

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1283

By: Treat

AS INTRODUCED

An Act relating to sales tax; amending 68 O.S. 2021, Sections 1352 and 1354, which relate to definitions and levy of tax upon sales of certain items; defining terms; levying certain tax rate upon the sale of food and food ingredients; requiring effectiveness of certain provisions; updating statutory language and reference; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 1352, is amended to read as follows:

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

1. "Bottled water" means water that is placed in a safety sealed container or package for human consumption including water that is delivered to the buyer in a reusable container that is not sold with the water. Bottled water shall be calorie free and shall not contain sweeteners or other additives, except that it may contain:

a. antimicrobial agents,

b. fluoride,

- 1 c. carbonation,
- 2 d. vitamins, minerals, and electrolytes,
- 3 e. oxygen,
- 4 f. preservatives, and
- 5 g. only those flavors, extracts, or essences derived from
- 6 spice or fruit;

7 2. "Bundled transaction" means the retail sale of two or more
8 products, except real property and services to real property, where
9 the products are otherwise distinct and identifiable, and the
10 products are sold for one nonitemized price. A ~~"bundled~~
11 ~~transaction"~~ bundled transaction does not include the sale of any
12 products in which the sales price varies, or is negotiable, based on
13 the selection by the purchaser of the products included in the
14 transaction. As used in this paragraph:

- 15 a. "distinct and identifiable products" does not include:
 - 16 (1) packaging such as containers, boxes, sacks, bags,
 - 17 and bottles, or other materials such as wrapping,
 - 18 labels, tags, and instruction guides, that
 - 19 accompany the retail sale of the products and are
 - 20 incidental or immaterial to the retail sale
 - 21 thereof, including, but not limited to, grocery
 - 22 sacks, shoeboxes, dry cleaning garment bags and
 - 23 express delivery envelopes and boxes,

1 (2) a product provided free of charge with the
2 required purchase of another product. A product
3 is provided free of charge if the sales price of
4 the product purchased does not vary depending on
5 the inclusion of the product provided free of
6 charge, or

7 (3) items included in the definition of gross
8 receipts or sales price, pursuant to this
9 section,

10 b. "one nonitemized price" does not include a price that
11 is separately identified by product on binding sales
12 or other supporting sales-related documentation made
13 available to the customer in paper or electronic form
14 including, but not limited to, an invoice, bill of
15 sale, receipt, contract, service agreement, lease
16 agreement, periodic notice of rates and services, rate
17 card, or price list,

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

20 (1) the retail sale of tangible personal property and
21 a service where the tangible personal property is
22 essential to the use of the service, and is
23 provided exclusively in connection with the
24

1 service, and the true object of the transaction
2 is the service,

3 (2) the retail sale of services where one service is
4 provided that is essential to the use or receipt
5 of a second service and the first service is
6 provided exclusively in connection with the
7 second service and the true object of the
8 transaction is the second service,

9 (3) a transaction that includes taxable products and
10 nontaxable products and the purchase price or
11 sales price of the taxable products is de
12 minimis. For purposes of this subdivision, "de
13 minimis" means the seller's purchase price or
14 sales price of taxable products is ten percent
15 (10%) or less of the total purchase price or
16 sales price of the bundled products. Sellers
17 shall use either the purchase price or the sales
18 price of the products to determine if the taxable
19 products are de minimis. Sellers may not use a
20 combination of the purchase price and sales price
21 of the products to determine if the taxable
22 products are de minimis. Sellers shall use the
23 full term of a service contract to determine if
24 the taxable products are de minimis, or

1 (4) the retail sale of exempt tangible personal
2 property and taxable tangible personal property
3 where:

4 (a) the transaction includes food and food
5 ingredients, drugs, durable medical
6 equipment, mobility enhancing equipment,
7 over-the-counter drugs, prosthetic devices
8 or medical supplies, and

9 (b) the seller's purchase price or sales price
10 of the taxable tangible personal property is
11 fifty percent (50%) or less of the total
12 purchase price or sales price of the bundled
13 tangible personal property. Sellers may not
14 use a combination of the purchase price and
15 sales price of the tangible personal
16 property when making the fifty percent (50%)
17 determination for a transaction;

18 ~~2.~~ 3. "Business" means any activity engaged in or caused to be
19 engaged in by any person with the object of gain, benefit, or
20 advantage, either direct or indirect;

