CHAPTER 65. SALES AND USE TAX

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[**Authority:** 2 O.S. §11-96; 68 O.S. §§ 203, 1353(B), 1354, 1354.18, 1357, 1357.4, 1357.5, 1357.10, 1359.1, 1364(D), 1404.1, 1404.3, 1404.4, 1404.5, 1407, 1407.2, 1515(D), 2397(D), 54004, and 54005]

[**Source:** Codified 12-30-91]

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CHAPTER 65. SALES AND USE TAX

SUBCHAPTER 1. GENERAL PROVISIONS

710:65-1-1. Purpose

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes under the Oklahoma Sales and Use Tax Codes. (68 O.S. §§1351 et seq.; 68 O.S. §§1401 et seq.)

710:65-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Business" means any activity with the potential to generate a profit even if the business actually operates at a loss. This category also includes non-profit, religious and other organizations and persons who are otherwise exempt when they are conducting activities for a profit in competition with other businesses.

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

(A) "**distinct and identifiable products**" does not include:

(i) packaging such as containers, boxes, sacks, bags, and bottles, or other materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof, including but not limited to, grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes;

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

(iii) items included in the definition of gross receipts or sales price, pursuant to this Section.

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

(C) A transaction that otherwise meets the definition of a **bundled transaction** shall not be considered a **bundled transaction** if it is:

(i) the retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(ii) the retail sale of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

(iii) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis. For purposes of this Section, "de minimis" means the seller's purchase price or sales price of taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of

the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

(iv) the retail sale of exempt tangible personal property and taxable tangible personal property where:

(I) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices or medical supplies, and

(II) the seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction.

"Consumer" or **"user"** means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

"Consideration" means and includes, but is not limited to:

(A) The price arrived at between purchaser and vendor.

(B) Any additional bona fide charges added to or included in such price for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other services performed in respect to or labor charges for work done with respect to such property prior to transfer.

(C) No deduction from gross receipts is permitted for services performed or work done on behalf of the vendor prior to transfer of such tangible personal property. [**See:** 68 O.S. § 1352]

"Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. **"Delivery charges"** does not include charges for the delivery of **"direct mail"** if the charges are separately-stated on an invoice or similar billing document given to the purchaser.

*"**Gross receipts**", "**gross proceeds**", or "**sales price**" means the total amount of consideration including cash, credit, property, and services, for which personal property or services are sold, leased, or rented; valued in money, whether received in money or otherwise, without any deduction for the following:*

(A) *The seller's cost of the property sold;*

(B) *The cost of materials used, labor, or service cost;*

(C) *Interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;*

(D) *Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;*

(E) *Delivery charges and installation charges, unless separately stated on the invoice, billing, or similar document given to the purchaser; or,*

(F) *Credit for any trade-in.*

*"**Gross receipts**", "**gross proceeds**", or "**sales price**" shall not include:*

(A) *Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;*

(B) *Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or*

(C) *Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.* [68 O.S.§ 1352]

"Gross receipts", "gross proceeds", or ***"sales price"*** *shall include consideration received by the seller from third parties if:*

(A) *The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*
(B) *The seller has an obligation to pass the price reduction or discount through to the purchaser;*
(C) *The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*
(D) *One of the following criteria is met:*
(i) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;*
(ii) *The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, a "preferred customer" card that is available to any patron does not constitute membership in such a group; or*
(iii) *The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.*

"Lease" or **"rental"** means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(A) **"Lease"** or **"rental"** does not include:
(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of One Hundred Dollars or one (1) percent of the total required payments; or
(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this unit, an operator must do more than maintain, inspect, or set-up the tangible personal property.
(B) **"Lease"** or **"rental"** does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined by 26 U.S.C. § 7701(h)(1).
(C) This definition shall be used for sales and use tax purposes if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Oklahoma Uniform Commercial Code (12A O.S. § 1-101 et seq.), or other provisions of federal, state, or local law.

"Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

"Sale" means *the transfer of either title or possession of tangible personal property for a valuable consideration regardless of the manner, method, instrumentality, or device by which the transfer is accomplished in this state.* [68 O.S. § 1352] All consideration received for the sale is included in gross receipts subject to tax.

(A) **"Sale"** does include but is not limited to:
(i) *The exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property;*
(ii) *The disposition for consumption or use in any business or by any person of all goods, wares, merchandise, or property which has been purchased for resale, manufacturing, or further processing;*

(iii) *The sale, gift, exchange, or other disposition of admission, dues, or fees to clubs, places of amusement or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities;*
(iv) *The furnishing or rendering of services taxable under the Oklahoma Sales Tax Code; and*
(v) *Any use of motor fuel or diesel fuel by a supplier, as defined in Section 500.3 of this title, upon which sales tax has not previously been paid, for purposes other than to propel motor vehicles over the public highways of this state. Motor fuel or diesel fuel purchased outside the state and used for purposes other than to propel motor vehicles over the public highways of this state shall not constitute a sale within the meaning of this paragraph.*

(B) **"Sale"** does not include sale and leaseback.

"Sales tax" means all applicable state, city and county sales tax.

"Sales value" means:

(A) In the case of a manufacturer, the sum of the manufacturer's cost of raw materials and the proportionate share of both the cost of machinery and equipment used and the cost of items consumed in the direct process of the manufacturing of the product, all of which were purchased exempt from sales tax for use in the process of manufacturing; or

(B) In the case of a person holding a mixed beverage tax permit or other permit issued in accordance with 37A O.S. § 5-107, the total retail sales price for sales of alcoholic beverages only, calculated pursuant to *OAC* 710:20-5-4; or

(C) In the case of sales of prepared food, the sales value of a free, reduced price, or complimentary meal is presumed to be the greater of the consideration received for the meal, if any, or the cost paid by the vendor of the food for the food items included in the free, reduced price, or complimentary meal; or

(D) In the case where an inventory of goods, originally purchased exempt for resale, is being held for rental or leasing purposes, the regular rental charges which would be charged to the vendor's best customer, if the goods are to be returned to inventory. Where the goods are not to be returned to inventory held for rental or leasing purposes, the lesser of the original purchase price of the goods, or the current market price will be presumed to be the sales value; or

(E) Otherwise, **"sales value"** means the larger of either the vendor's cost at the time the exempt purchase of goods was made, or the price at which it would be sold to the vendor's best customer in the ordinary course of business.

"Tangible personal property" means *personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses.* For purposes of the Oklahoma Sales Tax Code, *"**tangible personal property**" includes electricity, water, gas, steam and prewritten computer software.* [68 O.S.§ 1352] The term does not include real property, such as land and buildings, tangible personal property that loses its identity when it becomes an integral and inseparable part of the realty, or tangible personal property which is removable only with substantial damage to the premises. Property severed from real estate becomes tangible personal property. **"Tangible personal property"** does not include intangible personal property constituting mere rights of action and having no intrinsic value, such as contracts, deeds, mortgages, stocks, bonds, certificates of deposit, or uncancelled United States postage or revenue stamps sold for postage or revenue purposes. [**See:** 68 O.S. § 1352; 68 O.S. § 1354; See Also: 60 O.S. §§ 7, 8]

"Tax" means all state, applicable city and applicable county tax.

"Use tax" means all applicable state and city use tax.

"User" or **"consumer"** means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98;

Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1563, eff. 6-11-05; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-1-3. Computation of sales and use taxes to be collected and remitted

(a) **Determination of tax rate.** To determine the amount of tax to be collected and remitted, the gross receipts or gross proceeds of each sale is to be multiplied by the applicable percentage. The *applicable percentage shall equal the combination of the state and any applicable municipal and county sales tax rates.*

(b) **Computation of tax.** *In computing the tax to be collected or remitted as the result of any transaction, the tax amount must be carried to the third decimal place when the tax amount is expressed in dollars. The tax must be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. The vendor or direct payment permit holder may elect to compute the tax due on transactions on an item or invoice basis.* [**See:** 68 O.S.Supp.2003, § 1362(B)]

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-1-4. Presumption of taxability

(a) **Sales tax.** For the purpose of proper administration of the provisions of the sales and use tax laws, it is presumed that all gross receipts are subject to tax until they are shown to be tax exempt. The burden of proving that a sale of tangible personal property or enumerated service is an exempt sale is upon the vendor.

(b) **Use tax.** For consumer use tax purposes, it is presumed that tangible personal property sold, leased or rented by any person for delivery in this state is sold, leased or rented for storage, use or other consumption in this state. The burden of proving the contrary is on the purchaser. [**See:** 68 O.S. §1365]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-1-5. Unlawful to advertise that sales tax will be absorbed

Oklahoma Statutes, prohibits any retailer to advertise or hold out or state to the public or to any customer, either directly or indirectly, that the sales tax imposed under Oklahoma Statutes, will be absorbed or assumed by such retailer, or that such tax will be paid by the vendor for the consumer or user. [**See:** 68 O.S. §1361(D)]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-1-6. "Tax-included" prices

(a) Certain vendors, in an effort to arrive at a sum for the tangible personal property being sold which may be conveniently handled as cash, have calculated the price of the property and collected a **"tax-included"** amount. In some cases the vendor has made signs, price lists, etc. on the premises advising that the prices include tax; in others no apparent mention of taxes has been made to the public.

(b) Although certainly desirable from an accounting and auditing standpoint, neither the statutes nor Commission rules require a vendor to state the sale price separately from the applicable tax. 68 O.S. 1361(B) provides that sales tax shall be added to the sales price, *"and when added such tax shall constitute a part of such price."* Under present law, taxes collected as part of a tax-included price, if so charged and collected, may be "backed out" of the total receipts to arrive at the amount of gross receipts or gross proceeds subject to tax. [68 O.S. §1361(B)]

(c) Whether the vendor added and collected the tax or whether the vendor truly failed to collect any tax at all, is always a fact to be determined. Such factual determination must be made in light of all circumstances, documents, records and information available. No single factor will be relied on to the exclusion of other evidence. As always in tax matters, the burden of proving that the tax

was added and collected is on the vendor. The vendor must keep sufficient documentary evidence, i.e. books, records, price lists, signs, to sustain this burden.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04]

710:65-1-7. Consumer/user defined; specific applications

"Consumer" or **"user"** means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

(1) **Hospitals, sanitariums, nursing homes and emergency medical care.** Hospitals and sanitariums are primarily engaged in the business of selling services, and for the purposes of the Sales Tax Code are considered to be the consumers or users of all tangible personal property and services used in the operation of the institution. Thus, the gross proceeds derived from sales of tangible personal property and certain services to such institutions are subject to tax. This paragraph applies to all hospitals, sanitariums and nursing homes, including those owned or operated by churches, fraternities, cooperatives, or any other organization, except those operated by the Federal Government, the State, or a political subdivision thereof.

(2) **Withdrawals from stock.** If any business purchases tangible personal property for resale, manufacturing or further processing and that business withdraws tangible personal property, either from its inventory or after such inventory has been manufactured or processed for its own use or consumption, that business has made a taxable sale and the value of the property withdrawn is taxable at its **"sales value"**, as defined in *OAC* 710:65-1-2. The business withdrawing tangible personal property from inventory should include the **"sales value"** of such property in gross receipts or gross proceeds on its sales tax report for the month the property was withdrawn.

(3) **Contractors.** Contractors are consumers or users, and must pay sales tax on all taxable services and tangible personal property, including materials, supplies, and equipment, purchased to develop and improve real property. Examples of contractors subject to this paragraph are: painting contractors, road contractors, grading and excavating contractors, electrical contractors, plumbing contractors, and other persons engaged in a contractual arrangement to make improvements on real property. A person working for a salary or wage is not considered a contractor. The Sales Tax Code limits the ability of contractors to make purchases exempt from sales tax based on the exempt status of another entity to the following situations: [**See:** 710:65-7-6 and 710:65-7-13]

(A) A contractor who has a public contract, or a subcontractor to that public contract, with an Oklahoma municipality, county, public school district, city-county library system, an institution of the Oklahoma System of Higher Education, a rural water district, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, the City of Tulsa-Rogers County Port Authority, the Broken Bow Economic Development Authority, the Muskogee City-County Port Authority, the Oklahoma Ordnance Works Authority, the Durant Industrial Authority, the Ardmore Development Authority, the Oklahoma Department of Veterans Affairs, the Central Oklahoma Master Conservancy District, Arbuckle Master Conservancy District, Fort Cobb Master Conservancy District, Foss Reservoir Master Conservancy District, Mountain Park Master Conservancy District, Waurika Lake Master Conservancy District or the Office of Management and Enterprise Services only when carrying out a public construction contract on behalf of the Oklahoma Department of Veterans Affairs, the Oklahoma State University Medical Authority and Trust, the Oklahoma State University Veterinary Medicine Authority and Trust, and effective July 1, 2022, the University Hospitals Trust may make purchases of tangible personal property or services, which are necessary for carrying out the public contract, exempt from sales tax.

(B) A contractor who has entered into a contract with a private institution of higher education or with a private elementary or secondary institution, may make purchases of tangible personal property or services, including materials, supplies and equipment used in the construction of buildings owned and used by the institution for educational purposes exempt from sales tax.

(C) A contractor who has contracted with an agricultural permit holder to construct a facility which will be used directly in the production of any livestock, including facilities used in the production and storage of feed for livestock owned by the agricultural permit holder, may make purchases of materials, supplies and equipment necessary to fulfill the contract, exempt from sales tax.

(D) A contractor may make purchases of materials, supplies and equipment necessary to fulfill a contract, exempt from sales tax, for use on campus construction projects for the benefit of institutions of the Oklahoma State System of Higher Education or private institutions of higher education accredited by the Oklahoma State Regents for Higher Education. The projects must be financed by or through the use of nonprofit entities which are exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(E) A contractor may make purchases of machinery, equipment, fuels, and chemicals or other materials, exempt from sales tax, which will be incorporated into and directly used or consumed in the process of treatment of hazardous waste, pursuant to *OAC* 710:65-13-80. Contractors claiming exemption for purchases to be used to remediate hazardous wastes should obtain a letter certifying the exemption status from the Tax Commission by following the procedures set out in 710:65-13-80, and provide a copy of the letter to vendors, pursuant to subsection (f) of that rule.

(F) A contractor, or a subcontractor to such contractor, with whom a church has duly entered into a construction contract may make purchases of tangible personal property or services exempt from sales tax which are necessary for carrying out such construction contract.

(G) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property which is to be *consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative* exempt from sales tax.

(H) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services pursuant to a contractual relationship with a child care center, qualified for exemption pursuant 68 O.S. § 1356(69), for construction and improvement of buildings and other structures owned by the child care center and operated for educational purposes exempt from sales tax.

(I) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services exempt from sales tax pursuant to a contractual relationship with a manufacturer for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and equipment for use in a manufacturing operation classified under NAICS No. 324110 (Petroleum Refineries).

(4) **Repairmen.** Repairmen are persons engaged in the business of repairing tangible personal property. Parts incidental to the repair service which are consumed/used in making repairs are taxable to the repairman as a consumer/user. [**See:** 68 O.S. § 1352]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1564, eff. 6-11-05; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 39 Ok Reg 2264, eff 9-11-22; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-1-8. Established place of business; maintaining a place of business

(a) **"Established place of business" defined.**

(1) An **"established place of business"** means a location at which:

(A) Any person regularly engages in, conducts, or operates a business:

(i) in a continuous manner,

(ii) for any length of time,

(iii) that is open to the public during hours customary for the type of business; and

(B) Merchandise for resale is maintained, and not exempted by law from attachment, execution, or other species of forced sale barring any satisfaction of any delinquent sales tax liability.

(2) A location used in conducting a hobby is not considered an **"established place of business"** even though occasional taxable sales are made from the location; i.e., a garage set up as a wood working shop. The occasional sales are taxable and are to be reported by the seller on a sales tax report as casual sales.

(b) **"Maintaining a place of business" defined. "Maintaining a place of business in this state"** means and shall be presumed to include:

(1) Utilizing or maintaining in this state, directly or through subsidiary the operations outlined in (A) through (E) of this paragraph whether owned or operated by the vendor or any other person, other than a common carrier acting in its capacity as such.

(A) an office (to include a home office),

(B) a distribution house,

(C) a sales house (such as a shop or store),

(D) a warehouse (could be in a home's garage), or

(E) any other physical place of business (a hot dog stand on wheels, a barbecue wagon parked on the roadside, or an ice cream truck traveling a route); or

(2) Having agents operating in this state such as salesmen, brokers, or wholesale buyers;

(A) Whether the place of business, or agent is within this state temporarily (traveling salesman, buyers for out-of-state firms) or permanently (shop or store in a mall); or

(B) Whether the person is authorized to do business within this state. Example: A broker, who is self-employed, operates his business from an office he has established in a spare bedroom of his home in this state. He does not have an "established place of business" but he does "maintain a place of business in this state." [**See:** 68 O.S. § 1352; 1401(10)]

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

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

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

(C) delivers, installs, assembles or performs maintenance services for the vendor,

(D) facilitates the vendor's delivery of property to customers in the state by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in this state, or

(E) conducts any other activities in this state that are significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sale.

(4) The presumptions in paragraphs (1) and (2) of subsection (b) may be rebutted by demonstrating that the person's activities in this state are not significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sales.

[**Source:** Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 34 Ok Reg 2089, eff 9-11-17; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-1-9. Gross receipts, gross proceeds, and sales price

(a) **General provisions.** The gross proceeds, gross receipts, or sales price reported by the taxpayer must include the total receipts from all sources, including cash from sales, charge sales, credits, services, and property other than cash accepted as consideration. Sales tax reports are to be filed on an accrual accounting basis. Sales tax should be reported and remitted for the month that the sale is made regardless of whether payment is received, charged, deferred, or otherwise to be made in the future, and regardless of the time or manner of payment.

(b) **Scope of "gross receipts"**, **"gross proceeds"**, or **"sales price".** ***"Gross receipts"***, ***"gross proceeds"***, *or* ***"sales price"*** *means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:*

(1) The seller's cost of the property sold;

(2) The cost of materials used, labor, or service cost;

(3) Interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

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

(5) Delivery charges and installation charges, unless separately-stated on the invoice, billing, or similar document given to the purchaser; and,

(6) Credit for any trade-in. [68 O.S. § 1352]

(c) **Excluded items and transactions. "gross receipts"**, **"gross proceeds"**, or **"sales price"** *shall not include:*

(1) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(2) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately-stated on the invoice, bill of sale, or similar document given to the purchaser; and,

(3) Any taxes legally imposed directly on the consumer that are separately-stated on the invoice, bill of sale, or similar document given to the purchaser. [68 O.S. § 1352]

(d) ***"Gross receipts", "gross proceeds",*** or ***"sales price"*** *shall include consideration received by the seller from third parties if:*

(1) *The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*

(2) *The seller has an obligation to pass the price reduction or discount through to the purchaser;*

(3) *The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*

(4) *One of the following criteria is met:*

(A) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;*

(B) *The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, a "preferred customer" card that is available to any patron does not constitute membership in such a group; or*

(C) *The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.* [68 O.S. § 1352]

(e) **Examples and illustrations.** Examples and illustrations of common situations and transactions are set out in this subsection, with information as to how gross receipts, gross proceeds, or sales price should be determined in each instance:

(1) **Trade-ins.** The value of trade-ins accepted by a taxpayer in lieu of money or other consideration may not be deducted from the gross proceeds.

