement to commence or continue a
8 contract for wireless telecommunications services;

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

12 28. Beginning July 1, 2005, sales of aircraft engine repairs,
13 modification, and replacement parts, sales of aircraft frame repairs
14 and modification, aircraft interior modification, and paint, and
15 sales of services employed in the repair, modification, and
16 replacement of parts of aircraft engines, aircraft frame and
17 interior repair and modification, and paint;

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

21 a. are loaded on the ship, motor vessel, or barge and
22 used in the maintenance and operation of the ship,
23 motor vessel, or barge, or
24

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

3 30. Sales of tangible personal property made at estate sales at
4 which such property is offered for sale on the premises of the
5 former residence of the decedent by a person who is not required to
6 be licensed pursuant to the Transient Merchant Licensing Act, or who
7 is not otherwise required to obtain a sales tax permit for the sale
8 of such property pursuant to the provisions of Section 1364 of this
9 title; provided:

10 a. such sale or event may not be held for a period
11 exceeding three (3) consecutive days,

12 b. the sale must be conducted within six (6) months of
13 the date of death of the decedent, and

14 c. the exemption allowed by this paragraph shall not be
15 allowed for property that was not part of the
16 decedent's estate;

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

1 32. Sales of prewritten computer software that is delivered
2 electronically. For purposes of this paragraph, "delivered
3 electronically" means delivered to the purchaser by means other than
4 tangible storage media;

5 33. Sales of modular dwelling units when built at a production
6 facility and moved in whole or in parts, to be assembled on-site,
7 and permanently affixed to the real property and used for
8 residential or commercial purposes. The exemption provided by this
9 paragraph shall equal forty-five percent (45%) of the total sales
10 price of the modular dwelling unit. For purposes of this paragraph,
11 "modular dwelling unit" means a structure that is not subject to the
12 motor vehicle excise tax imposed pursuant to Section 2103 of this
13 title;

14 34. Sales of tangible personal property or services to:
15 a. persons who are residents of Oklahoma and have been
16 honorably discharged from active service in any branch
17 of the Armed Forces of the United States or Oklahoma
18 National Guard and who have been certified by the
19 United States Department of Veterans Affairs or its
20 successor to be in receipt of disability compensation
21 at the one-hundred-percent rate and the disability
22 shall be permanent and have been sustained through
23 military action or accident or resulting from disease
24 contracted while in such active service and registered

1 with the veterans registry created by the Oklahoma
2 Department of Veterans Affairs; provided, that if the
3 veteran received the sales tax exemption prior to
4 November 1, 2020, he or she shall be required to
5 register with the veterans registry prior to July 1,
6 2023, in order to remain qualified, or

7 b. the surviving spouse of the person in subparagraph a
8 of this paragraph if the person is deceased and the
9 spouse has not remarried and the surviving spouse of a
10 person who is determined by the United States
11 Department of Defense or any branch of the United
12 States military to have died while in the line of duty
13 if the spouse has not remarried. Sales for the
14 benefit of an eligible person to a spouse of the
15 eligible person or to a member of the household in
16 which the eligible person resides and who is
17 authorized to make purchases on the person's behalf,
18 when such eligible person is not present at the sale,
19 shall also be exempt for purposes of this paragraph.
20 The Oklahoma Tax Commission shall issue a separate
21 exemption card to a spouse of an eligible person or to
22 a member of the household in which the eligible person
23 resides who is authorized to make purchases on the
24 person's behalf, if requested by the eligible person.

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

1 authorized in this paragraph to the Oklahoma
2 Department of ~~Veteran's~~ Veterans Affairs, as
3 authorized in Section 205 of this title;

4 35. Sales of electricity to the operator, specifically
5 designated by the Corporation Commission, of a spacing unit or lease
6 from which oil is produced or attempted to be produced using
7 enhanced recovery methods including, but not limited to, increased
8 pressure in a producing formation through the use of water or
9 saltwater if the electrical usage is associated with and necessary
10 for the operation of equipment required to inject or circulate
11 fluids in a producing formation for the purpose of forcing oil or
12 petroleum into a wellbore for eventual recovery and production from
13 the wellhead. In order to be eligible for the sales tax exemption
14 authorized by this paragraph, the total content of oil recovered
15 after the use of enhanced recovery methods shall not exceed one
16 percent (1%) by volume. The exemption authorized by this paragraph
17 shall be applicable only to the state sales tax rate and shall not
18 be applicable to any county or municipal sales tax rate;

19 36. Sales of intrastate charter and tour bus transportation.
20 As used in this paragraph, "intrastate charter and tour bus
21 transportation" means the transportation of persons from one
22 location in this state to another location in this state in a motor
23 vehicle which has been constructed in such a manner that it may
24 lawfully carry more than eighteen persons, and which is ordinarily

1 used or rented to carry persons for compensation. Provided, this
2 exemption shall not apply to regularly scheduled bus transportation
3 for the general public;

4 37. Sales of vitamins, minerals, and dietary supplements by a
5 licensed chiropractor to a person who is the patient of such
6 chiropractor at the physical location where the chiropractor
7 provides chiropractic care or services to such patient. The
8 provisions of this paragraph shall not be applicable to any drug,
9 medicine, or substance for which a prescription by a licensed
10 physician is required;

11 38. Sales of goods, wares, merchandise, tangible personal
12 property, machinery, and equipment to a web search portal located in
13 this state which derives at least eighty percent (80%) of its annual
14 gross revenue from the sale of a product or service to an out-of-
15 state buyer or consumer. For purposes of this paragraph, "web
16 search portal" means an establishment classified under NAICS code
17 519130 which operates websites that use a search engine to generate
18 and maintain extensive databases of Internet addresses and content
19 in an easily searchable format;

20 39. Sales of tangible personal property consumed or
21 incorporated in the construction or expansion of a facility for a
22 corporation organized under Section 437 et seq. of Title 18 of the
23 Oklahoma Statutes as a rural electric cooperative. For purposes of
24 this paragraph, sales made to a contractor or subcontractor that has

1 previously entered into a contractual relationship with a rural
2 electric cooperative for construction or expansion of a facility
3 shall be considered sales made to a rural electric cooperative;

4 40. Sales of tangible personal property or services to a
5 business primarily engaged in the repair of consumer electronic
6 goods including, but not limited to, cell phones, compact disc
7 players, personal computers, MP3 players, digital devices for the
8 storage and retrieval of information through hard-wired or wireless
9 computer or Internet connections, if the devices are sold to the
10 business by the original manufacturer of such devices and the
11 devices are repaired, refitted or refurbished for sale by the entity
12 qualifying for the exemption authorized by this paragraph directly
13 to retail consumers or if the devices are sold to another business
14 entity for sale to retail consumers;

15 41. On or after July 1, 2019, and prior to ~~July 1, 2024~~ July 1,
16 2029, sales or leases of rolling stock ~~when sold or leased by the~~
17 ~~manufacturer~~, regardless of whether the purchaser is a public
18 services corporation engaged in business as a common carrier of
19 property or passengers by railway, for use or consumption by a
20 common carrier directly in the rendition of public service. For
21 purposes of this paragraph, "rolling stock" means locomotives,
22 autocars, and railroad cars and "sales or leases" includes railroad
23 car maintenance and retrofitting of railroad cars for their further
24 use only on the railways; and

1 42. Sales of gold, silver, platinum, palladium, or other
2 bullion items such as coins and bars and legal tender of any nation,
3 which legal tender is sold according to its value as precious metal
4 or as an investment. As used in the paragraph, "bullion" means any
5 precious metal including, but not limited to, gold, silver,
6 platinum, and palladium, that is in such a state or condition that
7 its value depends upon its precious metal content and not its form.
8 The exemption authorized by this paragraph shall not apply to
9 fabricated metals that have been processed or manufactured for
10 artistic use or as jewelry.

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

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
13 February 22, 2023 - DO PASS
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