21 ~~3.~~ 4. "Candy" means a preparation of sugar, honey, or other
22 natural or artificial sweeteners in combination with chocolate,
23 fruits, nuts, or other ingredients or flavorings in the form of

1 bars, drops, or pieces. Candy shall not include any preparation
2 containing flour or require refrigeration;

3 5. "Commission" or "Tax Commission" means the Oklahoma Tax
4 Commission;

5 ~~4.~~ 6. "Computer" means an electronic device that accepts
6 information in digital or similar form and manipulates it for a
7 result based on a sequence of instructions;

8 ~~5.~~ 7. "Computer software" means a set of coded instructions
9 designed to cause a ~~"computer"~~ computer or automatic data processing
10 equipment to perform a task;

11 ~~6.~~ 8. "Consumer" or "user" means a person to whom a taxable
12 sale of tangible personal property is made or to whom a taxable
13 service is furnished. ~~"Consumer"~~ Consumer or ~~"user"~~ user includes
14 all contractors to whom a taxable sale of materials, supplies,
15 equipment, or other tangible personal property is made or to whom a
16 taxable service is furnished to be used or consumed in the
17 performance of any contract;

18 ~~7.~~ 9. "Contractor" means any person who performs any
19 improvement upon real property and who, as a necessary and
20 incidental part of performing such improvement, incorporates
21 tangible personal property belonging to or purchased by the person
22 into the real property being improved;

23 ~~8.~~ 10. "Dietary supplement" means any product, other than
24 tobacco, intended to supplement the diet that:

1 a. contains one or more of the following dietary
2 ingredients:

3 (1) a vitamin,

4 (2) a mineral,

5 (3) an herb or other botanical,

6 (4) an amino acid,

7 (5) a dietary substance for use by humans to
8 supplement the diet by increasing the total
9 dietary intake, or

10 (6) a concentrate, metabolite, constituent, extract,
11 or combination of any ingredient described in
12 this division,

13 b. is intended for ingestion in tablet, capsule, powder,
14 softgel, gelcap, or liquid form, or if not intended
15 for ingestion in such a form, is not represented as
16 conventional food and is not represented for use as a
17 sole item of a meal or of the diet, and

18 c. is required to be labeled as a dietary supplement,
19 identifiable by the "Supplemental Facts" box found on
20 the label as required pursuant to 21 CFR, Part 101.36;

21 11. "Drug" means a compound, substance or preparation, and any
22 component of a compound, substance or preparation:

23 a. recognized in the official United States ~~Pharmacopoeia~~
24 Pharmacopeia, official Homeopathic Pharmacopoeia of

1 the United States, or official National Formulary, and
2 supplement to any of them,

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

5 c. intended to affect the structure or any function of
6 the body;

7 ~~9.~~ 12. "Electronic" means relating to technology having
8 electrical, digital, magnetic, wireless, optical, electromagnetic,
9 or similar capabilities;

10 ~~10.~~ 13. "Established place of business" means the location at
11 which any person regularly engages in, conducts, or operates a
12 business in a continuous manner for any length of time, that is open
13 to the public during the hours customary to such business, in which
14 a stock of merchandise for resale is maintained, and which is not
15 exempted by law from attachment, execution, or other species of
16 forced sale barring any satisfaction of any delinquent tax liability
17 accrued under the Oklahoma Sales Tax Code;

18 ~~11.~~ 14. "Fair authority" means:

19 a. any county, municipality, school district, public
20 trust or any other political subdivision of this
21 state, or

22 b. any not-for-profit corporation acting pursuant to an
23 agency, operating or management agreement which has
24 been approved or authorized by the governing body of

1 any of the entities specified in subparagraph a of
2 this paragraph which conduct, operate or produce a
3 fair commonly understood to be a county, district or
4 state fair;

5 ~~12.~~ 15. "Food and food ingredients" mean substances, whether in
6 liquid, concentrated, solid, frozen, dried, or dehydrated form, that
7 are sold for ingestion or chewing by humans and are consumed for
8 their taste or nutritional value. Food and food ingredients shall
9 include bottled water, candy, and soft drinks. Food and food
10 ingredients shall not include alcoholic beverages, dietary
11 supplements, prepared food, and tobacco;

12 16. a. "Gross receipts", "gross proceeds" or "sales price"
13 means the total amount of consideration, including
14 cash, credit, property and services, for which
15 personal property or services are sold, leased or
16 rented, valued in money, whether received in money or
17 otherwise, without any deduction for the following:

- 18 (1) the seller's cost of the property sold,
19 (2) the cost of materials used, labor or service
20 cost,
21 (3) interest, losses, all costs of transportation to
22 the seller, all taxes imposed on the seller, and
23 any other expense of the seller,
24

1 (4) charges by the seller for any services necessary
2 to complete the sale, other than delivery and
3 installation charges,

4 (5) delivery charges and installation charges, unless
5 separately stated on the invoice, billing or
6 similar document given to the purchaser, and

7 (6) credit for any trade-in.