(2) **Sales value.** The gross proceeds must also include the sales value, as defined in *OAC* 710:65-1-2, of any goods, wares, merchandise or property withdrawn or used from the established place of business or from the stock in trade.

(3) **Charge accounts.** Sales tax applies to credit sales at the time the sale is made, regardless of the time or manner in which payment is to be made. Sales tax is due upon transfer of title or possession regardless of method or time of payment.

(4) **Conditional sales.** The tax applies to conditional sales of tangible personal property and taxable services. The gross proceeds reported by the taxpayer must include all conditional sales made during the month for which the report is filed.

(5) **Coupons.** The procedure regarding the use of coupons used to purchase tangible personal property will be as follows:

(A) If the coupon is redeemable by a manufacturer or another third party, the original price of the item, before the allowance offered by the coupon, is subject to tax.

(B) If the coupon offering a reduced price is issued by the retailer, it is a method of promotion and the reduced price is subject to tax.

(C) The purchase of the right to receive specific manufacturer's coupons, which coupons can then be redeemed at a retailer when purchasing the item(s) described in the coupon, is not subject to sales tax.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-1-10. Initial use of property

Any item purchased for use or consumption by the purchaser is subject to sales or use tax at the time of purchase, even though the item may be resold later in either its original or altered form. Any exempt purchase is taxable in full at the time the purchaser first uses the item for a nonexempt purpose. For example, a rental company purchases a tractor exempt from sales tax for the purpose of renting the tractor to another person. If the rental company at some point determines it will withdraw the tractor from its inventory of items held for rental, and instead, will use the tractor for its own use in providing services, the **"sales value"** of the tractor is taxable at that point. The rental company must report the **"sales value"** of the tractor as a withdrawal from inventory on Line Two (2) of the sales tax report filed for the period when the determination was made and remit the applicable sales tax.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-1-11. Rentals and leases of tangible personal property

(a) **Rental or lease of tangible personal property taxable.** The gross receipts or gross proceeds derived from the rental or lease of tangible personal property are subject to sales tax.

(b) **"Rental" or "lease" defined. "Lease"** or **"rental"**, as used in this Section, shall have the same meaning as set out in 710:65-1-2.

(c) **Computation of the tax.** The tax shall be computed on the gross amount without any allowance for service, laundering, cleaning, maintenance, insurance, property taxes, etc., whether paid by the lessor or lessee. However, if the rental or lease charge is based on the retail value of the property at the time of entering the lease agreement and the life expectancy of the property, and the rental charge is separately stated from the service in the bill or invoice delivered to the lessee, tax shall be due only on the rental amount.

(d) **Taxability of vendor payments for insurance and property taxes**. The tax must be computed on the gross amounts of any charges billed to the purchaser to reimburse the vendor for insurance premiums or for property taxes paid. However, recovery fees on the rental charge from any item of heavy equipment property rental as provided in 68 O.S. § 2807.11 are exempt from sales tax pursuant to 68 O.S. § 1357.

(e) **Taxability of charges for damage waivers.** An optional charge for a damage waiver or a similar instrument that acts as a waiver of the lessor's right to collect from the lessee for any damage to the property is not considered part of the gross lease or rental charge, if separately stated.

(f) **Payment of tax by a contractor or lessor on equipment subsequently leased or rented.** Payment of a sales or use tax by a contractor or other lessor on equipment purchased for his/her own use and so used does not exempt subsequent rentals or leasing of the equipment from the sales tax.

(g) **Furnishing equipment with an operator.** The furnishing for a charge of equipment with an operator shall be considered a service and not subject to sales tax. Persons purchasing equipment for the purpose of furnishing said equipment with an operator must pay sales or use tax at the time the equipment is purchased.

(h) **Purchases by a vendor for renting or leasing.** Purchases by a vendor of tangible personal property for purposes of renting or leasing same are exempt from sales tax. If such equipment purchased exempt from taxation is rented with an operator or the vendor uses such equipment to perform a service, but the equipment remains in the rental inventory, the vendor should pay sales tax on the **"sales value"**, pursuant to *OAC* 710:65-1-2.

(i) **Purchases of repair parts.** Purchases of repair parts made by a vendor who is engaged in renting or leasing tangible personal property, where the parts are to be incorporated into the tangible personal property subsequently rented or leased, are considered purchases for resale and may be purchased exempt from sales tax. Items such as oil, filters, and the like, which are purchased by the lessor, and are incorporated into the property transferred to the lessee, whether as part of the rental or lease agreement, or as separately billed items, are also included in the exemption described in this subsection.

(j) **Time of incidence of tax on leases.**

(1) A lease of tangible personal property is a series of transactions in time units defined by the agreement of the parties. Gross receipts generated therefrom are taxable at the rate in effect at the time the payment must be or is made. The initial obligation to pay becomes fixed upon the transfer of possession of the tangible personal property unless the agreement specifically sets forth another time. Subsequent obligations to pay become fixed either by the terms of the agreement, trade practices of the lessor, or practice in a course of dealing.

(2) A lease of tangible personal property normally imposes upon the lessee multiple obligations. Each of these obligations may be treated separately by the agreement. The incidence of taxation upon each payment under the agreement will be determined by the obligation for which payment is made and the time at which such obligation to pay in fact arose.

(3) Some obligations to pay arise by the execution of an agreement while other obligations arise by reason of the voluntary activities of the parties during the term of the agreement. For example, the lease of an automobile for a fixed period of months may give rise to an unconditional obligation to pay a minimum monthly amount and an additional obligation to pay for all miles driven in excess of a specified amount. [**See:** 68 O.S. §§1352, 1354]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04, Amended at 22 Ok Reg 1565, eff. 6-11-05; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

SUBCHAPTER 3. REPORTS AND RETURNS; PAYMENTS AND PENALTIES; RECORDS

PART 1. GENERAL PROVISIONS

710:65-3-1. Reports, payments, and penalties

(a) **Monthly reporting.** Every vendor, except as noted in (b), (c) and (d) of this Section, shall file with the Commission on or before the 20th day of each month, a report on forms to be obtained from the Commission, covering sales for the previous calendar month.

(b) **Semiannual reporting.** Any vendor who is classified as a Group Three vendor or whose total tax liability for any one (1) month does not exceed Fifty Dollars ($50.00) must notify the Commission of its intent to file a semiannual return and remittance in lieu of a monthly return and remittance, provided the vendor qualifies.

(1) **Qualification.** To qualify, the vendor must substantiate that the vendor is in business making sales incidental to that business, or is seasonal or transient, or makes sales through peddlers, solicitors or other salesmen without an established place of business. Otherwise, to qualify, filing records will have to substantiate the fact that the vendor's sales tax liability, for the past six (6) consecutive months immediately preceding the date of the application, has not exceeded Fifty Dollars ($50.00) in any one month. Requests to file semiannually should be directed to the Registration Section of the Business Tax Services Division, Oklahoma Tax Commission, P.O. Box 269057, Oklahoma City, Oklahoma 73194 or by FAX at (405) 521-3826.

(2) **Commencement of semiannual reporting.** It should be clearly understood that semiannual filing should not be commenced until the Commission notifies taxpayer, in writing, that Commission records have been amended to reflect semiannual filing status. Failure to follow this procedure may result in taxpayer receiving assessments, adjustments, etc. for the months of February through June and August through December.

(3) **Semiannual reporting due dates.** When the application for semiannual filing has been approved, returns shall be filed on or before the 20th day of January and July of each year for the preceding six (6) months' period.

(4) **Revocation of authorization.**

(A) Conditions that could cause revocation of the authorization to report semiannually are:

(i) In the event that the vendor filing the return on a semiannual basis becomes delinquent in either the filing of the return or the payment of the taxes due thereon, or

(ii) In the event that the liability of a vendor, who has been authorized to file returns and to make payments on a semiannual basis, exceeds Fifty Dollars ($50.00) in sales tax for any one month, or

(iii) In the event that the Commission determines that any semiannual filing or return or any payment of tax due thereon would unduly jeopardize the proper administration of the Oklahoma Sales Tax Law.

(B) If the Commission decides it is necessary to revoke the authorization to file semiannually in relation to any of the conditions in (A) of this paragraph, the taxpayer will be required to file returns and to pay the tax due on a monthly basis.

(c) **Semimonthly electronic reporting.** Persons owing an average of Two Thousand Five Hundred Dollars ($2,500.00) or more, per month, in total sales taxes for the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

(1) For sales from the first (1st) day through the fifteenth (15th) day of each month, the tax shall be due and payable on the twentieth (20th) day of the month, and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the requirements of this paragraph if, on or before the twentieth (20th) day of each month, the taxpayer paid at least ninety (90) percent of the liability for that fifteen-day period, or at least fifty (50) percent of the liability incurred during the immediate preceding calendar year for the same month; and

(2) *For sales from the sixteenth (16th) day through the end of each month, the tax shall be due and payable on the twentieth (20th) day of the following month, and remitted to the Tax Commission by electronic funds transfer*; [**See:** 68 O.S. § 1365(D)(2)]

(d) **Electronic reporting.** Beginning June 1, 2007, all new sales tax registrants required to report and remit sales tax shall file their monthly sales tax report in accordance with the Tax Commission's electronic funds transfer and electronic data interchange program unless the vendor receives an exception to the electronic filing requirement pursuant to OAC 710:65-3-4(c).

(e) **Electronic reporting; due dates; delinquency dates.** Persons required to remit the tax due pursuant to subsection (c) and (d) shall file a monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth (20th) day of the month following that in which the sales occurred. Taxes not paid on or before the due dates specified in subsection (c) shall be delinquent from such dates.

(f) **Payment.** Remittances covering the sales tax liability reported shall accompany the sales tax return. Sales taxes will be considered delinquent and interest as provided by law will be charged, if payment is not received or postmarked by the date the return is due.

(g) **Interest.** Interest at the rate provided by law will be imposed on all liability not paid at the time when required to be paid. Said interest will be imposed and collected on the delinquent tax at the statutory rate from the date the tax is delinquent until paid.

(h) **Audit; refund/credit for overpayment; assessment inclusive of interest due.** When, in the course of an audit, it is found that the tax being audited was overpaid for any period included in the audit, and the taxpayer has not filed a verified claim for refund of the overpayment, the overpayment may be allowed as a credit against the total liability established during the audit. The overpayment shall be applied to the liability as of the date of the overpayment. Whenever an assessment is made for any delinquent tax, the amount of interest due thereon at the time the assessment is made shall be included in the assessment.

(i) **Liability for tax, penalty, interest; interest computation.** Any taxpayer responsible for the payment of any tax levied by any state tax law shall be liable for payment of interest at the rate set by statute on any amount of tax not paid before it becomes delinquent. Interest shall be computed for each day of delinquency from the date the tax becomes delinquent until it is paid.

(j) **Penalty for failure to file and remit.** Penalties - A vendor who fails to file a return and remit the full amount of the tax within fifteen (15) days after the tax is due shall be subject to a penalty of ten (10) percent of the amount of tax due.

(k) **Penalty for failure or refusal to file after demand.** In the case of failure or refusal to file within ten (10) days after written demand has been served upon the taxpayer by the Commission, a penalty of twenty-five (25) percent may be assessed and collected.

(l) **Penalty for fraud.** If any portion of the deficiency is due to fraud with intent to evade tax, a penalty of fifty (50) percent shall be added, collected, and paid.

(m) **Waiver of penalty; interest.** At the discretion of the Commission, the interest or penalty, or both, may be waived provided the taxpayer can demonstrate that the failure to pay the tax when due is satisfactorily explained, or that the failure resulted from a mistake by the taxpayer of either law or fact, or that the taxpayer is unable to pay the interest or penalty due to insolvency. Requests for waiver or remission must be made in writing and must include all pertinent facts to support the request. [**See:** 68 O.S. §§ 217, 1365, 1405]

(n) **Zero business activity reports for twelve consecutive months.** In the event that the reports filed pursuant to (a) indicate that there is no business activity for twelve consecutive months, the Oklahoma Tax Commission may initiate a hearing to revoke or suspend the sales tax permit pursuant to the procedure set forth in OAC 710:1-5-100. As used in this section, "no business activity" means zero ("0") dollars in "total sales" reported on OTC Form STS-200002-C.

(1) The burden to prove the necessity of keeping the permit until expiration is upon the permit holder.

(2) Nothing prevents the Oklahoma Tax Commission from initiating a subsequent hearing to revoke or suspend the sales tax permit of a holder who has already gone through the revocation process, regardless of the outcome, if the subsequently filed reports indicate a

second twelve-month period of no business activity.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-3-2. Timely mailing treated as timely filing and paying

(a) Any report, claim, tax return, statement or other document required or authorized to be filed with or any payment made to the Commission, which document or payment is transmitted through the United States mail, will be deemed to have been filed with and received by the Commission on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. If mailed but not received by the Commission, or if received but the cancellation mark is illegible, erroneous or omitted, or envelope unavailable, the document or payment will be deemed to have been filed on the date it was mailed if the sender establishes by competent evidence that the document or payment was deposited in the United States mail on or before the date due for filing. If the envelope or other wrapper bears a postmark made by a private postage meter in addition to a legible postmark made by the United States Postal Service, the postmark not made by the United States Postal Service shall be disregarded. In the event of the Commission's failure to receive a document or payment, the document or payment will be deemed to have been received by the Commission on time if the sender files with the Commission a duplicate within thirty (30) days after written notification is given to the sender by the Commission of its failure to receive such document or payment, provided proof is furnished that the original of the document was deposited in the United States mail on or before the date due for filing.

(b) If any report, claim, tax return, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certificate or certificates shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed, and the date of registration, certification or certificate shall be deemed to be the date of the postmark made by the United States Postal Service. [**See:** 710:1-3-30 through 710:1-3-32; 68 O.S. §1365]

710:65-3-3. Due date that falls on Saturday, Sunday or holiday

If a due date falls on Saturday, Sunday, a holiday, or dates when the Federal Reserve Banks are closed, such due date shall be considered to be the next business date. [**See:** 68 O.S. §1365]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-3-4. Contents of monthly sales report

(a) **General provisions.** Every vendor shall file a monthly report for sales made the preceding month stating the name of the seller, address, telephone number, and, sales tax number as it appears on the sales tax permit of the business and the period (month and year) covered by the report. In instances where a business does not provide a sales tax number, the federal employer identification number (FEIN) or social security number (SSN) of the business is required to be included on the sales tax report. In addition, the report shall disclose the following:

(1) Total gross receipts for the preceding month from sales, both taxable and non-taxable.

(2) The **"sales value"** of all withdrawals from inventory of goods initially purchased exempt from sales tax, including all items withdrawn for gifts, donations, prizes or business or personal use. Included is the cost of all withdrawals from inventory of goods initially purchased on a tax deferred basis pursuant to a direct pay permit which are subsequently withdrawn for a taxable use.

(3) Deductions allowed by law. Deductions not specifically delineated on the face of the return must be fully explained in the space provided.
(4) The amount of tax due, including any city or county tax, or both, as described in (c) of this Section.
(A) The return should show the amount of interest (if any) that is due.
(B) The return should show the amount of penalty (if any) that is due.
(5) Such other reasonable information as the Commission may require. [**See:** 68 O.S. §1365]

(b) **Exception to the requirement to file electronically.** The vendor may apply in writing to the Business Tax Electronic Filing Coordinator, Oklahoma Tax Commission, Business Tax Services, Oklahoma City, OK 73194, for a determination that the vendor is unable to participate in the electronic funds transfer and electronic data interchange program, and if the application is approved, the vendor will be permitted to report on paper.
(1) To determine whether a vendor is "unable" to file electronically, the following guidelines shall be utilized:
(A) The taxpayer does not have access to a computer or internet access at home or place of business; and,
(B) The taxpayer does not use a tax preparer that has a computer or one that does not have internet access.
(2) Any exception to the electronic filing requirement will be granted for only twelve (12) months. At the end of the exception period the taxpayer's electronic filing capability may be reviewed.
(3) An aggrieved taxpayer may protest the determination of the Commission as provided by 68 O.S. § 207 pursuant to *OAC* 710:1-5-20 through 710:1-5-49, the Rules of Practice and Procedure before the Office of the Administrative Law Judges.

(c) **Reporting for city and county taxes.**
(1) The state tax is determined by applying the state rate to the amount of net taxable sales (all sales less deductions allowed by law).
(2) The amount of city sales tax is determined by multiplying the amount of net taxable sales for each city by the rate for that city.
(3) The amount of county sales tax is determined by multiplying the amount of net taxable sales for each county by the rate for that county.

(d) **Excess tax collected.** If the vendor has collected, in the aggregate, an amount of sales tax from its customers, larger than the amount which would result from multiplying the taxable sales by the tax rate, whether due to the use of the bracket charts supplied by the Commission, the use of an electronic cash register that rounds up the tax, or any other reason, the vendor is responsible for remitting the total tax collected. The statement **"Excess Tax Collected"** should be written on the face of the report, under the line captioned **"Total Due."**

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 21 Ok Reg 2581, eff 6-25-04, Amended at 22 Ok Reg 1566, eff. 6-11-05; Amended at 23 Ok Reg 2849, eff 6-25-06; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 28 Ok Reg 961, eff 6-1-11; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 35 Ok Reg 2102, eff 9-14-18]

710:65-3-5. Signing of tax returns

The following shall apply to the signing of tax returns:
(1) Returns must be signed by the president, vice president, secretary, treasurer, or other officer, or by the properly accredited agent, if the seller is a corporation.
(2) The official title of the person signing a return shall be shown after his signature.
(3) If the business is not a corporation but is individually owned, returns shall be signed by the owner of the business or by his duly authorized agent.
(4) Individuals or employees who sign returns shall be deemed the authorized agent in the absence of documentation to the contrary.

(5) If the business is owned by more than one person (partnership, joint stock company, etc.), but is not a corporation, returns shall be signed by an owner of the business or by a duly authorized agent. [**See:** 68 O.S. §1365(A)]

710:65-3-6. Verification of sales tax returns

Each return or notice required to be filed under the Sales Tax Code shall contain or be verified by a written declaration that it is made under the penalties of perjury. [**See:** 68 O.S. §1365]

710:65-3-7. Registrants must file a return for every reporting period

(a) Vendors under the Sales Tax Code shall file a return for each reporting period, notwithstanding the fact that, during one or more of such reporting periods, the vendor did not receive any gross receipts rendering him liable for payment of sales tax. On the return for such a reporting period, the vendor should indicate that no gross receipts or proceeds were received and no tax is due for that reporting period.

(b) Vendors under the Use Tax Code who hold direct payment permits shall file a return for each reporting period, despite the fact that the vendor may not have withdrawn any tangible personal property from an inventory purchased tax-deferred during the period reported.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97]

710:65-3-8. Change in tax period [REVOKED]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 23 Ok Reg 2850, eff 6-25-06; Revoked at 30 Ok Reg 2089, eff 7-25-13]

710:65-3-9. Final sales tax return when business is discontinued

A vendor who ceases doing business shall so indicate on the final sales tax report for the discontinued business, and surrender the sales tax permit to the Commission for cancellation, together with a remittance for any unpaid or accrued taxes. Reporting and remitting for the final business period shall be done in the manner prescribed and by the applicable date set out in 68 O.S. § 1365, or by the twentieth day of the month following the discontinuance of the business, whichever is earlier. [**See:** 68 O.S. §§ 1364, 1365]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1567, eff. 6-11-05]

710:65-3-10. Election to participate in electronic funds transfer and electronic data interchange programs

(a) In lieu of filing reports on the twentieth day of each month, as required by 710:65-1-3, tax remitters or taxpayers who agree to participate in the Tax Commission's electronic funds transfer and electronic data interchange programs may file as provided in this subsection.

(1) *For sales from the first (1st) day through the fifteenth (15th) day of each month, the tax shall be due and payable on the twentieth (20th) day of the month, and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the requirements of this paragraph if, on or before the twentieth (20th) day of each month, the taxpayer paid at least ninety (90) percent of the liability for that fifteen-day period, or at least fifty (50) percent of the liability incurred during the immediate preceding calendar year for the same month;* and

(2) *For sales from the sixteenth (16th) day through the end of each month, the tax shall be due and payable on the twentieth (20th) day of the following month, and remitted to the Tax Commission by electronic funds transfer.*

(b) Monthly sales tax reports filed pursuant to this Section shall be filed in accordance with the

Tax Commission's electronic data interchange program on the twentieth (20th) day of the month following that in which the sales occurred. Taxes not paid on or before the due dates specified in subsection (a) shall be delinquent from such dates.

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 21 Ok Reg 2581, eff 6-25-04]

PART 3. RECORDS AND RECORDKEEPING

710:65-3-30. Books and records required; presumption of taxability; burden of proof

(a) Vendors shall keep records and books of all sales and all purchases of tangible personal property. Vendors must maintain complete books and records covering receipts from all sales and distinguishing taxable from nontaxable receipts.

(1) Such books and records must clearly document all the information (deductions as well as gross receipts) required for tax returns and shall, at all times during business hours of the day, be subject to inspection and audit by the Commission or its duly authorized agents and employees.

(2) Such books and records must be kept in the English language.

(3) Such books and records must be kept within Oklahoma except in instances where a business has several branches, with the head office being located outside Oklahoma, and where all books and records have been regularly kept outside the State at such head office. If books and records are kept outside Oklahoma, the vendor must, within a reasonable time after notification by the Commission, make all pertinent books, records, papers and documents available at some point within Oklahoma for the purpose of inspection and audit or arrange for Commission personnel to inspect and audit the books and records of the vendor at a location outside Oklahoma.

(b) It shall be presumed that all sales of tangible personal property are subject to tax until the contrary is established, and the burden of proving that a transaction was not a taxable sale shall be upon the person who made the sale. [**See:** 68 O.S. §1365(F)]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 20 Ok Reg 2175, eff 6-26-03]

710:65-3-31. What records constitute minimum requirement

(a) **Required records.** The following records constitute a minimum requirement for the purposes of the Sales Tax Code for vendors selling tangible personal property:

(1) Sales journal or log of daily sales in addition to cash register tapes and other data which will provide a daily record of the gross amount of sales.

(2) A record of the amount of merchandise purchased. To fulfill this requirement, copies of all vendors' invoices and taxpayers' copies of purchase orders must be retained serially and in sequence as to date.

(3) A true and complete inventory of the value of stock on hand taken at least once each year.

(b) **Microfilm/microfiche records.** Records may be microfilmed or microfiched as long as such microfilmed and microfiched records are authentic, accessible and readable, and the following requirements are fully satisfied:

(1) Reproductions of all original records must be produced upon request by the Commission or its authorized representatives.

(2) Appropriate facilities are provided for preservation of the microfilm or microfiche for periods required.

(3) Microfiche or microfilm records are indexed, cross-referenced and labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and are systematically filed to permit the immediate location of any particular record. A posting reference must be on each document and a control log or catalog of such documents must be maintained.

(4) Taxpayers must make available a reader/printer upon request by Commission to review records.

(5) When displayed or reproduced on paper, the material must exhibit legibility and readability. Legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognized as words or complete numbers.

(6) The taxpayer retains the microfilm or microfiche copies so long as the contents thereof may be material in the administration of any audit by the Commission.

(c) **Automated systems.** An Automated Data Process Systems (ADP) tax accounting system may be used to provide the records required for the verification of tax liability. Such ADP system must include a method of producing legible and readable records which will provide the necessary information for verifying such tax liability. The following requirements apply to any taxpayer who maintains any such records on an ADP system:

(1) **Recorded or reconstructible data.** ADP records shall provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time they are processed, the systems must have the ability to reconstruct these transactions.

(2) **General and subsidiary books of account.** A general ledger with source references and subsidiary ledgers shall be written out to coincide with financial reports for tax reporting periods.

(3) **Supporting documents and audit trail.** The audit trail shall be designed so that the details underlying the summary accounting data such as sales invoices, purchase invoices, credit memoranda and like documents, are readily available to the Department upon request.

(4) **Program documentation.** A description of the ADP portion of the accounting system shall be made available. The statements and illustrations describing the system and scope of ADP operations being performed shall be sufficiently detailed to indicate the application being performed and the procedures employed in each application. Controls used to insure accurate and reliable processing should be noted along with the dates and nature of important changes.

(5) **Data storage media.** Adequate record retention facilities shall be available for storing tax and ADP records required for verification of tax liability. Records required would include data prepared for input in processing accounts payable, accounts receivable or any purchase or sales journal entries necessary for bookkeeping and tax reporting purposes. [**See:** 68 O.S. §1365]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-3-32. Authorization to destroy records sooner than would otherwise be permissible

In all cases, the Commission may, in writing, authorize the destruction of books and records and other papers prior to the expiration of the three year period of time which the taxpayer, except for such written authorization from the Commission, is required to keep his books and records. The Commission will not authorize destruction of records unless the records are preserved in microfilm, microfiche or ADP and meet conditions as prescribed. [**See:** 68 O.S. § 1365(F)]

710:65-3-33. Records required to support deductions from gross receipts for purposes of calculating sales tax

(a) **Supporting records required.** Where the nature of a business is such that charge and time sales are made, or where the nature of the business is such that a portion of its sales are for resale, or are within the protection of the Commerce Clause of the Constitution of the United States, or consist of nontaxable services, or are exempt under any provision of the Oklahoma Sales Tax

Code, then such records as will clearly indicate the information required in filing returns must be kept.
(b) **Complete and detailed records required.** To support deductions made on the tax return, the vendor's records for each transaction for which exemption is claimed shall be in detail sufficient to show:
(1) The name and address of the customer,
(2) The character of the transaction,
(3) The date,
(4) The amount of gross receipts or gross proceeds; and
(5) Such other information as may be necessary to establish the nontaxable character of such transaction under the Sales Tax Code.
(c) **Purchaser resale number requirement.** Anyone claiming a sale for resale exemption shall also keep a record of the purchaser's resale number issued by the Commission. The failure to obtain and keep a record of the purchaser's resale number shall create a presumption that the sale as not a sale for resale. The vendor may, however, present other documentary evidence from its books and records to overcome this presumption. More detail regarding duties and liabilities may be found in Subchapter 7 of this Chapter. [**See:** 68 O.S. § 1365(F)]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 20 Ok Reg 2175, eff 6-26-03]

710:65-3-34. Administration of electronically-claimed exemptions
(a) The vendor shall use the standard form adopted by the Commission for claiming an exemption electronically.
(b) A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used.
(c) The vendor shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04]

SUBCHAPTER 5. AUDIT AND ASSESSMENT

710:65-5-1. Sales/use tax audits and auditors
(a) **General investigative authority.** Any representative of the Commission holding a certificate of authority may make an examination or investigation of the place of business, tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any taxpayer.
(b) **Financial institution limitation.** However, financial institutions are not required to release or permit the Commission to have access to customer financial information which reflects financial institutions' sales tax information without first reviewing and deleting any and all information which may divulge the identity of a particular customer and the customer's financial records. [**See:** 68 O.S. §§201 et seq.]
(c) **Duty to make records/information available.** It shall be the duty of every taxpayer and every director, officer, or employee of every taxpayer to exhibit to the Commission, or to the employees or agents of such Commission, the items mentioned in (a) of this Section. [**See:** 68 O.S. §206]

710:65-5-2. Sales/use tax audits of sample periods
An auditor for the Commission may suggest a sample sales/use tax audit rather than a detailed audit. The auditor shall select the periods to sample and apply the results to all the periods of the audit. The auditor shall prepare forms to be signed by the taxpayer stating they agree with the periods and method chosen for the sample. [**See:** 68 O.S. §206]

710:65-5-3. Out-of-state tax audits [REVOKED]

[**Source:** Revoked at 20 Ok Reg 2175, eff 6-26-03]

710:65-5-4. Examination of tax return; adjustments, notices, and demands

If, upon examination of the books of account and records of the person filing the tax return, facts are obtained which, in the opinion of the Commission, warrant an adjustment of the tax liability reported, the following procedure shall be followed:

(1) **Notice and demand.** A proposed assessment report will be prepared and mailed to the taxpayer. This report will contain an explanation of adjustments together with a recomputation of tax in accordance with such adjustments. The notice of adjustments and the demand for payment (if additional tax is due) or any other notice or demand upon the person filing the return required by law shall be sent to him at his last known address. In the alternative, the Commission may cause to be served upon such person a written statement of the computation of tax due.

(2) **Acquiescence or failure to protest.** In the event the person filing the return acquiesces in the changes reflected on the proposed assessment, or fails to file a protest within the period specified in the letter of proposed assessment (or any extensions allowable by Statute that have been granted) the proposed assessment becomes final.

(3) **Jeopardy assessment.** If the Commission has reason to believe that the collection of any tax due under the Sales and Use Tax Codes may be jeopardized, the Commission may immediately terminate the reporting period of the person required to pay such tax. Thereupon the Commission may assess a tax on the basis of information or knowledge available to him and demand immediate payment. If such payment is not immediately made, the Tax Commission may collect the tax by the use of any of the methods authorized law.

(4) **Protest of assessment.** Where a person does not acquiesce in the proposed assessment, he may file a protest within the period specified in the letter of proposed assessment (or within any extensions allowable by Statute that have been granted).

(5) **Review by taxing division; referral.** If, after a review of his protest the Division is unable to reach agreement with taxpayer, the taxpayer's file will be forwarded to the Office of the Administrative Law Judge where the taxpayer will have an opportunity to have a hearing before an Administrative Law Judge. The Administrative Law Judge subsequently will notify such person of the date set for the hearing.

(6) **Determination of case without hearing available.** If the taxpayer does not desire a hearing, an order will be issued by the Commission within a reasonable time.

(7) **Hearing; final determination.** If a hearing before the Administrative Law Judge is requested and granted, an order will not be issued until such time as the Administrative Law Judge has submitted Findings, Conclusions and Recommendations to the Commission and the Commission has made a final determination.

(8) **Final determination; appeal.** The issuance of an order by the Commission constitutes a final determination. The taxpayer aggrieved by the order is granted a period of thirty (30) days from the date of mailing to the taxpayer of a certified copy of the order in which to directly appeal to the Oklahoma Supreme Court.

[**Source:** Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 20 Ok Reg 2175, eff 6-26-03]

710:65-5-5. Issuance of sales tax assessments

Sales tax assessments will be issued against the legal entity as well as against other person(s) who may be liable for the tax pursuant to law. Any person shall be liable for the payment of sales tax if during the period of time for which the assessment was made the person was responsible for the collection and remittance of sales tax or had direct control,

supervision or responsibility for filing returns and making payments of the tax due the State of Oklahoma.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 32 Ok Reg 1376, eff 8-27-15]

SUBCHAPTER 7. DUTIES AND LIABILITIES

710:65-7-1. Taxpayer's duty to obtain sales tax return form

Sales tax returns shall be filed on forms prescribed and furnished by the Commission. Failure to obtain forms will not be an excuse for failure to file returns when and as required by law. [**See:** 68 O.S. §1365]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-7-2. Vendor responsibility for collection of sales tax; treatment of sales tax by vendor

(a) The primary burden for operation of the sales tax system is upon the vendor of merchandise, the performer of taxable services, and the renter or lessor of property, and requires that they collect the tax from the purchaser, user or consumer. If a vendor fails or refuses to collect the tax, he not only becomes liable for payment of the tax, but also subjects himself to the possibility of being fined or imprisoned for a period of time.

(b) The vendor is required to add the tax to the selling price or charge. A vendor is specifically prohibited from advertising or holding out to the public in any way, directly or indirectly, that he will absorb all or any part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax. The vendor who violates this provision shall be fined or imprisoned, or both. For second or subsequent offenses, the penalty is doubled. [**See:** 68 O.S. §1361]

710:65-7-3. Personal liability for sales tax due

Sales tax is paid by the consumer/user to the vendor as trustee for the state. Any person required to collect sales tax as a trustee for the state will be held personally liable for the sales tax due. The decision as to whether an individual is personally liable for sales tax shall be made on an "individual case" basis. The standard to be applied is that of determining liability for payment of federal withholding tax pursuant to the Internal Revenue Code of 1986, as amended, or regulations promulgated pursuant to same. Once it is finally determined that a person is liable, a tax warrant which has the force and effect of a judgment or lien will be filed against that person individually for the full amount of the liability, i.e. tax, interest and penalty. [**See:** 68 O.S. § 253]

[**Source:** Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-7-4. Sales tax responsibility and liability of trustees, receivers, executors or administrators

Where trustees, receivers, executors or administrators (whether appointed by a Federal or a State court), by virtue of their appointment, continue to operate, manage or control the business and engage in the business of selling tangible personal property, they, in their fiduciary and not in their individual capacity, become liable for sales tax. This principle applies notwithstanding the fact that such trustees, receivers, executors or administrators may be engaged in liquidating the assets of the business, provided that such liquidation takes place by means of sales, and provided that such consists of tangible personal property. [**See:** 68 O.S. §1361]

710:65-7-5. Vendor's responsibility to obtain sales tax permits [REVOKED]

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Revoked at 11 Ok Reg 3521, eff 6-26-94]

710:65-7-6. Vendors' or certified service providers' relief from liability and duty to collect

sales tax

(a) **Presumption of taxability.** All sales are presumed to be subject to sales tax unless specifically exempted by the Sales Tax Code. Vendors are liable for the sales tax collected as well as for tax that should have been collected.

(b) **When vendor or certified service provider may be relieved of liability.** A vendor or certified service provider shall be relieved of any liability for the tax and of the duty to collect imposed by Section 1361 of Title 68 of the Oklahoma Statutes if the vendor, in good faith, timely accepts from a consumer, properly completed documentation certified by the Oklahoma Tax Commission that such consumer is exempt from the taxes levied by the Oklahoma Sales Tax Code.

(c) **General requirements**. Three requirements must be met before the vendor or certified service provider is relieved of liability.

(1) **Vendor or certified service provider good faith.** Good faith requires that the vendor strictly comply with statutory requirements.

(2) **Timely acceptance from a consumer.** Timely acceptance from a consumer requires that documentation be in the possession of the vendor within ninety (90) days subsequent to the date of sale. In the case of continued sales to the same purchaser, the vendor must have, on file, a sales tax permit, card, or exemption letter for each renewal interval. If no renewal interval is provided by statute, the renewal period will be deemed three (3) years, except in the case of entities with specific statutory exemptions who have established eligibility as set out in 710:65-7-15 and 710:65-7-17 through 710:65-7-20.

(3) **Properly completed documentation certified by the Oklahoma Tax Commission.** Examples of properly completed documentation certified by the Oklahoma Tax Commission are described in 710:65-7-8 through 710:65-7-15 and 710:65-7-17 through 710:65-7-20.

(d) **When vendor or certified service provider may not be relieved of liability.** Relief from liability for the tax and of the duty to collect imposed by Section 1361 of Title 68 shall not apply to:

(1) a seller or certified service provider who fraudulently fails to collect tax;

(2) a seller who solicits purchasers to participate in the unlawful claim of an exemption; or

(3) a seller who accepts an exemption certificate when the purchaser claims an entity-based exemption when:

(A) the subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller; and

(B) the Tax Commission provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in this state.

(e) **Specific applications.** The items of information described in 710:65-7-8 through 710:65-7-15 and 710:65-7-17 through 710:65-7-20 shall constitute minimum requirements to establish **"properly completed documentation certified by the Tax Commission"** for each respective category of purchasers.

[**Source:** Added at 9 Ok Reg 3033, eff 7-13-92; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-7-7. Treatment of federal luxury tax for sales/use tax purposes [REVOKED]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Revoked at 18 Ok Reg 2823, eff 6-25-01]

710:65-7-8. Vendors' responsibility - sales for resale

In the case of sales for resale, written certification containing the purchaser's name, address, type of business, sales tax permit number, and the signature of the purchaser are required to establish **properly completed documentation**.

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 34 Ok Reg 2089, eff 9-11-17]

710:65-7-8.1. Vendor's responsibility–sales for resale for export outside the United States

For sales made within this State for export outside the United States, the vendor must maintain the export bill of lading or other documentation issued by the vendor or purchaser simultaneously on sales for export, indicating that the point of delivery of the property is for use and consumption in a foreign country and that the goods will not be used in the United States. [See OAC 710:65-13-90]

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08]

710:65-7-9. Vendors' responsibility - sales to a manufacturer

(a) In the case of sales to purchasers claiming exemption for manufacturing, the vendor must obtain a **copy** of the purchaser's manufacturer's exemption permit issued pursuant to 68 O.S. § 1359.2 (hereafter referred to as "Sales/Manufacturers Permit"), **or if unavailable**, the name, address, and Sales/Manufacturers Permit Number of the purchaser **or**, a statement that contains the information that would appear on the Sales/Manufacturers Permit. If a copy of the Sales/Manufacturers Permit is unavailable and if the information provided has not been previously verified, it must be verified by either calling the Taxpayer Resource Center or by reference to the sales tax permit list obtained pursuant to *OAC* 710:65-9-6.

(b) In the case of sales to purchasers claiming exemption pursuant to a contractual relationship with a manufacturer for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and equipment for use in a manufacturing operation which is classified NAICS 324110 (Petroleum Refineries) the vendor must obtain the following:

(1) A copy of the Manufacturers Sales Tax Exemption card issued to the entity described in (b) of this Section;

(2) Documentation indicating the contractual relationship between the contractor and the manufacturer; and,

(3) Certification by the purchaser, on the face of each invoice or sales receipt, setting out the name of the exempt entity, that the purchases are being made on behalf of the entity, and that they are necessary for the completion of the contract.

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-7-10. Vendors' responsibility - sales made pursuant to direct payment permit

In the case of sales made to purchasers claiming deferral pursuant to a direct payment permit, the vendor must obtain the items of information described in this Section:

(1) A **copy** of the purchaser's Direct Payment Permit (DPP), or if unavailable, the purchaser's name, address, DPP number, and its date of expiration. If a copy of the Direct Payment Permit is unavailable and if the information provided has not been previously verified, it must be verified by either calling the Taxpayer Resource Center or by reference to the sales tax permit list obtained pursuant to *OAC* 710:65-9-6;

(2) A statement that the permit-holder claims deferral of the payment of any applicable state and local sales or use taxes upon its purchases of taxable tangible personal property or services;

(3) A statement that the articles purchased are for use in the purchaser's Oklahoma enterprises, and not for resale; and,

(4) The signature of the purchaser or a person authorized to legally bind the purchaser, and date signed.

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01]

710:65-7-11. Vendors' responsibility - sales for agricultural purposes

In the case of a claimed agricultural exemption, the vendor must obtain the items of information set out in this Section:

(1) A **copy** of the agricultural exemption permit card; and,

(2) In the circumstances defined in (A) and (B) of this subparagraph, certification on the face of the invoice or sales ticket is required:

(A) From any person purchasing feed for horses, mules, or draft animals used directly in the production and marketing of agricultural products; **or**

(B) From any person who is making purchases of materials, supplies, or equipment to be used in the construction of livestock facilities, including facilities for the production and storage of feed, pursuant to a contract with an agricultural permit holder. [**See:** 68 O.S.§ 1358(8) and 710:65-13-17]

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01]

710:65-7-12. Vendors' responsibility - sales to persons raising animals for resale

In the case of persons regularly engaged in the business of raising animals for resale, the vendor must obtain the items of information set out in this paragraph:

(1) A **copy** of the purchaser's sales tax permit, **or if unavailable**, the purchaser's name, address, sales tax permit number, and its expiration date. If a copy of the Sales Tax Permit is unavailable and if the information provided has not been previously verified, it must be verified by either calling the Taxpayer Resource Center or by reference to the sales tax permit list obtained pursuant to *OAC* 710:65-9-6;

(2) A statement that the articles purchased are for use in raising animals;

(3) The signature of the purchaser or a person authorized to legally bind the purchaser; and,

(4) Certification on the face of the invoice, bill or sales receipt that states that the purchaser is "regularly engaged in the business of raising animal life for resale and that the items being purchased exempt from sales tax are solely for business use".

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01]

710:65-7-13. Vendors' responsibility - sales to contractors

(a) **General rule.** Contractors are defined by statute as consumer/users and must pay sales tax on all taxable services and tangible personal property, including materials, supplies, and equipment purchased to develop, repair, alter, remodel, and improve real property.

(b) **Limited exceptions.** A contractor may make purchases based upon the exempt status of another entity only in the statutorily-limited circumstances described in this paragraph.

(1) A contractor who has a public contract, or a subcontractor to that public contract, with an Oklahoma municipality, county, public school district, city-county library system, an institution of the Oklahoma System of Higher Education, a rural water district, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, the City of Tulsa-Rogers County Port Authority, the Broken Bow Economic Development Authority, the Muskogee City-County Port Authority, the Oklahoma Ordnance Works Authority, the Durant Industrial Authority, the Ardmore Development Authority, the Oklahoma Department of Veterans Affairs, the Central Oklahoma Master Conservancy District, Arbuckle Master Conservancy District, Fort Cobb Master Conservancy District, Foss Reservoir Master Conservancy District, Mountain Park Master Conservancy District, Waurika Lake Master Conservancy District or the Office of Management and Enterprise Services only when carrying out a public construction contract on behalf of the Oklahoma Department of Veterans Affairs and effective July 1, 2022, the University Hospitals Trust may make purchases of tangible personal property or services, which are necessary for carrying out the public contract, exempt from sales tax.

(2) A contractor who has entered into a contract with a private institution of higher education or with a private elementary or secondary institution, may make purchases of tangible personal property or services, including materials, supplies and equipment used in the construction of buildings owned and used by the institution for educational purposes exempt from sales tax. However, the institution must be registered or accredited with the Oklahoma State Regents for Higher Education, the State Board of Education, or the State Department of Education.

(3) A contractor who has contracted with an agricultural permit holder to construct a facility which will be used directly in the production of any livestock, including facilities used in the production and storage of feed for livestock owned by the agricultural permit holder, may make purchases of materials, supplies and equipment necessary to fulfill the contract, exempt from sales tax. [**See:** *OAC* 710:65-7-11]

(4) A contractor may make purchases exempt from sales tax for use on campus construction projects for the benefit of institutions of the Oklahoma State System of Higher Education or private institutions of higher education accredited by the Oklahoma State Regents for Higher Education. The projects must be financed by or through the use of nonprofit entities which are exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code. Contractors claiming exemption for purchases to be used in a qualified campus construction project should obtain a letter certifying the exemption status from the Tax Commission by following the procedures set out in 710:65-13-210, and provide a copy of the letter to vendors, pursuant to subsection (g) of that rule. [**See:** 68 O.S. §1356(41)]

(5) A contractor may make purchases of machinery, equipment, fuels, and chemicals or other materials, exempt from sales tax, which will be incorporated into and directly used or consumed in the process of treatment of hazardous waste, pursuant to *OAC* 710:65-13-80. Contractors claiming exemption for purchases to be used to remediate hazardous wastes should obtain a letter certifying the exemption status from the Tax Commission by following the procedures set out in 710:65-13-80, and provide a copy of the letter to vendors, pursuant to subsection (f) of that rule.

(6) A contractor, or a subcontractor to such contractor, with whom a church has duly entered into a construction contract may make purchases of tangible personal property or services exempt from sales tax which are necessary for carrying out such construction contract.

(7) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property which is to be *consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative* exempt from sales tax. Contractors claiming exemption for purchases to be used in a qualified rural electric cooperative project shall follow the procedures set out in *OAC* 710:65-13-124.

(8) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services pursuant to a contractual relationship with a child care center, qualified for exemption pursuant 68 O.S. § 1356(69), for construction and improvement of buildings and other structures owned by the child care center and operated for educational purposes exempt from sales tax.

(9) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services exempt from sales tax pursuant to a contractual relationship with a manufacturer for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and equipment for use in a manufacturing operation classified under NAICS No. 324110 (Petroleum Refineries).

(c) **Documentation required for limited exceptions.** In the case of a sale to a contractor claiming exemption pursuant to subsections (b)(1), (b)(2), (b)(6), (b)(8), or (b)(9) of this Section, the vendor must obtain:

(1) A **copy** of the exemption letter or card issued to one of the entities described in (b) of this Section;
(2) Documentation indicating the contractual relationship between the contractor and the entity; and,
(3) Certification by the purchaser, on the face of each invoice or sales receipt, setting out the name of the exempt entity, that the purchases are being made on behalf of the entity, and that they are necessary for the completion of the contract.

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04, Amended at 22 Ok Reg 1567, eff. 6-11-05; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 39 Ok Reg 2264, eff 9-11-22]

710:65-7-14. Vendors' responsibility - sales of trailers

In the case of a purchaser claiming partial exemption from sales tax on the purchase of a trailer pursuant to 68 O.S. § 1355(2), the vendor should obtain a statement, signed by the purchaser, or by a person who may legally bind the purchaser, that Oklahoma vehicle excise tax and state sales tax at the rate of 1.25% will be paid on the purchase of the trailer in accordance with the provisions of Articles 13 and 21 of Title 68 of the Oklahoma Statutes, and that if the taxes are not so paid, the purchaser will be responsible for the state sales tax at the 4.5% rate and any applicable local sales tax due.

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 35 Ok Reg 2102, eff 9-14-18]

710:65-7-15. Vendors' responsibility - sales to entities with other specific statutory exemptions

(a) **Sales to entities with other specific statutory exemptions.** In the case of sales to purchasers claiming exemption based upon specific statutory authority, the vendor must obtain the information described in this subsection:
(1) A **copy** of the letter or card from the Oklahoma Tax Commission recognizing the entity as one which is statutorily exempt from sales tax on its purchases; and
(2) A signed statement that the purchase is **authorized by, and being made by,** the exempt entity, with funds of the exempt entity, and **not** by the individual; and,
(3) In the case of sales to **fire departments organized for unincorporated areas**, as defined in 18 O.S. § 592, certification on the face of the invoice or sales ticket is also required.
(4) In the case of purchases made by the federal government, charged pursuant to the GSA SmartCard program, no letter or card from the Commission is required, and 710:65-13-130 should be consulted to determine the taxability of the transaction.

(b) **Examples and applications.** Types of entities which may receive letters or cards, certifying or confirming a specific statutory exemption include:
(1) **Churches**; [**See**: 710:65-13-40]
(2) **Youth camps**, **supported or sponsored by** one or more **churches**, members of which serve as trustees of the organization; [**See**: 710:65-13-33]
(3) **Children's homes** where church members are trustees or where the home is on church-owned land or where 50% of the juveniles are court-adjudicated and the home receives less than 10% of its funding from state funds; [**See**: 710:65-13-33]
(4) **Council organizations** of the Boy Scouts and Girl Scouts of America or Camp Fire USA; [**See**: 710:65-13-341]
(5) **Public schools**; [**See**: 710:65-13-210]
(6) Oklahoma System of **Higher Education**; [**See**: 710:65-13-210]

(7) **Private schools** registered with the State Department of Education and private institutions of higher education accredited by the Oklahoma State Board of Regents for Higher Education; [**See**: 710:65-13-210]
(8) **Federal governmental** units, institutions, and instrumentalities; [**See**: 710:65-13-130]
(9) **Governmental entities** of the State of Oklahoma, including county and local units; [**See**: 710:65-13-130]
(10) City and county **trust authorities**; [**See**: 710:65-13-550]
(11) Federally chartered **credit unions**;
(12) **Rural water districts**;
(13) Facilities engaged in the remediation or processing to ameliorate **hazardous wastes**; [**See**: 710-65-13-80]
(14) **Disabled American Veterans** Department of Oklahoma and its subordinate chapters; [**See**: 710:65-13-336]
(15) **Museums** which are members of the American Alliance of Museums formally the American Museum Association; [**See**: 710:65-13-334]
(16) **Rural Electric Cooperatives**;
(17) Federally qualified **health care** facilities;
(18) **Health care** facilities receiving reimbursement from the Indigent Care Revolving Fund;
(19) **Community based health centers** providing primary care services at no cost to the patient;
(20) **Cultural organizations** established to sponsor and promote educational, charitable, and **cultural events for disadvantaged children**; [**See**: 710:65-13-335]
(21) Federally recognized **Indian Tribes**;
(22) Leases or lease-purchases of tangible personal property or services to **municipalities, counties, or school districts**; [**See**: 710:65-13-210]
(23) Sales of tangible personal property or services **to**, or **by**, a tax-exempt [26 U.S.C. § 501(c)(3)] organization, which is organized primarily to provide education and to conduct events related to **teacher training in robotics**, and affiliated with a comprehensive University within the Oklahoma System of Higher Education;
(24) Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), in the course of conducting a **national championship sports event**, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i);
(25) Volunteer fire departments organized pursuant to 18 O.S. § 592; [**See**: 710:65-13-340]
(26) Parent-teacher associations and parent-teacher organizations that are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code; [**See**: 710:65-13-210]
(27) The non-profit organization which operates the Oklahoma City National Memorial and Museum; [**See**: 710:65-13-330]
(28) The first Fifteen Thousand Dollars ($15,000.00) of sales of tangible personal property sold for fund raising purposes to or by a youth athletic team which is part of an athletic organization exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(4); [**See**: 710:65-13-343]
(29) Tax exempt, nonprofit organizations which provide services during the day to homeless persons; [**See**: 710:65-13-344]
(30) Motion picture or television production companies for certain eligible productions; [**See**: 710:65-13-194]
(31) Child care centers providing on site universal pre-kindergarten education; [**See**: 710:65-13-220]
(32) Tax exempt organizations which are shelters for abused, neglected, or abandoned children; [**See**: 710:65-13-355]

(33) Tax exempt organizations providing funding for medical scholarships; [**See**: 710:65-13-357]
(34) Nonprofit local public or private school foundations; [**See**: 710:65-13-210(m)]
(35) Nonprofit foundations in support of NRA and other like organizations; [**See**: 710:65-13-359]
(36) Grassroots fundraising programs in support of NRA; [**See**: 710:65-13-360]
(37) Construction projects for organizations providing end of life care and hospice service. [**See**: 710:65-13-178]
(38) Meals on Wheels, Mobile Meals; [**See**: 710:65-13-337]
(39) Organizations which received federal funding pursuant to the Older Americans Act of 1965, for purposes of providing nutrition programs for the care and benefit of elderly persons; [**See**: 710:65-13-338]
(40) Collection and Distribution Organization; [**See**: 710:65-13-339]
(41) Council organizations or similar state supervisory organizations of Boy Scouts of America, Girl Scouts of U.S.A., and Camp Fire USA; [**See**: 710:65-13-341]
(42) Organizations which take court-adjudicated juveniles for purposes of rehabilitation; [**See**: 710:65-13-342]
(43) Tax exempt organizations which provide funding for the preservation and conservation of wild turkeys or preservation of wetlands or habitats for wild ducks; [**See**: 710:65-13-345]
(44) Tax exempt organizations which are part of a network of community-based, autonomous member organizations providing job training and employment services; [**See** 710:65-13-346]
(45) Qualified neighborhood watch organizations; [**See**: 710:65-13-348]
(46) Specialized facilities, which provide services for physically and mentally handicapped persons; [**See**: 710:65-13-347]
(47) Daughters of the American Revolution; [**See**: 710:65-13-350]
(48) Veterans of Foreign Wars of United States, Oklahoma Chapters; [**See**: 710:65-13-351]
(49) YWCA or YMCA organizations; [**See**: 710:65-13-352]
(50) Organizations primarily engaged in providing educations services and programs concerning health-related diseases and conditions; [**See** 710:65-13-353]
(51) Organizations whose purpose is to provide training and education to developmentally disabled persons; [**See**: 710:65-13-354]
(52) Nonprofit Boys & Girl Clubs of America affiliates not affiliated with the Salvation Army; [**See**: 710:65-13-362]
(53) National Guard Association of Oklahoma exempt from federal taxation pursuant to 26 U.S.C. 501(c)(19); [**See**: 710:65-13-363]
(54) Marine Corps League of Oklahoma exempt from federal taxation pursuant to 26 U.S.C. 501(c)(4); [**See**: 710:65-364]
(55) Nonprofit collaborative model organization connecting agencies to serve persons affected by violence; [**See**: 710:65-13-365]
(56) Tax exempt organization who is an official member of the Fab Lab Network; [**See**: 710:65-13-366]
(57) The American Legion; [**See**: 710:65-13-367]
(58) Tax exempt, independent, nonprofit community blood banks headquartered in this state. [**See** 710:65-13-175]
(59) Tax exempt, independent, nonprofit biomedical research foundations. [**See** 710:65-13-174]
(60) Museums which are not accredited by the American Alliance of Museums operating on budgets of less than $1,000,000; [**See**: 710:65-13-370]
(61) University Hospital Trust and nonprofit entity with a joint operating agreement with the Trust, [**See** 68 O.S. § 1356(30)]
(62) Tax exempt organizations that construct, remodel and sell affordable housing. [**See**:

710:65-13-368]
(63) Nonprofit organizations restoring single family housing following a disaster. [**See**: 710:65-13-369]
(64) Businesses engaged in logging, timber, and tree farming. {**See** 710:65-13-470]

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 22 Ok Reg 1568, eff. 6-11-05; Amended at 23 Ok Reg 2850, eff 6-25-06; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 37 Ok Reg 2234, eff 9-11-20; Amended at 39 Ok Reg 2264, eff 9-11-22]

710:65-7-16. Vendors' reliance on erroneous information

(a) Vendors shall be relieved of any liability for having charged and collected an incorrect amount of sales or use tax resulting from having relied on erroneous data provided by the Tax Commission as to tax rates, boundaries, or taxing jurisdiction assignments.
(b) For purposes of source telecommunications transactions, vendors shall not be relieved from liability for errors resulting from the reliance on the information provided pursuant to any "zip-code" database, if the Tax Commission has provided an address-based system which meets the requirements of the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 119. [**See:** 68 O.S.1354.32(7)]

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-7-17. Vendors' responsibility – sales to disabled veterans receiving compensation at the 100% rate or surviving spouses of qualified deceased disabled veterans

In the case of a purchaser claiming exemption from sales tax pursuant to the exemption allowed by 68 O.S. §1357(34), the vendor must obtain either a copy of the exemption card issued the purchaser by the Tax Commission or the purchaser's name, address, and exemption number.

[**Source:** Added at 23 Ok Reg 2851, eff 6-25-06; Amended at 30 Ok Reg 2089, eff 7-25-13]

710:65-7-17.1. Vendors' fine for refusal to accept sales tax exemption claims of 100% disabled veterans or surviving spouses of qualifying deceased disabled veterans

A vendor who willfully or intentionally refuses to honor the sales tax exemption afforded a 100% disabled veteran's or the unremarried surviving spouse of a deceased qualifying disabled veteran is subject to punishment by an administrative fine for the first offense. A second or subsequent violation constitutes a misdemeanor punishable by a fine not to exceed Five Hundred Dollars ($500.00) per offense.

[**Source:** Added at 28 Ok Reg 961, eff 6-1-11; Amended at 30 Ok Reg 2089, eff 7-25-13; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:65-7-18. Vendor's responsibility – sales to, by, or for the benefit of, neighborhood watch organizations

In the case of sales made to purchasers claiming exemption because the purchases are made by, or for the benefit of a neighborhood watch association, the vendor must obtain the items of information described in this section:
(1) A copy of the neighborhood watch association's sales tax exemption card that was issued by the Oklahoma Tax Commission pursuant to Section 710:65-13-348.
(2) A signed, dated statement by the purchaser listing the purchaser's name, address and telephone number which states that the purchase is being made by or for the benefit of the neighborhood watch organization. The statement shall also contain the name, address

and telephone number of the person responsible for keeping a record of the purchases made by or for the benefit of the organization.

[**Source:** Added at 23 Ok Reg 2851, eff 6-25-06; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-7-19. Vendor's responsibility -- sales to qualifying organizations providing services for developmentally disabled persons

In the case of sales made to organizations providing services for developmentally disabled persons and claiming exemption because the purchases are to be used exclusively for charitable or educational purposes, the vendor must obtain the items of information described in this Section:

(1) A copy of the purchasing organization's sales tax exemption card that was issued by the Oklahoma Tax Commission pursuant to Section 710:65-13-354; and

(2) A signed, dated statement by the purchaser listing the purchasing organization's name, address and telephone number which states that the purchases are to be used exclusively for charitable or educational purposes. The statement must also contain the name, title and signature of a person authorized to legally bind the purchaser.

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08]

710:65-7-20. Vendor's responsibility--sales to qualifying organizations providing funding for the preservation of wetland or habitats for wild ducks or preservation and conservation of wild turkeys

In the case of sales made to organizations claiming exemption because the purchases are to be used for events the principle purpose of which is to provide funding for the preservation of wetlands or habitats for wild ducks or preservation and conservation for wild turkeys, the vendor must obtain the items of information described in this Section:

(1) A copy of the purchasing organization's sales tax exemption card that was issued by the Oklahoma Tax Commission pursuant to Section 710:65-13-345; and

(2) A signed, dated statement by the purchaser listing the purchasing organization's name, address and telephone number which states that the purchases are to be used for events the principle purpose of which is to provide funding for the preservation of wetlands or habitats for wild ducks or preservation and conservation for wild turkeys. The statement must also contain the name, title and signature of a person authorized to legally bind the purchaser.

[**Source:** Added at 26 Ok Reg 2354, eff 6-25-09]

710:65-7-21. Streamlined Sales and Use Tax Exemption Certificate

The Streamlined Sales and Use Tax Exemption Certificate, SSTGB Form F0003, is a multistate form which may be used to claim any sales or use tax exemption provided under Oklahoma law. When issuing this certificate, purchasers should use caution, since it contains various exemptions that are not applicable in Oklahoma and only apply in other states. Purchasers are responsible for knowing if they qualify for the exemption they are claiming in the state in which the exemption is being claimed. The purchaser will be held liable for any tax, interest, and penalties that result from the purchaser claiming an exemption for which they are not eligible.

[**Source:** Added at 27 Ok Reg 2308, eff 7-11-10]

710:65-7-22. [RESERVED]

710:65-7-23. [RESERVED]

710:65-7-24. Seller's relief from certain liability

Sellers and Certified Service Providers (CSPs) will be relieved from liability for having charged and collected the incorrect amount of sales or use tax resulting from the seller or CSP relying on erroneous data provided in the taxability matrix, available online at www.tax.ok.gov. If the taxability matrix is amended, sellers and CSPs are relieved from liability until the first day of the calendar month that is at least 30 days after notice of a change is submitted to the Streamlined Sales Tax Governing Board, provided the seller or CSP relied on the prior version of the taxability matrix.

[**Source:** Added at 32 Ok Reg 1376, eff 8-27-15]

710:65-7-25. Purchaser's relief from certain liability

(a) A purchaser will be relieved from liability for penalty for having failed to pay the correct amount of sales or use tax in the following circumstances:

(1) A purchaser's seller or CSP relied on erroneous data provided by the Tax Commission on tax rates, boundaries, taxing jurisdiction assignments or in the taxability matrix completed by the Tax Commission;

(2) A purchaser holding a direct pay permit relied on erroneous data provided by the Tax Commission on tax rates, boundaries, taxing jurisdiction assignments or in the taxability matrix completed by the Tax Commission;

(3) A purchaser relied on erroneous data provided by the Tax Commission in the taxability matrix completed by the Tax Commission; or

(4) A purchaser using databases pursuant to subsections (F), (G) and (H) of Section 305 of the SSUTA (Local Rate and Boundary Changes) relied on erroneous data provided by the Tax Commission on tax rates, boundaries or taxing jurisdiction assignments. After providing adequate notice as determined by the Governing Board, the Tax Commission may provide an address-based database for assigning taxing jurisdictions pursuant to Section 305 of the SSUTA, subsection (G) or (H) and may cease providing liability relief for errors resulting from the reliance on the database provided by the Tax Commission.

(b) Except where prohibited by the Oklahoma Constitution, the Tax Commission will also relieve a purchaser from liability for tax and interest for having failed to pay the correct amount of sales or use tax in the circumstances described in (a) of this Section, provided that, with respect to reliance on the taxability matrix completed by the Tax Commission, such relief is limited to the Tax Commission's erroneous classification in the taxability matrix of terms included in the Library of Definitions as "taxable" or "exempt," "included in sales price" or "excluded from sales price" or "included in the definition" or "excluded from the definition."

(c) For purposes of this Section, the term "penalty" means an amount imposed for noncompliance that is not fraudulent, willful or intentional, which is in addition to the correct amount of sales or use tax and interest.

[**Source:** Added at 27 Ok Reg 2308, eff 7-11-10]

SUBCHAPTER 9. PERMITS

710:65-9-1. Obtaining a sales tax permit to do business

(a) **General provisions.** Every person desiring to engage in a business within this state who will regularly and continuously make sales subject to taxation from an established place of business, will make taxable seasonal sales, or make taxable sales through peddlers, solicitors or other salesmen who have no established place of business in Oklahoma must secure from the Commission every three (3) years a written sales tax permit for a fee of Twenty Dollars ($20.00) prior to engaging in such business in this state. Each such person shall file with the Commission an application for a permit to engage in or transact business in this state, setting

forth such information as the Commission may require. The application shall be signed by an owner or authorized representative of the business, and, in the case of a corporation, by an officer thereof.

(b) **Age restriction with applicable exception.** To obtain a sales tax permit, an individual or sole proprietor must be at least eighteen (18) years of age. A parent or legal guardian may apply for a permit on behalf of an individual or sole proprietor who is not at least eighteen (18) years of age, provided the parent or legal guardian will be considered the authorized user responsible for remitting state tax.

(c) **Probationary permits.** Every vendor who is making an "initial application" for a sales tax permit and who otherwise qualifies based on a review of the information contained in the application for a sales tax permit and who does not currently hold a sales tax permit, or does not qualify to receive a non-probationary permit as those qualifications are described in this Section, will be issued a probationary permit as allowed by 68 O.S. §1364(B) and implemented by the procedures set out in this Section. When issued, the probationary permit will be effective for six (6) months and will be automatically renewed for an additional thirty (30) months, unless the applicant is given written notice of Tax Commission's refusal to renew the permit.

(d) **Issuance upon receipt of an "initial application."** An **"initial application"** means the first application by an entity for a sales tax permit. Upon receipt of an initial application for a sales tax permit by a person required to obtain a sales tax permit, the Commission may issue a probationary sales tax permit, based on its records, after determining that the applicant appears to be in compliance with all of the tax laws of this state and has, or will be, required to secure a sales tax permit based on the information contained in the application which was submitted.

(e) **Post-issuance review of probationary permit-holder.** Once a probationary permit has been issued, the Commission may conduct a compliance visit at the taxpayers place of business or at the location of the books and records of the applicant in Oklahoma, as those locations are set out in the initial application.

(1) The compliance visit may be made by a telephone call to the offices of the applicant if the Collections Division Representative believes the information contained in the application may be verified in that manner or in the case where the applicant does not have an established place of business in Oklahoma or has an office located outside of Oklahoma.

(2) The purpose of the compliance visit is to determine if the applicant qualifies for a sales tax permit and will include:

(A) Establishing that the taxpayer is engaged in business as a group one or group three vendor, and that the applicant's business activities are not solely those of a consumer-user and therefore the probationary permit should be automatically renewed.

(B) Determining that the applicant has maintained compliance with all tax laws of the state, rules of the Commission and recordkeeping requirements and offering assistance to aid the applicant in complying with the tax laws of the state, rules of the Commission and recordkeeping requirements where necessary.

(f) **Refusal of the Commission to renew the permit; notice, options available upon refusal.**

(1) If the compliance visit indicates that the applicant is ineligible; if the applicant fails to contact the Commission regarding a compliance visit, after attempted contact; if other circumstances indicate that the applicant does not qualify; or if the applicant is not complying with the tax laws of this state, rules of the Commission and recordkeeping requirements, the Commission shall, prior to the end of the sixth month of the probationary period, give notice that the applicant's probationary permit will not be renewed.

(2) The notice shall be in writing and shall allow the applicant to request a hearing to show why the permit should be issued.

(3) Upon receipt of a request for a hearing, the Tax Commission shall set the matter for a hearing and provide notice of the date, time and place of the hearing to the applicant, along with a statement of the reason for refusal. At the hearing the applicant shall appear, state its qualifications for a permit, and provide proof of compliance with all state tax laws. The hearing will not be held sooner than 10 days from the date the notice is mailed.

(4) Proceedings related to the refusal to issue a sales tax permit shall be governed by *OAC* 710:1-5-100.

(g) **Compliance reviews not limited to probationary permits.** Nothing in this Section shall be construed so as to prevent, or circumscribe in any fashion, the authority of the Oklahoma Tax Commission and its appointed agents and representatives, to examine and review the books and records of every taxpayer and business operation for compliance with the tax laws of this state, rules of the Commission and recordkeeping requirements. In all cases where a review results in a determination that the business may not be in compliance with the tax laws of this state, rules of the Commission and recordkeeping requirements a hearing to revoke or suspend any license or permit may be held pursuant to *OAC* 710:1-5-100, and any other action available by law to the Tax Commission to remedy the deficiency may be pursued.

(h) **Sales / Manufacturers Permit.** Each applicant who is engaged in manufacturing at a manufacturing site located in Oklahoma will be issued a Sales/Manufacturers Permit.

(i) **Special event permits.** Promoters or organizers of special events must apply for a special events permit at least twenty (20) days prior to the event, provide forms to special event vendors for reporting sales tax collections, collect the sales taxes from the vendors, and remit them, along with daily sales tax reports to the Tax Commission within fifteen (15) days following the conclusion of the special event, pursuant to 710:65-9-8. [See**:** 68 O.S. Section 1364.2]

[**Source:** Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 41 Ok Reg 1652, eff 8-11-24]

710:65-9-2. Commission may require security from vendor

(a) In order to assure payment of the sales tax due, the Commission may require that sufficient security be deposited with the Commission.

(1) When required, security may be in the form of:

(A) corporate surety bond furnished by a surety licensed to do business in Oklahoma,

(B) United States savings or Treasury bonds so registered that the proceeds will be made available to the Commission in the event that the necessity of recovering unpaid taxes arises,

(C) cash, or

(D) in any other form agreed upon by the Commission and the person required to remit the tax.

(2) The amount of security furnished by Group One Vendors who become delinquent shall not be more than three times the average quarterly liability. The Commission, from time to time, may increase or decrease the amount of security but in no event shall such increase result in total security in excess of the limitation stated in this paragraph.

(b) The Commission may remove the permit of any vendor who fails to furnish bond or security within ten (10) days after the mailing of the notice requiring same. [**See:** 68 O.S. §1368]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-9-3. Change in ownership of business; new sales tax permit

(a) When the ownership status of a business which holds a sales tax permit, changes from one type of business ownership, such as sole proprietor, partnership or corporation, to another type of business ownership, the former owner must turn in its sales tax permit pursuant to 710:65-3-9 and

the new owner must apply for a new sales tax permit.
(b) A new sales tax permit and sales tax permit number is required for corporations which are sold or transferred only if ownership of the business is transferred to a different corporation or other owner.
(c) A new sales tax permit and number is required for partnerships if fifty percent (50%) of the partnership interest or any one of the general partners enters or leaves the partnership. The change of limited partners does not require a new permit. [**See:** 68 O.S. §1364]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-9-4. Denial of sales tax permit to a successor; successor liability
(a) The successor in business of any person who sells out a business or stock of goods, or ceases doing business, shall not be issued a sales tax permit to continue or conduct said business until all liability of the seller, i.e. payment of tax, adjustments to tax, penalties and interest has been paid. The term **"successor"** refers to any person who directly or indirectly purchases, acquires, or succeeds to the business or the stock of goods of any person quitting, selling, or otherwise disposing of a business or stock of goods. The purchase or acquisition of a business may give rise to the denial of permit to the successor whether the consideration is money, property, assumption of liabilities or cancellation of indebtedness.

(1) A person who purchases or acquires a portion of a business or stock of goods may be denied a sales tax permit as a successor where he purchases or acquires substantially all of the business assets or stock of goods. The business assets include the assets of a business pertaining directly to the conduct of the business. Business assets include real property or any interest therein; tangible personal property, including fixtures, equipment and vehicles; and intangible property, including accounts receivable, contracts, business name, business goodwill, customer lists, delivery routes, patents, trademarks or copyrights.

(2) If any taxpayer operates more than one business at separate locations, each business location is a separate business and has a separate stock of goods for purposes of obtaining a sales tax permit. A successor of the business or stock of goods of any business location is subject to denial of a sales tax permit as a successor with respect to the tax attributable to that location even if he does not purchase the business or stock of goods of all the locations.

(3) The change in the form of a business will generally give rise to the possibility of denial of a sales tax permit, such as the incorporation of a sole proprietorship or partnership, the voluntary or involuntary dissolution of a corporation, the merger or consolidation of two or more corporations, the formation of a partnership from one or more sole proprietorships or corporations; or change in the name of a corporation.

(b) Denial of a sales tax permit to a successor will not arise in connection with sales or transfers pursuant to assignments for the benefit of creditors, deeds of trust, or security interest, statutory liens, judgment liens unless the previous owner receives purchase money from the transfer or sale.
(c) A successor may assume the predecessors liability and a permit may be issued when satisfactory arrangements to pay the liability of the seller have been made with the Commission.
[**See:** 68 O.S. §1364]

710:65-9-5. Previously revoked or suspended sales tax permits
(a) A new sales tax permit will only be issued for a previously suspended or revoked permit if the vendor:

(1) Pays, or makes satisfactory arrangements to pay, all outstanding amounts, including the amounts of tax, penalties, interest and costs, if any costs were incurred.

(2) Files all returns due and outstanding.

(3) Pays the required fees for renewal or issuance of permits.

(4) Provides the security demanded to the full extent provided by law including the posting of a security bond pursuant to OAC 710:65-9-2(a)(1)(A).

(5) Confirms in writing that he will henceforth comply with all of the provisions of the laws and the rules prescribed by the Commission.

(b) If the taxpayer becomes delinquent or otherwise fails to comply with the applicable statutes and regulations, the Commission may immediately initiate proceedings to revoke the newly issued permit.

(c) No previous holder of a sales tax permit which has been permanently revoked may be issued a sales tax permit without the express action of the Commission. [See: 68 O.S. §1364]

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 41 Ok Reg 1652, eff 8-11-24]

710:65-9-6. Subscription to sales tax permit list

(a) The Commission will provide on a subscription basis the following information contained in the master Sales and Use Tax Files:

(1) Permit number.
(2) Name in which permit is issued.
(3) Name of business operation if different from ownership (DBA).
(4) Mailing addresses.
(5) Business addresses.
(6) Business class, Standard Industrial Code (SIC) or classification under the North American Industry Classification System (NAICS).
(7) Effective date and expiration or cancellation date.

(b) The fee for this service is One Hundred Fifty Dollars ($150.00) per year. The lists will be updated periodically. It is to be used by the vendor for the purpose of determining the validity of sales tax permits presented to the vendor as proof of the purchaser's exemption as a reseller. [**See:** 68 O.S. §1364(N)]

710:65-9-7. Information available to the prospective purchaser of an existing business

(a) **Access limited to prospective purchaser.** The prospective purchaser of any business, or his authorized agent, may request information from the Commission relating to amounts due from the prospective seller of the business.

(b) **Information available.** In addition to items which are deemed "public records" by other statutory provisions, information regarding liabilities, delinquencies, assessments, or warrants which have not been filed of record, established, or become final, that relate solely to the seller's business may be made available upon proper application.

(c) **Application by prospective purchaser.** Requests for information made pursuant to this Section shall be made in writing, on a request form prescribed by the Commission. A written authorization between the parties and a copy of the purchase contract must be submitted along with the request.

[**Source:** Added at 12 Ok Reg 2635, eff 6-26-95]

710:65-9-8. Special event permits and reporting

(a) **Definitions**. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**An event held on an irregular basis**", for purposes of this Section, means any event that does not occur on a continuous and ongoing basis, even if there is some frequency or pattern of occurrences. Events held on "an irregular basis" may include, but are not limited to, events held once a week or only certain weeks, events that are held every weekend or only on particular weekends, events held once a month or for only certain months, and other events that are held on a periodic basis, as well as those which occur more sporadically.

(2) "**Person**" means any individual, company, partnership, joint venture, joint agreement, association, mutual or otherwise, limited liability company, corporation, estate, trust,

business trust, receiver or trustee appointed by any state or federal court or otherwise, syndicate, this state, any county, city, municipality, school district, any other political subdivision of the state, or any group or combination acting as a unit, in the plural or singular number. [68 O.S. § 1352]

(3) "**Promoter**" or "**organizer**" means any person who organizes or promotes a special event which results in the rental, occupation or use of any structure, lot, tract of land, sample or display case, table or any other similar items for the exhibition and sale of tangible personal property or services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes by special event vendors. [68 O.S. § 1364.2]

(4) "**Special event**" means an entertainment, amusement, recreation, or marketing event that occurs at a single location on an irregular basis and at which tangible personal property is sold. "Special event" shall include, but not be limited to gun shows, knife shows, craft shows, antique shows, flea markets, carnivals, bazaars, art shows, and other merchandise displays or exhibits. "Special event" shall not include:

(A) a county, district or state fair,

(B) a public or private school or university-sponsored event,

(C) an event sponsored by a church organization exempt from taxation pursuant to 501(c)(3) of the Internal Revenue Code,

(D) an event sponsored by a city or town that includes less than ten special event vendors or

(E) a registered farmers market which is a designated area where farmers, growers, or producers from a defined region gather on a regularly scheduled basis to sell at retail nonpotentially hazardous farm food products and whole-shell eggs to the public. [68 O.S. § 1364.2]

(5) **"Special event vendor"** means a person making sales of tangible personal property or services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes at a special event within this state and who is not permitted under Section 1364 of Title 68 of the Oklahoma Statutes. [68 O.S. § 1364.2]

(b) **Application for special event permit.** Every promoter or organizer of a special event shall file an application for a special event permit with the Business Tax Services, Oklahoma Tax Commission at least twenty (20) days before the beginning of the special event. If more than one special event is to be held at the same location during a single calendar year, all may be included in one application, and a separate permit will be issued for each event. Each permit will include the dates of the event to be held, and must be prominently displayed at the site of the event for its duration. If an applicant wishes to have permits issued for additional events after an application has been previously submitted, another supplemental application must be filed for the additional events. The application form for a special event permit may be obtained online at tax.ok.gov.

(c) **Fee.** There is a fee of fifty dollars ($50.00) for each application filed, which must be remitted with the application.

(d) **Vendor lists.** At least ten (10) days prior to the start of each event, the organizer or promoter is required to submit a list of all vendors registered to attend the event. Within fifteen (15) days following the conclusion of the special event, the organizer or promoter shall also submit a list of vendors who actually attended each event. Each list shall include the vendor's name, address, telephone number, email address and taxpayer identification number. If a vendor holds a valid sales tax permit issued under 68 O.S. § 1364, the permit number shall also be included.

(e) **Promoter or organizer to distribute vendors' reporting forms**. Special event promoters and organizations are required to provide sales tax report forms to special event vendors that will be selling tangible personal property and taxable services at the event.

(f) **Promoter or organizer to collect reports and tax from special event vendors.** At the end of the event, special event promoters are required to collect the sales tax reports, along with the

sales tax due from each special event vendor.

(g) **Promoter or organizer to report and remit sales tax.** Promoters or organizers of special events must file sales tax reports and remit taxes collected from special events, as follows:

(1) Promoters and organizers are required to file the sales tax reports within fifteen (15) days following the last day of a special event.

(2) Payment of the total tax due is required at the time the sales tax report is filed. If not filed on or before the fifteenth (15th) day, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed; and,

(3) Promoters and organizers are only liable for the failure to report and remit the sales taxes that have been collected by them from special event vendors.

(h) **Limitation of responsibilities of promoters or organizers**. Promoters or organizers of a special event that is held on an annual basis during the same thirty-day period each year may request that the Tax Commission limit their responsibilities to the following:

(1) Submitting an application for a special event permit as provided in (b) of this Section.

(2) Providing report forms to special event vendors as provided in (e) of this Section; and,

(3) Within fifteen (15) days following the conclusion of the special event, submitting a list of special event vendors at each event, including the vendor's name, address, and telephone number.

(i) **Denial of limitation**. Requests submitted pursuant to (h) of this Section may be denied by the Tax Commission for reasons including, but not limited to, failure by the promoter to comply with the requirements of this Section or failure by vendors of the promoter's previous special events to comply with the provisions of (j) of this Section.

(j)**Vendor reporting and remitting pursuant to subsection (h).** A special event vendor who has participated in a special event approved under subsection (h) shall remit the tax along with a sales tax report directly to the Tax Commission within fifteen (15) days following the conclusion of the special event. Sales taxes shall be considered delinquent, and interest as provided by law will be charged if payment is not received or postmarked by the fifteenth (15th) day following the event.

(k) **Reporting and remitting tax when event lasts thirty (30) days or longer.** When the special event will last thirty (30) days or longer, a sales tax report is required to be filed for each calendar month by the fifteenth (15th) day of the following month.

[**Source:** Reserved at 14 Ok Reg 2711, eff 6-26-97; Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2851, eff 6-25-06; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 35 Ok Reg 2102, eff 9-14-18; Amended at 41 Ok Reg 1652, eff 8-11-24; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-9-9. Administration of the Streamlined Sales and Use Tax Agreement online database

(a) As part of the Streamlined Sales and Use Tax Agreement, the Oklahoma Tax Commission will participate in an online sales and use tax registration system. By registering to participate in the online system, the vendor agrees to collect and remit sales and use taxes for all taxable Oklahoma sales.

(b) Registration with this central registration system and the collection of sales and use taxes in Oklahoma will not be used as factor in determining whether the vendor has nexus with Oklahoma.

(c) A vendor registering with this System who has no legal requirement to register in Oklahoma, will not be required to pay registration fees or other charges provided in Section 1364 of Title 68. A vendor who has a requirement to register in Oklahoma prior to utilizing the online System must provide additional information to complete the registration process and pay the registration fee.

(d) Oklahoma's withdrawal or revocation from the Agreement will not relieve a vendor of its

responsibility to remit taxes previously or subsequently collected to behalf of Oklahoma.

[**Source:** Reserved at 14 Ok Reg 2711, eff 6-26-97; Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-9-10. Direct payment permits (DPP)

(a) **General provisions.** The holder of a valid Oklahoma direct payment permit may make purchases of taxable items, for use in its Oklahoma enterprises and not for resale, and defer the taxes imposed by the Oklahoma Sales and Use Tax Codes until such time as the items are first used or consumed in a taxable manner, if all requirements described in this Section are met. [**See:** 68 O.S. § 1364.1]

(b) **Qualification for direct payment permit.** To qualify for a direct payment permit, valid for three (3) years, an applicant must meet the requirement set forth in paragraph 1, 2, or 3.

(1) **Documentation for established businesses.** The applicant must be making purchases of $800,000.00 annually in taxable items for the use in its Oklahoma enterprises, and not for resale and annual purchases of $800,000.00 must be verifiable from the applicant's sales or use tax records.

(2) **Documentation for new or expanding businesses.** An applicant without any qualifying sales and use tax reporting history in Oklahoma must submit to the Commission along with its application, a sworn statement that "applicant shall purchase $800,000.00 of taxable items and services annually for use in its Oklahoma enterprises and not for resale." Adequate records or documentation must be available to support the statement of projected purchases.

(3) **Documentation for healthcare providers.** The applicant must be making purchases of drugs for the treatment of human beings, medical appliances, medical devices and other medical equipment including but not limited to corrective eyeglasses, contact lenses, hearing aids, prosthetic devices, durable medical equipment, and mobility-enhancing equipment for administration or distribution by a practitioner, as defined in 68 O.S. § 1357.6(B), who is authorized by law to administer or distribute the referenced items and the cost of such items will be reimbursed under the Medicare or Medicaid programs.

(c) **Other qualifications.** In addition to any other conditions mandated by statute, all applicants for a direct payment permit must comply with all conditions, prerequisites and qualifications described in (1) through (4) of this subsection:

(1) **Overall compliance with tax provisions.** The applicant must be in compliance with all pertinent tax laws of the State of Oklahoma and with the respective rules of the Commission.

(2) **Applicant must establish reliability and accuracy of accounting methods.** All applicant(s) must be able to establish to the satisfaction of the Commission that the applicant is or will be using an accounting method which clearly distinguishes between taxable and nontaxable purchases. An explanation of the accounting procedures which will be used to determine the taxability of any purchase and to ensure that any tax due is correctly accrued and remitted must accompany the application for a direct payment permit. Additionally to substantiate the exempt purchase of medical equipment pursuant to subsection (a) of 710:65-13-173, a healthcare provider holding a direct pay permit must maintain separate from confidential patient records the following information:

(A) Patient case number or account number;

(B) Type of insurance and

(C) Item description or product number.

(3) **Compliance with reporting and remitting requirements.** The applicant must agree to accrue and pay all taxes imposed by the Sales or Use Tax Codes, on the applicable direct payment sales or use tax return, for items not specifically exempted. The applicant must agree to make the payments to the state on or before the 20th day of the month following the applicable reporting period in which the items become subject to the tax by reason of their consumption in this state. A written agreement to this effect, signed by an officer or other person authorized to legally bind the applicant must be furnished to the Commission along

with the application for a direct payment permit.

(4) **Compliance with restrictions on purchases for resale.** The applicant must agree to give a resale certificate, rather than a direct payment permit, for any item that will be resold, as provided by the Sales or Use Tax Codes.

(d) **Application for direct payment permit.** Application for a direct payment permit may be made to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194.

(e) **Granting of permit discretionary; options available upon denial.** The Oklahoma Tax Commission shall be the sole judge of an applicant's qualifications and may deny an application or refuse to issue a direct payment permit. However, an applicant is not precluded from submitting an amended application or may submit a new application after a reasonable period of time from the date of the original application. For purposes of this subsection **"reasonable period of time"** means a period of time of not less than twelve (12) calendar months duration from the date of the Commission denial or refusal to issue the permit.

(f) **Issuance, scope, limitations of direct payment permit.** When a direct payment permit is issued to a particular legal entity, it will include all branches and divisions of that entity which are purchasing taxable items. A direct payment permit issued to a supplier by one branch or division shall apply to purchases made by all branches or divisions from the same supplier. For purposes of this Section, **"branches and divisions"** shall be limited to those subunits or groups associated with a single unique federal employer identification number. A direct payment permit-holder may not authorize any other person or entity to purchase any taxable items under the permit. Use by unauthorized persons may result in revocation of the permit.

(g) **Use of direct payment certification procedure with vendors.** A direct payment permit-holder must provide its vendors with the direct payment certification defined in this Section and a copy of its direct payment permit in order to make those purchases to which the permit is applicable.

(h) **"Direct payment certification" described. "Direct payment certification"** means the procedure by which a direct payment permit-holder provides a vendor with properly completed documentation and certification as to its deferred status. Properly completed documentation may consist of a copy of the direct payment permit, multi-state exemption certificate, or other document, so long as it contains the information described in (1) through (4) of this subsection.

(1) A **copy** of the purchaser's Direct Payment Permit (DPP), or if unavailable, the name, address, and DPP number of the purchaser;

(2) A statement that the permit-holder claims deferral of the payment of state, city and county sales or use taxes upon its purchases of taxable tangible personal property or services;

(3) A statement that the articles purchased are for use in the purchaser's Oklahoma enterprises, and not for resale;

(4) The signature of the purchaser or a person authorized to legally bind the purchaser, and date signed.

(i) **Limitations on use of direct payment procedure.** Direct payment certification procedures are not applicable to the purchase of materials or supplies used, transferred, or consumed by a third party in performing services for the direct payment permit-holder, regardless of whether the third party is a contractor, service provider, or other person.

(j) **Incidence of tax for purchases made pursuant to direct payment permit and stored in Oklahoma.** For taxable items purchased under a direct payment permit, the incidence of Oklahoma sales and use taxes to be accrued and remitted on items stored in Oklahoma is to be determined by reference to this subsection, as well as to the provisions of the Oklahoma Sales and Use Tax Codes. [**See:** 68 O.S. § 1361(C)]

(1) **Use tax to be accrued on items and goods purchased outside Oklahoma.** Items and goods purchased outside Oklahoma pursuant to an Oklahoma direct payment permit, which are intended solely for use in other states, but which are stored in the state pending shipment to such other states, or which are temporarily retained for the purpose of fabrication, repair, testing, alteration, maintenance, or other service, are not subject to Oklahoma use tax. However, if the items purchased out-of-state are first used or consumed in Oklahoma, then

Oklahoma use tax and any applicable city use tax shall be accrued and remitted to the Commission by the direct payment permit-holder.

(2) **Sales tax to be accrued on items and goods purchased in Oklahoma.** Items and goods purchased in Oklahoma pursuant to a valid Oklahoma direct payment permit are subject to Oklahoma sales and applicable city and county sales taxes at the time they are first used or consumed in a taxable manner. Sales made to direct payment permit holders of tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service are not subject to Oklahoma sales tax.

(k) **Monthly reports required.** All direct payment permit-holders must file sales and use tax returns, in the manner set out in this subsection, whether or not they have either sales tax or use tax to report.

(1) Purchases made in Oklahoma, using the taxpayer's DPP, such that the sales tax otherwise due has been deferred, are to be reported monthly on the Sales Tax Report Form which bears taxpayer's Direct Payment Permit Number. This report is in addition to any Sales Tax Report which is required to be filed using taxpayer's Sales Tax Permit Number.

(2) Purchases made outside Oklahoma, using the taxpayer's DPP, such that the use tax otherwise due has been deferred, are to be reported monthly on the taxpayer's Use Tax Report Form, using the Use Tax Account Number.

(l) **Cancellation, suspension, revocation of permit.** A direct payment permit may be cancelled by the Commission if the annual purchases fall below the qualifying threshold. Further, the Commission may revoke a permit upon information that the permit has been used by persons other than to whom it was issued. Finally, the Commission may suspend, cancel, or revoke a direct payment permit, at any time, for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a license or permit pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

(m) **Procedure upon cancellation, revocation, or forfeiture.** Any entity whose direct payment permit is either voluntarily forfeited, or is cancelled or revoked by action of the Commission, must immediately notify all vendors from whom purchases of taxable items are made advising them that any certification provided to them pursuant to the forfeited, cancelled or revoked direct payment permit is no longer valid.

[**Source:** Added at 14 Ok Reg 1089, eff 2-5-97 (emergency); Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 35 Ok Reg 2102, eff 9-14-18]

SUBCHAPTER 11. CREDITS AND REFUNDS

710:65-11-1. Sales tax credits and refunds

(a) The burden of establishing the right to, and the validity of, a credit or refund is on the vendor or purchaser claiming the credit or refund.

(b) Except for refund requests for state sales tax paid on the purchase of food and food ingredients, credit/refund requests submitted by a vendor shall include the information set out in paragraphs (1) though (8) of this subsection (if applicable). The application for credit may be obtained from the Oklahoma Tax Commission, 300 N. Broadway Ave, Oklahoma City, OK 73102, or online at www.tax.ok.gov.

(1) A written detailed explanation of why the credit/refund is due. (Include exemption numbers and/or an explanation on exempt customers.)

(2) Amended reports detailing the correct figures that should have been reported. (A worksheet may be used in lieu of an amended report for each month involving an extended period.)
(3) Copies or a list of the sales tax reports on which the sales were originally reported.
(4) Copies of cancelled checks used to remit the tax paid.
(5) Copies of the original invoices on which the tax was originally charged. If the number of invoices exceeds twenty-five (25), the invoices must be accompanied by an electronic spreadsheet of the invoices associated with the refund claim that relates back to the tax amount requested on the application for credit. The required fields should accurately list the customer name, invoice date, invoice number, description of the items, the taxable amount, the sales/use tax requested, period the tax was remitted, permit number the tax was remitted under, and the jurisdiction(s) for which the tax was paid.
(6) Copies of the credit invoices or checks showing the tax collected or charged in error has been refunded to your customer.
(7) A recap of the credit/refunds by tax type, tax period, and taxing jurisdiction.
(8) Other documentation which may be pertinent to the requested credit/refund.

(c) Credit/refund requests submitted by a purchaser shall include the information set out in paragraphs (1) though (5) of this subsection (if applicable). The application for credit may be obtained from the Oklahoma Tax Commission, 300 N. Broadway Ave, Oklahoma City, OK 73102, or online at www.tax.ok.gov.

(1) The name, address, telephone number of the contact person along with the name, address, telephone number and at least the last four digits of the purchaser's identification number.
(2) A written detailed explanation of why the credit/refund is due. Such explanation must contain sufficient factual information about the transaction and reason why the transaction is not subject to tax. (Include exemption number, if applicable)
(3) Copies of the original invoices included in the refund request, in chronological order, from the oldest to the most current. If the number of invoices exceeds twenty-five (25), the invoices must be accompanied by an electronic spreadsheet of the invoices associated with the refund claim that relates back to the tax amount requested on the application for credit. The required fields should accurately list the vendor name, invoice date, invoice number, description of the items, the taxable amount, the sales/use tax requested, period the tax was remitted, permit number the tax was remitted under, and the jurisdiction(s) for which the tax was paid.
(4) Additional documents which support the refund claim, for example: executed contracts, shipping documents or bills of lading, or documentation reflecting usage of tangible personal property, if not evident from the invoice description.
(5) If the amount of the credit/refund request exceeds $10,000.00, the purchaser must also provide the following:
(A) A statement from each vendor to whom the purchaser paid the tax setting forth each invoice included in the claim,
(B) The amount of state, city and/or county tax collected from the purchaser and reported by the vendor and the local jurisdiction(s) for which the tax was paid,
(C) The date on which the tax was remitted to the Tax Commission, and
(D) A statement that the vendor has not, and will not, refund the tax to the purchaser.

(d) Requests for refund of state sales tax paid on the purchase of food and food ingredients shall be submitted pursuant to the provisions of Section 710:65-13-575.

[**Source:** Amended at 34 Ok Reg 2089, eff 9-11-17; Amended at 42 Ok Reg, Number 20, effective 7 15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:65-11-2. Sales tax deduction for bad debt

(a) A vendor may take a deduction for bad debts on the return for the period during which the

bad debt is written off as uncollectible in the vendor's books and records and is eligible to be deducted for Federal Income Tax purposes, if the vendor kept accounts on a cash basis, or could be eligible to be claimed if the vendor kept accounts on an accrual basis. For purposes of this Section a vendor who is not required to file Federal Income Tax Returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the vendor's books and records and would be eligible for a bad debt deduction if the vendor were required to file a Federal Income Tax Return.

(b) The fact that a deduction has been taken against the current month must be so indicated on the face of the sales tax report. If the accounts are thereafter collected, the amount received shall be included in the gross receipts for the period in which the account is collected.

(c) The "bad debt" deduction is calculated based upon the federal definition provided in 26 U.S.C. § 166 and the amount should be adjusted to exclude:

(1) Financing charges or interest;

(2) Sales or use taxes charged on the purchase price;

(3) Uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid; and,

(4) Expenses incurred in attempting to collect any debt and repossessed property. [68 O.S.Supp.2003, § 1366(B)]

(d) The burden of establishing the right to, and the validity of a bad debt deduction is on the vendor. In order to verify each deduction taken for a bad debt, the vendor must retain and make available:

(1) The name of the purchaser/debtor;

(2) The date of the sale or sales giving rise to the bad debt;

(3) The price of the property and the amount of sales tax charged thereon;

(4) The amount of interest, finance and service charges charged to the debt or account;

(5) Whether the property was retained by the vendor or repossessed;

(6) Any amounts charged to the debt or account representing costs of collection;

(7) The dates and amounts of any payments made on the debtor's account;

(8) Any portion of the debt or account which represents a charge that was not subjected to the tax in the original transaction; and

(9) Records documenting that the account has been or will be written off or could be eligible to be claimed if taxpayer kept accounts on a cash basis or could be eligible to be claimed if taxpayer kept records on the accrual basis on the Federal Income Tax Return for the year, or that the item was repossessed.

(e) The information in subsection (d) may be requested by the Commission at any time.

(f) The deduction for bad debts is limited to the amount shown on the invoice that is being or will be charged off as a bad debt. This tax deduction is allowable only to the person who remitted and reported the tax to the Commission. Subsequent recoveries of bad debts that have been taken as a deduction are to be reported in the month of the recovery. [**See:** 68 O.S. §1366]

(g) *When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the statute of limitations for refund claims provided in Section 227 of this title; however, the statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.*

(h) *Where filing responsibilities have been assumed by a certified service provider, the certified service provider may claim, on behalf of the seller, any bad debt allowance provided by this section. The certified service provider must credit or refund the full amount of any bad debt allowance or refund received to the seller.*

(i) *For the purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.*

(j) *In situations where the books and records of the party claiming the bad debt allowance*

support an allocation of the bad debts among the states which are members of the Streamlined Sales and Use Tax Agreement, the allocation will be permitted. [68 O.S.Supp.2003, § 1366]

[**Source:** Amended at 21 Ok Reg 2581, eff 6-25-04]

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 1. ADVERTISING IN MEDIA

710:65-13-1. Exemption for sales of certain types of advertising

(a) Gross proceeds from sales of advertising space in newspapers, periodicals, programs relating to sporting and entertainment events, and on billboards (including signage, posters, panels, marquees, or on other similar surfaces, whether indoors or outdoors), and any advertising via the Internet, electronic display devices, or through the electronic media, including radio, public address or broadcast systems, television (whether through closed circuit broadcasting systems or otherwise), and cable and satellite television, and the servicing of any advertising devices are exempt from sales tax.

(b) The purchase of materials and equipment to be used to produce an advertisement is a taxable purchase.

(c) In order for the advertising in a newspaper or periodical to be exempt, the publication must be generally recognized as a newspaper or be a periodical as defined by state law. [See: 68 O.S. § 1357(4)]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 23 Ok Reg 2852, eff 6-25-06; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 35 Ok Reg 2102, eff 9-14-18]

PART 3. AGRICULTURAL TRANSACTIONS

710:65-13-15. "Agricultural production" defined; taxable and exempt transactions

(a) **Definitions.** For the purposes of this Section:

(1) **"Agricultural production"** and **"production of agricultural products"** is limited to what would ordinarily be considered a farming or ranching operation undertaken for profit. The term refers to the raising of food crops or livestock for sale. Included within the meaning of **"agricultural production"** and **"production of agricultural products"** are ranches, orchards, and dairies. Also included is any feedlot operation, whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned by persons conducting the feedlot.

(2) **"Farmers"** means persons engaged in agricultural production or production of agricultural products.

(3) **"Farming"** or **"ranching"** means the production, harvesting or processing of agricultural products.

(4) **"Livestock"** means cattle, horses, sheep, goats, asses, mules, swine and also chickens, turkeys, and other domesticated fowl. It also includes American bison, emus, ostriches and llamas.

(b) **Examples of persons engaged in farming, ranching or agricultural production.** Besides the persons defined as farmers and ranchers above, the law recognizes persons engaged in the following types of activities, whose aim is the making of a profit, to also be engaged in farming, ranching or agricultural production:

(1) Wholesale divisions of nurseries are considered to be farmers and the planting, growing, cultivation and harvesting of shrubs, flowers, trees and other plants for sale in the wholesale division of a nursery operation are defined to be farming operations.

(2) Persons who plant, cultivate, and harvest sod for commercial sale are also considered to be farmers.

(c) **Examples of persons who are not engaged in farming, ranching, or agricultural production.** The following activities **do not** qualify as farming, ranching, or agricultural production:

(1) Operation of commercial greenhouses;

(2) Operation of plant nurseries, except their wholesale divisions;

(3) Catfish raising;

(4) Ownership of livestock solely for one's own use for pleasure riding, trail riding, performance riding, participation in horse shows, or racing; and,

(5) The raising of cats, dogs, other fur-bearing animals not included in the definition of livestock, or non-domesticated fowl.

(d) **Sales of feed, fertilizers, biologicals, and pharmaceuticals.** The statute provides an exemption from sales tax for sales of certain items, such as feed, fertilizer, pharmaceuticals, biologicals, seeds, plants, and pesticides, when sold to a person regularly engaged in farming or ranching, for profit, and the items are to be used and in fact are used in agricultural production. Sales of agricultural fertilizer, pharmaceuticals and biologicals sold to a person engaged in the business of applying such materials on a contract or custom basis are specifically exempted from sales and use tax.

(e) **Sales to persons other than farmers or ranchers.** Sales of tangible personal property are subject to the sales or use tax under this rule, if the sales are to persons other than a farmer or rancher, regularly engaged in business for profit, or if the sales are made to a farmer or rancher, but the property is used or consumed for a purpose other than the production of agricultural products for sale.

(f) **Sales for personal use.** Sales to a farmer or rancher of fuel, clothing, and all other tangible personal property for personal living or human consumption or use are taxable. Sales of tangible personal property are taxable when the property is used in producing food or other products for personal consumption and not for sale. Similarly, sales of seed, fertilizer, equipment, etc. to anyone for use on homes, gardens, lawns, parks and golf courses or for use by landscape gardeners are taxable.

(g) **Farm machinery.** Sales of farm machinery used directly on a farm or ranch in the production of agricultural products are exempt. Such machinery is also exempt if sold to a custom harvester, baler, producer or planter performing service on a farm or a ranch.

(1) **"Farm machinery"** includes:

(A) Expendable supplies, such as baling wire, and binders twine, hand tools, and implements such as fence stretchers, picks, posthole diggers, scoops and shovels;

(B) Lubricants for farm machinery;

(C) Repair or replacement parts for machinery used directly on a farm or ranch in production of agricultural products;

(D) Fencepost, cattle guards, gates and chutes;

(E) Buildings and structures which are essentially an item of equipment or machinery for agricultural production if the structure is specifically designed for such use and the structure cannot be economically used for any other purpose, for example: an automated laying house or farrowing house.

(2) **"Farm machinery"** does **not** include any motor vehicle licensed for highway use.

(h) **Exemption limited to use in agricultural production.** The fact that an item is purchased for use on a farm or ranch, or that a piece of equipment is convenient, does not necessarily make the purchase exempt from sales tax. The items purchased must be directly used on the purchaser's farm or ranch in the production of agricultural products. "To be directly used by the purchaser on a farm or ranch in the production of food or agricultural products" requires that the property in question must have a direct effect on the article being produced.

(i) **Examples of taxable items.** The following is a partial list of taxable items:

(1) Water supply systems for personal use.

(2) Repair parts for all motor vehicles (licensed with a farm tag or any other tag).
(3) Household appliances.
(4) Garden and lawn equipment.
(5) Personal apparel.
(6) Pets and their supplies.
(7) All equipment, supplies and tools to maintain personal home and/or vehicle/ equipment storage buildings.
(8) Electricity for non-agricultural use.
(9) LPG storage tanks for fuels used for domestic purposes.
(10) Livestock, not including horses, but including cattle, mules or other domestic or draft animals except those sold for resale to a person who holds a valid sales tax permit or those sold by the producer by private treaty or at a special livestock sale.
(11) All computers and software, except that which is to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands.
(12) Home and or office furnishings and supplies.
(13) Groceries and purchases of meals and beverages at restaurants.

(j) **Examples of items not commonly exempt, except when used in agricultural production.** The following items are taxable, unless used directly in agricultural production:
(1) Liquefied petroleum gas (LPG).
(2) Communication radios.
(3) Building materials, including:
(A) Roofing cement.
(B) Lumber.
(C) Electrical wiring.
(D) Nails, staples, and other fasteners.

(k) **Examples of exempt items.** The following items are **exempt** if used directly in agricultural production, or as otherwise stated:
(1) Electric fence insulators.
(2) Electric fence chargers.
(3) Cattle electric water warmer & tank.
(4) Cattle water tank.
(5) Cattle squeeze chute.
(6) Welding machines and associated equipment, including the lease or rental of both the equipment and the cylinders used to store the gases used in welding. Welding rod, oxygen, acetylene are exempt, providing welding machine with which they are used is qualified for the exemption.
(7) Sprays for control of flies & lice, insect repellent.
(8) Pinkeye patches, livestock wormers.
(9) Disinfectants (alcohol, iodine).
(10) Breeding supplies (includes semen, biostate sales & liquid nitrogen for storage).
(11) Drugs for disease or bacteria control such as penicillin, milk fever medicines, mastitis treatment.
(12) Supplies for administering drugs to farm animals for production (syringes, needles).
(13) Vaccines for preventive disease.
(14) Bottles, nipples & mixing containers for feeding calves.
(15) Farm tractors.
(16) Combines.
(17) Hay balers, mowers, rakes & loaders.
(18) Cultivators.
(19) Harrows, disks, planters, drills.
(20) Windmills (except for domestic use).
(21) Spray machines.

(22) Mechanical brush cutters, ensilage cutters.
(23) Grain grinders.
(24) Electric milking machines & separators.
(25) Standby generators (except those for domestic use).
(26) Silo unloaders, silage distributor.
(27) Augers-power take off.
(28) Bale loaders.
(29) Crust busters.
(30) Diamond packers
(31) Rotary hoes.
(32) Bulk milk tanks & pipeline milkers.
(33) Power take off post hole diggers.
(34) Motor chain saw (to clear land).
(35) Repair parts for farm equipment (includes tires, batteries, oil filters, belts, air filters & other parts).
(36) Diesel & special fuels (for agricultural use).
(37) Antifreeze (for agricultural use).
(38) Oil & grease (for agricultural use).
(39) Stock tanks.
(40) Grain storage bins.
(41) Stock trailers.
(42) Wire fencing.
(43) Fence posts.
(44) Air conditioner (for agricultural use).
(45) Feed racks.
(46) Bulk feed bins & associated equipment.
(47) Silo loading chutes.
(48) Farm wagons, farm plows, truck unloaders.
(49) Fertilizer spreading equipment.
(50) All farm animals for production.
(51) Containers used to package farm products for sale.
(52) Cattle chutes.
(53) Hay wire or twine, hay hooks.
(54) Ear tags, neck tags for cattle.
(55) Seeds, plants.
(56) Fertilizers.
(57) Insecticides.
(58) Packaging materials, such as sacks, wrappers, and crates, for use in packing, shipping or delivering of agricultural products. This exemption shall not apply to any packaging material which can be used more than once or which is ordinarily known as a returnable container, except those specifically noted under 68 O.S. § 1359(3), 68 O.S. § 1359(4), and 68 O.S. § 1359(14).
(59) *"Returnable cartons, crates, pallets, and containers used to transport mushroom products from a farm for resale to the consumer or processor."* [**See:** 68 O.S. § 1359(14)]
(60) Salt blocks (for agricultural use).
(61) Irrigation equipment (for agricultural use).

(l) **Examples not exhaustive.** Activities and items enumerated in this Section as examples and illustrations are not intended to be exclusive or exhaustive.

(m) **Purchases of taxable personal property or services by a contractor.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for a farmer may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to a farmer. However, sales of materials, supplies,

and equipment may be made exempt from sales tax to any person who has contracted to construct facilities which are or will be **used directly** in the production of any livestock. For purposes of this subsection, **"used directly in the production of any livestock"** includes facilities used in the production and storage of feed for livestock owned by the permit holder. To receive the exemption, the contractor must follow the applicable requirements of Section 710:65-13-17.

(n) **The exemption as it pertains to horses, ranching, and ranches.**

(1) The exemption is allowed only to those persons breeding or raising horses for marketing.

(2) The exemption is not extended to persons who own horses for personal use or who are solely engaged in activities such as boarding horses, giving riding lessons, or providing horses for recreational riding.

(o) **The exemption as it extends to feed and similar products for livestock, including horses.** The holder of an agricultural exemption permit may purchase generally recognized animal feeds, stock tonics, water purifying products, stock sprays, disinfectants, and other such agricultural supplies subject to the following limitations:

(1) The purchaser must obtain an Agricultural Permit; and

(2) The purchaser must follow the applicable requirements of Section 710:65-13-17.

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2708, eff 6-25-00; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-13-16. Sales and use tax exemption for salt and salt blocks sold for consumption by livestock and poultry [**REVOKED**]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Revoked at 29 Ok Reg 542, eff 5-11-12]

710:65-13-17. Certification required for sales tax exemption for certain agricultural transactions

(a) **Feed for draft animals.** Certification on the face of the invoice or sales ticket is required to purchase feed for horses, mules or draft animals used directly in the production and marketing of agricultural products. The certification must contain the information set out in subsection (b) and be signed by the purchaser at the time of purchase.

(b) **Certification for use when purchasing feed for draft animals.** The following or equivalent thereof shall be executed by the purchaser when purchasing feed:

(1) **Statement under oath.** "Purchaser certifies under penalty of perjury that the feed purchased will be fed only to horses, mules or draft animals used directly in agricultural production."

(2) **Identifying number.** "The qualifying Oklahoma Agricultural Exemption Number is _____".

(c) **Material purchased for the construction of livestock facilities.** Certification on the face of the invoice or sales ticket is required from any person acting pursuant to a contract with the permit holder on purchases of materials, supplies, and equipment to be utilized in the construction of a livestock facility, being used or to be used in the production of any livestock, including facilities for the production and storage of feed. The certification must contain the information set out in subsection (d) and be signed by the purchaser.

(d) **Certification for use when purchasing materials for construction of livestock facilities.** The following or equivalent thereof shall be executed by the contractor when purchasing materials pursuant to 68 O.S. §1358(8).

(1) **Statement under oath.** "Purchaser certifies under penalty of perjury that the items are purchased pursuant to contract and are for use in the construction of a livestock facility owned by the agricultural permit number holder identified herein."

(2) **Identifying number.** "The qualifying Agricultural Exemption Permit Number is_____and is issued to_____".

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97]

710:65-13-18. Proof of agricultural tax exemption

In order to qualify for the exemptions provided in 68 O.S. §1358, the purchaser must provide proof of eligibility to the vendor.

(a) Proof of eligibility is based on the issuance of an agricultural exemption permit, which is obtained in the following manner:

(1) All persons, regardless of residency, who are engaged in farming or ranching operations in this state, may obtain an agricultural exemption permit by listing personal property used in the farming or ranching operation with the county assessor each year, as provided by law. If the assessor determines that the personal property is correctly listed and assessed for ad valorem taxation and the county treasurer certifies that the person has no delinquent accounts appearing on the personal property tax lien docket in the county treasurer's office, the assessor shall certify the assessment upon a form prescribed by the Commission. One copy shall be retained by the assessor, one copy shall be forwarded to the Oklahoma Tax Commission, and one copy shall be given to the person listing the personal property. Upon verification that the applicant qualifies for the exemptions authorized by Section 1358, and that the applicant has no delinquent accounts appearing on the personal property tax lien docket in the office of the county treasurer, a permit shall be issued as prescribed by this paragraph. The permit shall be renewable every three years.

(2) A person who does not otherwise qualify for an agricultural exemption permit shall file an application with the Commission providing proof of eligibility for the sales tax exemptions. The application shall be certified by the applicant that such applicant is engaged in custom farming operations or in the business of farming or ranching. If the applicant is a corporation, the application shall be certified by a legally constituted officer thereof.

(3) If the application does not contain sufficient information to show that the applicant is engaged in farming, ranching, or agricultural production for profit, the Commission may request additional information from the taxpayer, from a division, another agency, or from any other source, in order to determine eligibility.

(4) If the application is denied, the applicant has a right to a hearing, in conformity with Section 710:1-5-100.

(b) Use of the agricultural exemption permit is subject to the provisions set out in this Subsection:

(1) To establish eligibility for the sales tax exemption, residents of other states who are engaged in custom farming operations in this state must provide the vendor with proof of residency; the name, address, and telephone number of the person engaging the custom farmer; and certification on the face of the invoice, under the penalty of perjury, that the property purchased will be used in agricultural production.

(2) If an agricultural exemption permit-holder purchases tangible personal property from a vendor on a regular basis and has previously established eligibility, the vendor may make subsequent sales without requiring proof of eligibility for each sale. However, the permit-holder must notify the vendor of all purchases which are not exempt from sales tax and remit the applicable tax.

(3) A purchaser who uses an agricultural exemption permit or provides proof of eligibility to make exempt purchases of items not authorized by law shall be subject to a penalty in the amount of Five Hundred Dollars ($500.00).

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2708, eff 6-25-00]

710:65-13-19. Sales at or from the farm and sales at farmers markets
(a) The sale of agricultural products by the producer at or from the producer's agricultural property to the consumer or user, including transactions where those products are sold and shipped directly to the consumer or user, is not subject to sales tax. As used in this Section **"agricultural property"** means the location at which the agricultural products were grown or where the animals from which the agricultural products are derived were raised or milked.
(b) This exemption does not apply to sales by florists, nurserymen, or chicken hatcheries. Dairy products are exempt only if offered for sale by the owner of all of the cows from which the dairy products were produced. [**See:** 68 O.S. §1358(A)]
(c) Transactions exempted by this Section include sales of agricultural products produced in Oklahoma by farmers who sell their products directly to consumers at farmers markets, roadside stands, festivals/fairs or other similar venues. However, agents of agricultural producers and other third parties may not sell agricultural products exempt from sales tax pursuant to this Section.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2708, eff 6-25-00; Amended at 33 Ok Reg 1094, eff 8-25-16]

PART 5. ITEMS SUBJECT TO OTHER TAXES

710:65-13-30. Exemption for the sale of tangible personal property subject to other taxes
(a) **Aircraft, boats, boat motors, and low-speed/medium-speed electrical vehicles.** Sales and use tax does not apply to the sale of airplanes, boats, boat motors, and low-speed/medium-speed electrical vehicles, which are subject to the "Oklahoma Aircraft Excise Tax Act" [**See:** 68 O.S. § 6002], the "Oklahoma Vessel and Motor Registration Act" [**See:** 63 O.S. § 4107], or the "Oklahoma Vehicle Excise Tax Act" [**See:** 68 O.S. § 2106]. These excise taxes are levied on all aircraft, small vessels, watercraft, sailboats, motors greater than ten (10) horsepower, motorboats, or low-speed/medium-speed electrical vehicles, and also the optional equipment and accessories attached at the time of the sale and included in the purchase price or manufacturer statement of origin.
(b) **Motor vehicles.** Sales of motor vehicles on which the Oklahoma vehicle excise tax levied in Section 2101 et seq. of Title 68 has been, or will be paid, are subject to sales/use tax at the rate of 1.25% of the gross receipts of such sales. (**See** 710:65-19-215). The provisions of this subsection do not apply to low-speed/medium-speed electrical vehicles, power units (truck tractors) and trailers proportionally registered pursuant to the International Registration Plan (IRP) 47 O.S. § 1120 or trailers and semitrailers registered under subsection C of Section 1133 of Title 47of the Oklahoma Statutes to transport cargo over the highways of this state.
(c) **Accessories, optional equipment, and parts.** Sales tax is due on accessories, optional equipment, or parts which are not attached and sold as part of the purchase price on the sale of aircraft, motors greater than ten (10) horsepower, vessels, motorboats, motor vehicles and low-speed/medium speed electrical vehicles.
(d) **Boats motors.** The sale of boat motors in excess of ten (10) horsepower is subject to boat and motor excise tax. [**See:** 63 O.S. §§ 4003(B)(1), 4107] The sale of boat motors ten (10) horsepower or less is subject to sales/use tax. [**See:** 68 O.S. § 1355]
(e) **Leases of aircraft.** Leases of aircraft are not subject to sales tax if either the aircraft excise tax has been paid on the lease transaction or an exemption applies to the transfer from the lessor to the lessee, pursuant to 68 O.S. §§ 1355(9) and 6001(4).
(f) **Sales of crude petroleum, natural or casinghead gas, and other products.** *Sales of crude petroleum, natural or casinghead gas, and other products subject to gross production tax pursuant to 68 O.S. §1001 et seq. and 68 O.S. §1101 et seq. are not subject to sales tax. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating*

the production of oil or gas. [**See**: 68 O.S. § 1355(3)]

(g) **Sales from coin-operated vending devices.** Sales from coin-operated vending devices on which the fee imposed by 68 O.S. §§1501-1512 has been paid are not subject to sales tax.

(h) **Leases of motor vehicles**. Leases of motor vehicles are exempt from sales tax provided that the lease is for a term of twelve (12) months or more and the vehicle excise tax levied by Section 2103 of Title 68 of the Oklahoma Statutes has been paid.

(i) **Sales of charity game equipment.** Sales of charity game equipment on which a tax is paid pursuant to the Oklahoma Charity Games Act, (3A O.S. § 401 et seq.), are not subject to sales tax. Additionally charity games equipment is exempt from sales tax when sold to the following entities:

(1) a veterans' organization exempt from taxation pursuant to the provisions of Section 501(c)(4),(7),(8),(10), or (19) of the Internal Revenue Code;

(2) a group home for mentally disabled individuals exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code are not subject to sales tax; and

(3) a charitable healthcare organization exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

(j) **Sales of cigarettes and tobacco products**. Sales of cigarettes and tobacco products are exempt from sales tax in the following instances:

(1) Sales to a federally-recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of 68 O.S. § 346(C) or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid; or

(2) From and after January 1, 2005, sales of cigarettes on which the tax levied in 68 O.S. § 301 et seq. or tobacco products on which the tax levied in 68 O.S. § 401 et seq. has been paid. [**See:** 68 O.S. § 1355(11)]

(k) **Sales of electricity at charging stations.** Beginning January 1, 2024, sales of electricity when sold by a charging station owner or operator for purposes of charging an electric vehicle and the tax imposed pursuant 68 O.S. § 6504(A) is collected and remitted to the Oklahoma Tax Commission. [**See**: 710:55-8-1 through 710:55-8-6]

[**Source:** Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 22 Ok Reg 1570, eff. 6-11-05 ; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 33 Ok Reg 1094, eff 8-25-16; Amended at 35 Ok Reg 2102, eff 9-14-18; Amended at 39 Ok Reg 2264, eff 9-11-22; Amended at 40 Ok Reg 1278, eff 8-11-23]

710:65-13-30.1. Unmanned aerial vehicles

Unmanned aerial vehicles including drones meeting the definition of aircraft pursuant to Section 6001 of Title 68 which are required to be registered with the Federal Aviation Administration (FAA) are subject to aircraft excise tax upon the transfer of legal ownership of any such aircraft or the use of any such aircraft within this state. If not subject to FAA registration requirements, the sale of the referenced items are subject to sales tax. In the case of a purchaser claiming exemption from sales tax because of a requirement that aircraft excise tax is due on the transaction, the vendor should obtain a statement, signed by the purchaser, or by a person who may legally bind the purchaser, that Oklahoma Aircraft Excise Tax will be paid on the purchase of the item in accordance with the provisions of 68 O.S. § 6003, and that if the excise tax is not so paid, the purchaser will be responsible for the sales tax due.

[**Source:** Added at 33 Ok Reg 1094, eff 8-25-16]

710:65-13-31. Exemption for motor vehicle leases [**REVOKED**]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97; Revoked at 19 Ok Reg 2070, eff 7-1-08]

PART 7. CHURCHES

710:65-13-33. Children's homes and youth camps

(a) **Qualification for the exemption for children's homes located on church-owned property.** The sale of tangible personal property or services to children's homes located on church-owned property and operated by a qualified organization is exempt from sales tax. **"Qualified organization"** means, for purposes of this Section, an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. Section 501(c)(3). [**See:** 68 O.S. § 1357(15)]

(b) **Qualification for the exemption for certain children's homes supported by one or more churches.** The sale of tangible personal property or services to children's homes supported or sponsored by one or more churches, whose members serve as trustees of the children's home, is exempt from sales tax. [**See:** 68 O.S. § 1356(27)]

(c) **Qualification for the exemption for certain youth camps.** The sale of tangible personal property or services to youth camps supported or sponsored by one or more churches, whose members serve as trustees of the youth camp, is exempt from sales tax. [**See:** 68 O.S. § 1356(29)]

(d) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with the applicable documentation set forth in (e) of this Section.

(e) **Supporting documentation required.**

(1) **Children's homes on church property.** Children's homes on church property must submit the following documentation:

(A) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(B) Documentation evidencing church ownership of the property where the children's home is located.

(2) **Children's homes supported by churches.** Children's homes supported or sponsored by churches must submit the following documentation:

(A) The name(s) of the church(es) which support or sponsor the home;

(B) The names of the members who serve as trustees of the home; and

(C) The amount that each church contributes each year.

(3) **Youth camps.** Youth camps must submit the following documentation:

(A) The name(s) of the church(es) which support or sponsor the camp; and

(B) The names of the church members who serve as trustees of the camp.

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-34. Exemption for qualified museums [RENUMBERED TO 710:65-13-334]

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99. Renumbered to 710:65-13-334 at 22 Ok Reg 1570, eff. 6-11-05]

710:65-13-35. Limited exemption for organizations which sponsor and promote educational, charitable, and cultural events for disadvantaged children [AMENDED AND RENUMBERED TO 710:65-13-335]

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97,Amended and renumbered to 710:65-13-335 at 22 Ok Reg 1571, eff. 6-11-05]

710:65-13-36. Exemption for Disabled American Veterans, Department of Oklahoma, Inc. and subordinate chapters [RENUMBERED TO 710:65-13-336]

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00, Renumbered to 710:65-13-336 at 22 Ok Reg 1571, eff. 6-11-05]

710:65-13-37. Qualifications for "Meals on Wheels" exemption [RENUMBERED TO 710:65-13-337]

[**Source:** Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 17 Ok Reg 2677, eff 6-25-00, Renumbered to 710:65-13-337 at 22 Ok Reg 1572, eff. 6-11-05]

710:65-13-38. Qualifications for "Older Americans Act" exemption [RENUMBERED TO 710:65-13-338]

[**Source:** Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95, Renumbered to 710:65-13-338 at 22 Ok Reg 1572, eff. 6-11-05]

710:65-13-39. Qualifications for "Collection and Distribution Organization" exemption [RENUMBERED TO 710:65-13-339]

[**Source:** Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95, Renumbered to 710:65-13-339 at 22 Ok Reg 1572, eff. 6-11-05]

710:65-13-40. Sales by churches; sales to churches

(a) **Sales "by" churches.** Sales by churches are not subject to sales tax when it can be said that such selling is noncompetitive with business establishments.

(1) The following are tests for determining that such selling is noncompetitive:

(A) The transactions are conducted by members of the church and not by any franchisee or licensee.

(B) All of the proceeds must go to the church organization.

(C) The transaction must not be a continuing one but rather should be held whether annually or a reasonably small number of times within a year. The test of reasonableness would be an administrative decision, to be made by the Commission.

(D) The reasonably ascertainable dominant motive of most transferees of the items sold must be the making of a contribution, with the transfer of property being merely incidental and secondary to the dominant purpose of making a gift to the church.

(2) In addition, there are these further considerations as guides to the resolution of questions raised by each individual situation:

(A) The nature of the particular item sold. All other things being equal, the decision as to candy might well be different from the decision as to refrigerators.

(B) The character of the particular sale, and the real practical effect upon putative competition. [**See:** 68 O.S. § 1356(7)]

(b) **Sales "to" churches.** Generally, sales made directly to a church are exempt from sales and use tax. Only sales purchased by the church, invoiced to the church, and paid for by funds or check directly from the church, will qualify for the exemption. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of *OAC* 710:65-7-6 and 710:65-7-15.

(c) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor with whom a church has duly entered into a construction contract, or to any subcontractor to such construction contract, are exempt provided they are necessary for carrying out the contract. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of subsection (c) of *OAC* 710:65-7-13.

(d) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation which shows that the church consists of a body of believers which holds religious services and public notification of the place and time of those services such as a copy of a newspaper or yellow pages ad, newsletter or bulletin sent to regular attendees or distributed during a service.

[**Source:** Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-13-41. Exemption for Council organizations or similar state supervisory organizations of Boy Scouts of America, Girl Scouts of U.S.A., and the Campfire Girls and Boys [RENUMBERED TO 710:65-13-341]

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97, Renumbered to 710:65-13-341 at 22 Ok Reg 1573, eff. 6-11-05]

710:65-13-42. Qualifications for "Juvenile Rehabilitation" exemption [RENUMBERED TO 710:65-13-342]

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97, Renumbered to 710:65-13-342 at 22 Ok Reg 1573, eff. 6-11-05]

710:65-13-43. Exemption for tax-exempt, independent, nonprofit biomedical research foundations [**AMENDED AND RENUMBERED TO 710:65-13-174]**

[**Source:** Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended and renumbered to 710:65-13-174 at 18 Ok Reg 2823, eff 6-25-01]

710:65-13-44. Exemption for tax-exempt, independent, nonprofit community blood banks headquartered in this state [**AMENDED AND RENUMBERED TO 710:65-13-175]**

[**Source:** Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended and renumbered to 710:65-13-175 at 18 Ok Reg 2823, eff 6-25-01]

710:65-13-45. Exemption for coal mining [RENUMBERED TO 710:65-13-55]

[**Source:** Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended (Renumbered to 710:65-13-55) at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-46. Exemption for organizations supported or sponsored by church(es) [**REVOKED**]

[**Source:** Added at 15 Ok Reg 2827, eff 6-25-98; Revoked at 16 Ok Reg 2653, eff 6-25-99]

710:65-13-47. Exemption for sales by 501(c)(3) organizations on behalf of churches

Sales made on behalf of or at the request of churches are exempt from sales tax if the following conditions are met:

(1) The sales are made by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(2) The sales are made not more than once each calendar year for a period not to exceed

three (3) days; and,
(3) The proceeds of the sale are used either by the church or churches, or by the organization for charitable purposes.

[**Source:** Added at 20 Ok Reg 2175, eff 6-26-03]

PART 9. COMPUTERS; DATA PROCESSING; TELECOMMUNICATIONS

710:65-13-50. Sales and use tax exemption for qualified purchasers of computers, data processing and telecommunication services and equipment [**REVOKED**]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Revoked at 12 Ok Reg 2635, eff 6-26-95]

710:65-13-51. Exemption for sales of computers, data processing, telephonic and certain related equipment and services to a qualified aircraft maintenance or manufacturing facility
(a) Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility are exempt from sales and use tax.

(1) For purposes of this exemption, **"qualified aircraft maintenance or manufacturing facility"** is defined as any new or expanded business which adds at least Two Hundred Fifty (250) new full-time-equivalent employees, as certified by the Employment Security Commission. In order to qualify for the exemption, the construction cost of the new or expanded facility must exceed Five Million Dollars ($5,000,000.00).

(2) For purposes of this exemption, the following will apply:

(A) **"Computer"** means an electronic device *that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S. § 1352]

(B) **"Data processing equipment"** includes machines which perform work using programmed instruction, and which singly or collectively have capabilities of memory, logic, arithmetic and/or communication and all machines used in support of machines possessing those capabilities;

(C) **"Related peripheral"** means input, output, processing, storage, software and communication facilities which are connected or related to a device in a system or network; and

(D) **"Telecommunications"** includes data transmission between a computing system and remotely located devices.

(3) The exemption shall include, but shall not be limited, to the following:

(A) Computer
(B) Terminal
(C) Modem
(D) Printer
(E) Disk Drive
(F) Video Display Terminal
(G) Memory
(H) Removable Disk
(I) Fixed Disk
(J) Bar Code Reader
(K) Key Punch
(L) CRT
(M) Plotter
(N) Card Reader/Punch
(O) Tape Drive
(P) Monitor

(Q) Software
(R) Telephone equipment
(S) Telephone service
(T) Telegraph equipment
(U) Telegraph service
(V) Dedicated lines

(4) The exemption shall not apply to the following:

(A) Supplies, such as:
(i) Diskettes
(ii) Tape
(iii) Paper
(iv) Pens
(v) Ribbons
(vi) Print Wheels
(vii) Media Storage
(viii) Storage Case
(ix) Cleaning Product
(x) Cleaning Kit
(xi) Template
(xii) Print-out Ruler
(xiii) Label

(B) Furniture, such as:
(i) Desk
(ii) Chair
(iii) Table
(iv) Rack
(v) Stand
(vi) Acoustical Protector
(vii) Shelving

(C) Accessories, such as:
(i) Surge Protector
(ii) Filter
(iii) Radiation Shield
(iv) Dust Cover
(v) Static Dissipator
(vi) Security System

(b) No exemption shall be granted if the qualified aircraft maintenance or manufacturing facility fails to file the documentation required below with the Commission within thirty-six (36) months of the date of purchase and the required certification issued by the Employment Security Commission within sixty (60) months of the date of first purchase.

(c) Pursuant to statute, the exemption for sales to an aircraft maintenance or manufacturing facility outlined above will be administered as a refund for state and local taxes paid by the aircraft maintenance or manufacturing facility to the vendor or, in the case of use tax, self-remitted to the State of Oklahoma.

(d) All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specifications of the new or expanded facility, a complete description of the maintenance repair or manufacturing that will take place within the facility, and other information requested by the Commission. Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the Application will be forwarded to the Employment Security Commission for establishment of the entity's base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) For each purchase made, the entity who believes that it will be certified shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(1) Invoice indicating the amount of state and local taxes billed to the aircraft maintenance or manufacturing facility;

(2) Affidavit of the vendor of the tangible personal property that state and local sales tax reflected on that invoice has not been credited, rebated, or refunded to the aircraft maintenance or manufacturing facility, but rather, that the sales tax charged has been collected by the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(3) All additional documentation required to be submitted by the Commission.

(f) At the option of the entity who believes it will be certified as a qualified aircraft maintenance or manufacturing facility, the documentation required in (e) of this Section can be filed monthly, quarterly, semi-annually, or annually. However, all documentation must be filed no later than thirty-six (36) months after the item is purchased. The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for denial. The entity submitting the documentation will similarly be notified that a claim has been approved.

(g) Each month, the Commission shall transfer from sales tax collected, to an account designated by the Commission, the estimated amount of claims approved the previous month.

(h) Upon completion of the new or expanded business and the addition of the employees as required by statute, the entity believing it falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the total cost of construction exceeded the sum of Five Million Dollars ($5,000,000.00) required by law. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.

(1) The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The qualified aircraft maintenance or manufacturing facility will also receive accrued interest upon the principal amount of the refund made as provided for by statute. [**See:** 68 O.S. §1357(16)]

(2) The following shall apply when a request for certification is denied:

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or a duly authorized agent setting out:

(i) a statement of denial as determined by the Commission;

(ii) a statement of the applicant's disagreement with such denial, and

(iii) supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission, shall become final and no appeal will be entertained.

(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing. The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested certification.

(D) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [NOTE: For further information the applicant should refer to the Rules of Practice and Procedure before the Office of the Administrative Law Judges (710:1-5-21 through 710:1-5-49). [**See:** 68 O.S. §§ 225, 1357.5, 1404.4]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 26 Ok Reg 2354, eff 6-25-09]

710:65-13-52. Sales of computers, data processing equipment, related peripherals, and telephone, telegraph, or telecommunications service and equipment to a qualified purchaser primarily engaged in computer services and data processing or research and development [REVOKED]

[**Source:** Added at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Revoked at 40 Ok Reg 1278, eff 8-11-23]

710:65-13-53. Limitation on credits

No qualified establishment, nor its contractors or subcontractors, receiving an incentive payment pursuant to the Oklahoma Quality Jobs Program Act, 68 O.S. §§3603-3609, shall be eligible to receive the credit or exemption described in 710:65-13-51. [**See:** 68 O.S. § 3607]

[**Source:** Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 41 Ok Reg 1652, eff 8-11-24]

710:65-13-54. Exemption for sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Computer"** means an electronic device *that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S. § 1352]

(2) **"Data processing equipment"** means machines which perform work using programmed instruction, and which singly or collectively have capabilities of memory, logic, arithmetic or communication and all machines used in support of machines possessing those capabilities.

(3) **"Equipment"**, for purposes of this Section, means any independent device or tool, separate from any machinery, but essential to use of the machinery, or any sub-unit or sub-assembly comprising a component of any machinery or auxiliary, adjunct, or attachment, to parts of machinery. **"Equipment"** also specifically includes **"computers"** and **"data processing equipment"**, as defined in this Section.

(4) **"Machinery"**, for purposes of this Section, means major mechanical, electrical, or electronic machines or major components of such machines.

(5) **"Qualified purchaser"** means an establishment primarily engaged in computer services and data processing:

(A) Which is defined under Industrial Group Numbers 7372 (prepackaged software) and 7373 (computer integrated system design) of the Standard Industrial Classification (SIC) Manual, latest version, and which derives at least fifty percent (50%) of its annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, or

(B) Which is defined under Industrial Group Number 7374 (computer processing and data preparation processing services) of the SIC Manual, latest version, which derives at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

(6) **"Related peripheral"** means input, output, processing, storage, software, and communication facilities which are connected or related to a device in a system or network.

(b) **General provisions.** The sale of machinery and equipment, including computers, data processing equipment, and related peripherals, to a qualified purchaser primarily engaged in computer services and data processing as defined by (a) of this Section is specifically exempt from the levy of sales or use tax. For purposes of determining "qualified purchaser" status, all sales to the federal government shall be considered sales to an out-of-state buyer or consumer.

(c) **Examples of exempt items.** Exempt items include, but are not limited to:

(1) Bar code reader
(2) Card reader/punch
(3) Computer
(4) CRT
(5) Disk drive
(6) Fixed Disk
(7) Key punch
(8) Memory
(9) Modem
(10) Monitor
(11) Plotter
(12) Printer
(13) Removable disk
(14) Software
(15) Tape drive
(16) Telegraph equipment
(17) Telegraph service
(18) Telephone equipment
(19) Telephone service
(20) Terminal
(21) Video display terminal

(d) **Examples of non-exempt items.** The exemption shall not apply to:

(1) Cleaning products
(2) Paper
(3) Pens
(4) Print-out labels

(e) **Application.** Application for exemption may be made by filing a signed, sworn affidavit with the Commission, stating:

(1) The name, address, and federal employer's identification number of the applicant and the name and title of the person signing for the applicant;

(2) A complete description of the computer services and data processing that will take place within the establishment;

(3) A statement of the establishment's annual gross revenues, and the percentage of the annual gross revenues derived from sales made to out-of-state buyers and consumers, determined for the most recently completed income tax year;

(4) A statement that the applicant is primarily engaged in the activities appropriate to SIC Code classification number 7372, 7373 or 7374, as applicable;

(5) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and

(6) Such additional information as the Commission may require to confirm eligibility.

(f) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying the exemption allowed the establishment will be forwarded to the applicant.
(g) **Issuance, scope, limitations of direct payment permit.** The letter of certification issued by the Commission will become effective, commencing July 1st following the ending date of the income tax year on which the statement required by subsection (e) was calculated, for a period of twelve (12) months, and may be renewed, subject to annual review and recertification of the applicant's eligibility by the Commission.
(h) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 21 Ok Reg 2581, eff 6-25-04]

PART 10. COAL

710:65-13-55. Exemption for coal mining

(a) **Qualification in general.** Sales of machinery, electricity, fuels, explosives and materials, excluding chemicals, used in the mining of coal in this state are exempt from sales or use tax.
(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) The applicant's name, mailing address and federal identification number; and
(2) A statement that the entity is engaged in mining coal in Oklahoma and setting out any coal mining permit numbers issued to the entity or, if the applicant is a contractor to a mine owner, the coal mining permit numbers issued to the mine owner, by the Oklahoma Department of Mines or other applicable regulatory agency.

(c) **Exemption limited to eligible, properly-documented transactions.** Only those purchases actually purchased by the qualifying entity, invoiced to that entity and paid for by funds or check directly from the qualifying entity will be eligible for the exemption described in this Section.

[**Source:** Amended and renumbered from 710:65-13-45 at 17 Ok Reg 2677, eff 6-25-00; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-56. Exemption for certain leases of rail transportation to haul coal

As of January 1, 1991, the lease of rail transportation cars to haul coal to coal-fired electric generating plants located in this state is exempt from sales tax.

[**Source:** Added at 17 Ok Reg 2677, eff 6-25-00]

PART 11. CONTAINERS

710:65-13-60. Exemption for containers

(a) The gross proceeds derived from the sale of containers, to persons regularly engaged in reselling empty or filled containers, are exempt from sales tax. Also exempt are sales to persons packaging raw products of farm, garden, or orchard, for resale to the consumer or processor.
(b) