

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 80

By: Barrington

4  
5 AS INTRODUCED

6 An Act relating to sales tax; amending 68 O.S. 2011,  
7 Section 1357, as last amended by Section 2, Chapter  
8 429, O.S.L. 2014 (68 O.S. Supp. 2014, Section 1357),  
9 which relates to exemptions; modifying amount of  
10 certain sales qualifying for exemption; and providing  
11 an effective date.

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

13 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1357, as  
14 last amended by Section 2, Chapter 429, O.S.L. 2014 (68 O.S. Supp.  
15 2014, 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;

24 3. Sales for resale to persons engaged in the business of  
reselling the articles purchased, whether within or without the

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

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

21 5. Sales of programs relating to sporting and entertainment  
22 events, and sales of advertising on billboards (including signage,  
23 posters, panels, marquees, or on other similar surfaces, whether  
24 indoors or outdoors) or in programs relating to sporting and

1 entertainment events, and sales of any advertising, to be displayed  
2 at or in connection with a sporting event, via the Internet,  
3 electronic display devices, or through public address or broadcast  
4 systems. The exemption authorized by this paragraph shall be  
5 effective for all sales made on or after January 1, 2001;

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

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

1 benefit of the exemption. Violation hereof by the purchaser or  
2 vendor shall be a misdemeanor;

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

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

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

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

21 12. Sales of food or food products for home consumption which  
22 are purchased in whole or in part with coupons issued pursuant to  
23 the federal food stamp program as authorized by Sections 2011  
24 through 2029 of Title 7 of the United States Code, as to that

1 portion purchased with such coupons. The exemption provided for  
2 such sales shall be inapplicable to such sales upon the effective  
3 date of any federal law that removes the requirement of the  
4 exemption as a condition for participation by the state in the  
5 federal food stamp program;

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

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

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

22 14. a. Sales of tangible personal property or services to or  
23 by organizations which are exempt from taxation  
24 pursuant to the provisions of Section 501(c)(3) of the

1 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),  
2 and:

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

11 (2) facilitate the distribution of such products to  
12 the needy.

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

17 15. Sales of tangible personal property or services to  
18 children's homes which are located on church-owned property and are  
19 operated by organizations exempt from taxation pursuant to the  
20 provisions of the Internal Revenue Code, 26 U.S.C., Section  
21 501(c)(3);

22 16. Sales of computers, data processing equipment, related  
23 peripherals and telephone, telegraph or telecommunications service  
24 and equipment for use in a qualified aircraft maintenance or

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

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

22 18. Sales of the following telecommunications services:

23 a. Interstate and International "800 service". "800  
24 service" means a "telecommunications service" that

1 allows a caller to dial a toll-free number without  
2 incurring a charge for the call. The service is  
3 typically marketed under the name "800", "855", "866",  
4 "877", and "888" toll-free calling, and any subsequent  
5 numbers designated by the Federal Communications  
6 Commission, or

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

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



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

7 d. "Value-added nonvoice data service". "Value-added  
8 nonvoice data service" means a service that otherwise  
9 meets the definition of "telecommunications services"  
10 in which computer processing applications are used to  
11 act on the form, content, code, or protocol of the  
12 information or data primarily for a purpose other than  
13 transmission, 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 or  
3 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 at which there were  
12 employed at least two thousand (2,000) full-time-equivalent  
13 employees in the preceding year as certified by the Oklahoma  
14 Employment Security Commission and which is primarily related to the  
15 fabrication, repair, alteration, modification, refurbishing,  
16 maintenance, building or rebuilding of commercial aircraft or  
17 aircraft parts used in air common carriage. For purposes of this  
18 paragraph, "air common carrier" shall also include members of an  
19 affiliated group as defined by Section 1504 of the Internal Revenue  
20 Code, 26 U.S.C., Section 1504;

21 21. Sales of machinery and equipment purchased and used by  
22 persons and establishments primarily engaged in computer services  
23 and data processing:  
24

1 a. as defined under Industrial Group Numbers 7372 and  
2 7373 of the Standard Industrial Classification (SIC)  
3 Manual, latest version, which derive at least fifty  
4 percent (50%) of their annual gross revenues from the  
5 sale of a product or service to an out-of-state buyer  
6 or consumer, and

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

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

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

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

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

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

23        26. Effective May 6, 1992, sales of wireless telecommunications  
24 equipment to a vendor who subsequently transfers the equipment at no

1 charge or for a discounted charge to a consumer as part of a  
2 promotional package or as an inducement to commence or continue a  
3 contract for wireless telecommunications services;

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

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

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

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

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

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

1 is not otherwise required to obtain a sales tax permit for the sale  
2 of such property pursuant to the provisions of Section 1364 of this  
3 title; provided:

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

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

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

23 33. Sales of modular dwelling units when built at a production  
24 facility and moved in whole or in parts, to be assembled on-site,

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

8 34. Sales of tangible personal property or services to persons  
9 who are residents of Oklahoma and have been honorably discharged  
10 from active service in any branch of the Armed Forces of the United  
11 States or Oklahoma National Guard and who have been certified by the  
12 United States Department of Veterans Affairs or its successor to be  
13 in receipt of disability compensation at the one-hundred-percent  
14 rate and the disability shall be permanent and have been sustained  
15 through military action or accident or resulting from disease  
16 contracted while in such active service or the surviving spouse of  
17 such person if the person is deceased and the spouse has not  
18 remarried; provided, sales for the benefit of the person to a spouse  
19 of the eligible person or to a member of the household in which the  
20 eligible person resides and who is authorized to make purchases on  
21 the person's behalf, when such eligible person is not present at the  
22 sale, shall also be exempt for purposes of this paragraph. Sales  
23 qualifying for the exemption authorized by this paragraph shall not  
24 exceed Twenty-five Thousand Dollars (\$25,000.00) per year per

1 individual while the disabled veteran is living. Sales qualifying  
2 for the exemption authorized by this paragraph shall not exceed ~~One~~  
3 ~~Thousand Dollars (\$1,000.00)~~ Ten Thousand Dollars (\$10,000.00) per  
4 year for an unremarried surviving spouse. Upon request of the Tax  
5 Commission, a person asserting or claiming the exemption authorized  
6 by this paragraph shall provide a statement, executed under oath,  
7 that the total sales amounts for which the exemption is applicable  
8 have not exceeded Twenty-five Thousand Dollars (\$25,000.00) per year  
9 per living disabled veteran or ~~One Thousand Dollars (\$1,000.00)~~ Ten  
10 Thousand Dollars (\$10,000.00) per year for an unremarried surviving  
11 spouse. If the amount of such exempt sales exceeds such amount, the  
12 sales tax in excess of the authorized amount shall be treated as a  
13 direct sales tax liability and may be recovered by the Tax  
14 Commission in the same manner provided by law for other taxes,  
15 including penalty and interest;

16 35. Sales of electricity to the operator, specifically  
17 designated by the Corporation Commission, of a spacing unit or lease  
18 from which oil is produced or attempted to be produced using  
19 enhanced recovery methods, including, but not limited to, increased  
20 pressure in a producing formation through the use of water or  
21 saltwater if the electrical usage is associated with and necessary  
22 for the operation of equipment required to inject or circulate  
23 fluids in a producing formation for the purpose of forcing oil or  
24 petroleum into a wellbore for eventual recovery and production from



1 the wellhead. In order to be eligible for the sales tax exemption  
2 authorized by this paragraph, the total content of oil recovered  
3 after the use of enhanced recovery methods shall not exceed one  
4 percent (1%) by volume. The exemption authorized by this paragraph  
5 shall be applicable only to the state sales tax rate and shall not  
6 be applicable to any county or municipal sales tax rate;

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

16 37. Sales of vitamins, minerals and dietary supplements by a  
17 licensed chiropractor to a person who is the patient of such  
18 chiropractor at the physical location where the chiropractor  
19 provides chiropractic care or services to such patient. The  
20 provisions of this paragraph shall not be applicable to any drug,  
21 medicine or substance for which a prescription by a licensed  
22 physician is required;

23 38. Sales of goods, wares, merchandise, tangible personal  
24 property, machinery and equipment to a web search portal located in

1 this state which derives at least eighty percent (80%) of its annual  
2 gross revenue from the sale of a product or service to an out-of-  
3 state buyer or consumer. For purposes of this paragraph, "web  
4 search portal" means an establishment classified under NAICS code  
5 519130 which operates web sites that use a search engine to generate  
6 and maintain extensive databases of Internet addresses and content  
7 in an easily searchable format;

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

16 40. Sales of tangible personal property or services to a  
17 business primarily engaged in the repair of consumer electronic  
18 goods, including, but not limited to, cell phones, compact disc  
19 players, personal computers, MP3 players, digital devices for the  
20 storage and retrieval of information through hard-wired or wireless  
21 computer or Internet connections, if the devices are sold to the  
22 business by the original manufacturer of such devices and the  
23 devices are repaired, refitted or refurbished for sale by the entity  
24 qualifying for the exemption authorized by this paragraph directly

1 to retail consumers or if the devices are sold to another business  
2 entity for sale to retail consumers;

3 41. Before July 1, 2019, sales of rolling stock when sold or  
4 leased by the manufacturer, regardless of whether the purchaser is a  
5 public services corporation engaged in business as a common carrier  
6 of property or passengers by railway, for use or consumption by a  
7 common carrier directly in the rendition of public service. For  
8 purposes of this paragraph, "rolling stock" means locomotives,  
9 autocars and railroad cars; and

10 42. Sales of gold, silver, platinum, palladium or other bullion  
11 items such as coins and bars and legal tender of any nation, which  
12 legal tender is sold according to its value as precious metal or as  
13 an investment. As used in the paragraph, "bullion" means any  
14 precious metal, including, but not limited to, gold, silver,  
15 platinum and palladium, that is in such a state or condition that  
16 its value depends upon its precious metal content and not its form.  
17 The exemption authorized by this paragraph shall not apply to  
18 fabricated metals that have been processed or manufactured for  
19 artistic use or as jewelry.

20 SECTION 2. This act shall become effective November 1, 2015.

21

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