8 b. Such term shall not include:

9 (1) discounts, including cash, term, or coupons that
10 are not reimbursed by a third party that are
11 allowed by a seller and taken by a purchaser on a
12 sale,

13 (2) interest, financing, and carrying charges from
14 credit extended on the sale of personal property
15 or services, if the amount is separately stated
16 on the invoice, bill of sale or similar document
17 given to the purchaser, and

18 (3) any taxes legally imposed directly on the
19 consumer that are separately stated on the
20 invoice, bill of sale or similar document given
21 to the purchaser.

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

- 1 (1) the seller actually receives consideration from a
2 party other than the purchaser and the
3 consideration is directly related to a price
4 reduction or discount on the sale,
- 5 (2) the seller has an obligation to pass the price
6 reduction or discount through to the purchaser,
- 7 (3) the amount of the consideration attributable to
8 the sale is fixed and determinable by the seller
9 at the time of the sale of the item to the
10 purchaser, and
- 11 (4) one of the following criteria is met:
- 12 (a) the purchaser presents a coupon, certificate
13 or other documentation to the seller to
14 claim a price reduction or discount where
15 the coupon, certificate or documentation is
16 authorized, distributed or granted by a
17 third party with the understanding that the
18 third party will reimburse any seller to
19 whom the coupon, certificate or
20 documentation is presented,
- 21 (b) the purchaser identifies himself or herself
22 to the seller as a member of a group or
23 organization entitled to a price reduction
24 or discount; provided, a "preferred

1 customer" card that is available to any
2 patron does not constitute membership in
3 such a group, or

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

10 ~~13.~~ 17. a. "Maintaining a place of business in this state" means
11 and shall be presumed to include:

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

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

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

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

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

11 (c) delivers, installs, assembles or
12 performs maintenance services for the
13 vendor,

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

22 (e) conducts any other activities in this state
23 that are significantly associated with the
24

1 vendor's ability to establish and maintain a
2 market in this state for the vendor's sale.

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

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

22 ~~14.~~ 18. "Manufacturing" means and includes the activity of
23 converting or conditioning tangible personal property by changing
24 the form, composition, or quality of character of some existing

1 material or materials, including natural resources, by procedures
2 commonly regarded by the average person as manufacturing,
3 compounding, processing or assembling, into a material or materials
4 with a different form or use. ~~"Manufacturing"~~ Manufacturing does
5 not include extractive industrial activities such as mining,
6 quarrying, logging, and drilling for oil, gas and water, nor oil and
7 gas field processes, such as natural pressure reduction, mechanical
8 separation, heating, cooling, dehydration and compression;

9 ~~15.~~ 19. "Manufacturing operation" means the designing,
10 manufacturing, compounding, processing, assembling, warehousing, or
11 preparing of articles for sale as tangible personal property. A
12 manufacturing operation begins at the point where the materials
13 enter the manufacturing site and ends at the point where a finished
14 product leaves the manufacturing site. ~~"Manufacturing operation"~~
15 Manufacturing operation does not include administration, sales,
16 distribution, transportation, site construction, or site
17 maintenance. Extractive activities and field processes shall not be
18 deemed to be a part of a manufacturing operation even when performed
19 by a person otherwise engaged in manufacturing;

20 ~~16.~~ 20. "Manufacturing site" means a location where a
21 manufacturing operation is conducted, including a location
22 consisting of one or more buildings or structures in an area owned,
23 leased, or controlled by a manufacturer;

24

1 ~~17.~~ 21. "Over-the-counter drug" means a drug that contains a
2 label that identifies the product as a drug as required by 21
3 C.F.R., Section 201.66. The over-the-counter-drug label includes:

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

8 ~~18.~~ 22. "Person" means any individual, company, partnership,
9 joint venture, joint agreement, association, mutual or otherwise,
10 limited liability company, corporation, estate, trust, business
11 trust, receiver or trustee appointed by any state or federal court
12 or otherwise, syndicate, this state, any county, city, municipality,
13 school district, any other political subdivision of the state, or
14 any group or combination acting as a unit, in the plural or singular
15 number;

16 ~~19.~~ 23. "Prescription" means an order, formula or recipe issued
17 in any form of oral, written, electronic, or other means of
18 transmission by a duly licensed "practitioner" as defined in Section
19 1357.6 of this title;

20 ~~20.~~ 24. a. "Prepared food" means:

- 21 (1) food sold in a heated state or heated by the
22 seller,
23 (2) two or more food ingredients mixed or combined by
24 the seller for sale as a single item, or

1 (3) food sold with eating utensils provided by the
2 seller including plates, knives, forks, spoons,
3 glasses, cups, napkins, or straws, but does not
4 include a container or packaging used to
5 transport the food, and

6 b. prepared food shall not include:

7 (1) food sold by a seller whose primary North
8 American Industry Classification System (NAICS)
9 classification is manufacturing in Sector 311,
10 except subsector 3118,

11 (2) food sold in an unheated state by weight or
12 volume as a single item,

13 (3) bakery items including bread rolls, buns,
14 biscuits, bagels, croissants, pastries, donuts,
15 Danish, cakes, tortes, pies, tarts, muffins,
16 bars, cookies, and tortillas, and

17 (4) food sold that ordinarily requires additional
18 cooking, not including just reheating, by the
19 consumer prior to consumption;

20 25. "Prewritten computer software" means "~~computer software~~",
21 computer software including prewritten upgrades, which is not
22 designed and developed by the author or other creator to the
23 specifications of a specific purchaser. The combining of two or
24 more prewritten computer software programs or prewritten portions

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

17 ~~21.~~ 26. "Repairman" means any person who performs any repair
18 service upon tangible personal property of the consumer, whether or
19 not the repairman, as a necessary and incidental part of performing
20 the service, incorporates tangible personal property belonging to or
21 purchased by the repairman into the tangible personal property being
22 repaired;

23 ~~22.~~ 27. "Sale" means the transfer of either title or possession
24 of tangible personal property for a valuable consideration

1 regardless of the manner, method, instrumentality, or device by
2 which the transfer is accomplished in this state, or other
3 transactions as provided by this paragraph, including, but not
4 limited to:

5 a. the exchange, barter, lease, or rental of tangible
6 personal property resulting in the transfer of the
7 title to or possession of the property,

8 b. the disposition for consumption or use in any business
9 or by any person of all goods, wares, merchandise, or
10 property which has been purchased for resale,
11 manufacturing, or further processing,

12 c. the sale, gift, exchange, or other disposition of
13 admission, dues, or fees to clubs, places of
14 amusement, or recreational or athletic events or for
15 the privilege of having access to or the use of
16 amusement, recreational, athletic or entertainment
17 facilities,

18 d. the furnishing or rendering of services taxable under
19 the Oklahoma Sales Tax Code, and

20 e. any use of motor fuel or diesel fuel by a supplier, as
21 defined in Section 500.3 of this title, upon which
22 sales tax has not previously been paid, for purposes
23 other than to propel motor vehicles over the public
24 highways of this state. Motor fuel or diesel fuel

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

5 ~~23.~~ 28. "Sale for resale" means:

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

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

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

19 ~~24.~~ 29. "Soft drinks" means non-alcoholic beverages that
20 contain natural or artificial sweeteners, but does not include
21 beverages that contain milk or milk products, soy, rice, or similar
22 milk substitutes, or greater than fifty percent (50%) of vegetable
23 or fruit juice by volume;
24

1 30. "Tangible personal property" means personal property that
2 can be seen, weighed, measured, felt, or touched or that is in any
3 other manner perceptible to the senses. ~~"Tangible personal~~
4 ~~property"~~ Tangible personal property includes electricity, water,
5 gas, steam and prewritten computer software. This definition shall
6 be applicable only for purposes of the Oklahoma Sales Tax Code;

7 ~~25.~~ 31. "Taxpayer" means any person liable to pay a tax imposed
8 by the Oklahoma Sales Tax Code;

9 ~~26.~~ 32. "Tax period" or "taxable period" means the calendar
10 period or the taxpayer's fiscal period for which a taxpayer has
11 obtained a permit from the Oklahoma Tax Commission to use a fiscal
12 period in lieu of a calendar period;

13 ~~27.~~ 33. "Tax remitter" means any person required to collect,
14 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
15 tax remitter who fails, for any reason, to collect, report, or remit
16 the tax shall be considered a taxpayer for purposes of assessment,
17 collection, and enforcement of the tax imposed by the Oklahoma Sales
18 Tax Code; and

19 ~~28.~~ 34. "Vendor" means:

20 a. any person making sales of tangible personal property
21 or services in this state, the gross receipts or gross
22 proceeds from which are taxed by the Oklahoma Sales
23 Tax Code,

24

1 b. any person maintaining a place of business in this
2 state and making sales of tangible personal property
3 or services, whether at the place of business or
4 elsewhere, to persons within this state, the gross
5 receipts or gross proceeds from which are taxed by the
6 Oklahoma Sales Tax Code,

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

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

21 SECTION 2. AMENDATORY 68 O.S. 2021, Section 1354, is
22 amended to read as follows:

23 Section 1354. A. There is hereby levied upon all sales, not
24 otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of

1 four and one-half percent (4.5%) of the gross receipts or gross
2 proceeds of each sale of the following:

3 1. Tangible personal property, except newspapers, and
4 periodicals. Provided, a tax of zero percent (0%) shall be levied
5 upon sales of food and food ingredients. The state sales tax rate
6 of zero percent (0%) levied upon sales of food and food ingredients
7 shall not apply to any city or town, county, or any other
8 jurisdiction in this state. Provided, further, any sales tax levied
9 by a city, town, county, or any other jurisdiction in this state
10 pursuant to the provisions of this section, upon sales of food and
11 food ingredients shall be in effect regardless of ordinance or
12 contractual provisions referring to previously imposed state sales
13 tax on the items;

14 2. Natural or artificial gas, electricity, ice, steam, or any
15 other utility or public service, except water, sewage, and refuse.
16 Provided, the rate of four and one-half percent (4.5%) shall not
17 apply to sales subject to the provisions of paragraph 6 of Section
18 1357 of this title;

19 3. Transportation for hire to persons by common carriers,
20 including railroads both steam and electric, motor transportation
21 companies, pullman car companies, airlines, and other means of
22 transportation for hire, excluding:

23 a. transportation services provided by a tourism service
24 broker which are incidental to the rendition of

1 tourism brokerage services by such broker to a
2 customer regardless of whether or not such
3 transportation services are actually owned and
4 operated by the tourism service broker. For purposes
5 of this subsection, "tourism service broker" means any
6 person, firm, association, or corporation or any
7 employee of such person, firm, association, or
8 corporation which, for a fee, commission or other
9 valuable consideration, arranges or offers to arrange
10 trips, tours, or other vacation or recreational travel
11 plans for a customer, and

12 b. transportation services provided by a funeral
13 establishment to family members and other persons for
14 purposes of conducting a funeral in this state;

15 4. Intrastate, interstate and international telecommunications
16 services sourced to this state in accordance with Section 1354.30 of
17 this title and ancillary services. Provided:

18 a. the term "telecommunications services" shall mean the
19 electronic transmission, conveyance, or routing of
20 voice, data, audio, video, or any other information or
21 signals to a point, or between or among points. The
22 term "~~telecommunications services~~" telecommunications
23 services includes such transmission, conveyance, or
24 routing in which computer processing applications are

1 used to act on the form, code, or protocol of the
2 content for purposes of transmission, conveyance, or
3 routing without regard to whether such service is
4 referred to as voice-over Internet protocol services
5 or is classified by the Federal Communications
6 Commission as enhanced or value added.

7 ~~"Telecommunications services"~~ Telecommunications
8 services do not include:

- 9 (1) data processing and information services that
10 allow data to be generated, acquired, stored,
11 processed, or retrieved and delivered by an
12 electronic transmission to a purchaser where such
13 purchaser's primary purpose for the underlying
14 transaction is the processed data or information,
- 15 (2) installation or maintenance of wiring or
16 equipment on a customer's premises,
- 17 (3) tangible personal property,
- 18 (4) advertising, including, but not limited to,
19 directory advertising,
- 20 (5) billing and collection services provided to third
21 parties,
- 22 (6) Internet access services,
- 23 (7) radio and television audio and video programming
24 services, regardless of the medium, including the

1 furnishing of transmission, conveyance, and
2 routing of such services by the programming
3 service provider. Radio and television audio and
4 video programming services shall include, but not
5 be limited to, cable service as defined in 47
6 U.S.C. Section 522(6) and audio and video
7 programming services delivered by commercial
8 mobile radio service providers, as defined in 47
9 C.F.R. 20.3,

10 (8) ancillary services, or

11 (9) digital products delivered electronically,
12 including, but not limited to, software, music,
13 video, reading materials, or ring tones,

14 b. the term "interstate" means a ~~telecommunications~~
15 ~~service~~ telecommunications service that originates in
16 one United States state, or a United States territory
17 or possession, and terminates in a different United
18 States state or a United States territory or
19 possession,

20 c. the term "intrastate" means a telecommunications
21 service that originates in one United States state or
22 a United States territory or possession, and
23 terminates in the same United States state or a United
24 States territory or possession,

1 d. the term "ancillary services" means services that are
2 associated with or incidental to the provision of
3 telecommunications services, including, but not
4 limited to, "detailed telecommunications billing",
5 "directory assistance", "vertical service", and "voice
6 mail services",

7 e. in the case of a bundled transaction that includes
8 telecommunication service, ancillary service, Internet
9 access, or audio or video programming service:

10 (1) if the price is attributable to products that are
11 taxable and products that are nontaxable, the
12 portion of the price attributable to the
13 nontaxable products may be subject to tax unless
14 the provider can identify by reasonable and
15 verifiable standards such portion for its books
16 and records kept in the regular course of
17 business for other purposes, including, but not
18 limited to, nontax purposes, and

19 (2) the provisions of this paragraph shall apply
20 unless otherwise provided by federal law, and

21 f. a sale of prepaid calling service or prepaid wireless
22 calling service shall be taxable at the time of sale
23 to the customer;
24

1 5. Telecommunications nonrecurring charges, which means an
2 amount billed for the installation, connection, change, or
3 initiation of telecommunications services received by a customer;

4 6. Printing or printed matter of all types, kinds, or character
5 and, except for services of printing, copying or photocopying
6 performed by a privately owned scientific and educational library
7 sustained by monthly or annual dues paid by members sharing the use
8 of such services with students interested in the study of geology,
9 petroleum engineering or related subjects, any service of printing
10 or overprinting, including the copying of information by mimeograph,
11 multigraph, or by otherwise duplicating written or printed matter in
12 any manner, or the production of microfiche containing information
13 from magnetic tapes or other media furnished by customers;

14 7. Service of furnishing rooms by hotel, apartment hotel,
15 public rooming house, motel, public lodging house, or tourist camp;

16 8. Service of furnishing storage or parking privileges by auto
17 hotels or parking lots;

18 9. Computer hardware, software, coding sheets, cards, magnetic
19 tapes, or other media on which prewritten programs have been coded,
20 punched, or otherwise recorded, including the gross receipts from
21 the licensing of software programs;

22 10. Foods, confections, and all drinks sold or dispensed by
23 hotels, restaurants, or other dispensers, and sold for immediate
24 consumption upon the premises or delivered or carried away from the

1 premises for consumption elsewhere, except for food and food
2 ingredients as defined in Section 1352 of this title;

3 11. Advertising of all kinds, types, and characters, including
4 any and all devices used for advertising purposes except those
5 specifically exempt pursuant to the provisions of Section 1357 of
6 this title;

7 12. Dues or fees to clubs including free or complimentary dues
8 or fees which have a value equivalent to the charge that would have
9 otherwise been made, including any fees paid for the use of
10 facilities or services rendered at a health spa or club or any
11 similar facility or business;

12 13. Tickets for admission to or voluntary contributions made to
13 places of amusement, sports, entertainment, exhibition, display, or
14 other recreational events or activities, including free or
15 complimentary admissions which have a value equivalent to the charge
16 that would have otherwise been made; provided, that the state tax
17 generated from the sale of tickets for admission by an aquarium
18 exempt from taxation pursuant to the provisions of the Internal
19 Revenue Code, 26 U.S.C., Section 501(c)(3), or owned or operated by
20 a public trust or political subdivision of this state, shall be
21 collected and disbursed to the nonprofit organization, public trust
22 or political subdivision responsible for the aquarium's operations
23 for use by that entity for promoting visitation primarily to out-of-
24 state residents;

1 14. Charges made for the privilege of entering or engaging in
2 any kind of activity, such as tennis, racquetball, or handball, when
3 spectators are charged no admission fee;

4 15. Charges made for the privilege of using items for
5 amusement, sports, entertainment, or recreational activity, such as
6 trampolines or golf carts;

7 16. The rental of equipment for amusement, sports,
8 entertainment, or other recreational activities, such as bowling
9 shoes, skates, golf carts, or other sports or athletic equipment;

10 17. The gross receipts from sales from any vending machine
11 without any deduction for rental to locate the vending machine on
12 the premises of a person who is not the owner or any other
13 deductions therefrom;

14 18. The gross receipts or gross proceeds from the rental or
15 lease of tangible personal property, including rental or lease of
16 personal property when the rental or lease agreement requires the
17 vendor to launder, clean, repair, or otherwise service the rented or
18 leased property on a regular basis, without any deduction for the
19 cost of the service rendered. If the rental or lease charge is
20 based on the retail value of the property at the time of making the
21 rental or lease agreement and the expected life of the property, and
22 the rental or lease charge is separately stated from the service
23 cost in the statement, bill, or invoice delivered to the consumer,
24

1 the cost of services rendered shall be deducted from the gross
2 receipts or gross proceeds;

3 19. Flowers, plants, shrubs, trees, and other floral items,
4 whether or not produced by the vendor, sold by persons engaged in
5 florist or nursery business in this state, including all orders
6 taken by an Oklahoma business for delivery in another state. All
7 orders taken outside this state for delivery within this state shall
8 not be subject to the taxes levied in this section;

9 20. Tangible personal property sold to persons, peddlers,
10 solicitors, or other salesmen, for resale when there is likelihood
11 that this state will lose tax revenue due to the difficulty of
12 enforcing the provisions of the Oklahoma Sales Tax Code because of:

- 13 a. the operation of the business,
- 14 b. the nature of the business,
- 15 c. the turnover of independent contractors,
- 16 d. the lack of place of business in which to display a
17 permit or keep records,
- 18 e. lack of adequate records,
- 19 f. the fact that the persons are minors or transients,
- 20 g. the fact that the persons are engaged in service
21 businesses, or
- 22 h. any other reasonable reason;

23 21. Any taxable services and tangible personal property
24 including materials, supplies, and equipment sold to contractors for

1 the purpose of developing and improving real estate even though ~~said~~
2 the real estate is intended for resale as real property, hereby
3 declared to be sales to consumers or users; however, taxable
4 materials, supplies, and equipment sold to contractors as provided
5 by this subsection which are purchased as a result of and subsequent
6 to the date of a contract entered into either prior to the effective
7 date of any law increasing the rate of sales tax imposed by this
8 article, or entered into prior to the effective date of an ordinance
9 or other measure increasing the sales tax levy of a political
10 subdivision shall be subject to the rate of sales tax applicable, as
11 of the date such contract was entered into, to sales of such
12 materials, supplies and equipment if such purchases are required in
13 order to complete the contract. Such rate shall be applicable to
14 purchases made pursuant to the contract or any change order under
15 the contract until the contract or any change order has been
16 completed, accepted and the contractor has been discharged from any
17 further obligation under the contract or change order or until two
18 (2) years from the date on which the contract was entered into,
19 whichever occurs first. The increased sales tax rate shall be
20 applicable to all such purchases at the time of sale and the
21 contractor shall file a claim for refund before the expiration of
22 three (3) years after the date of contract completion or five (5)
23 years after the contract was entered into, whichever occurs earlier.
24 However, the Oklahoma Tax Commission shall prescribe rules and

1 regulations and shall provide procedures for the refund to a
2 contractor of sales taxes collected on purchases eligible for the
3 lower sales tax rate authorized by this subsection;

4 22. Any taxable services and tangible personal property sold to
5 persons who are primarily engaged in selling their services, such as
6 repairmen, hereby declared to be sales to consumers or users; and

7 23. Canoes and paddleboats as defined in Section 4002 of Title
8 63 of the Oklahoma Statutes.

9 B. All solicitations or advertisements in print or electronic
10 media by Group Three vendors, for the sale of tangible property to
11 be delivered within this state, shall contain a notice that the sale
12 is subject to Oklahoma sales tax, unless the sale is exempt from
13 such taxation.

14 SECTION 3. This act shall become effective November 1, 2024.

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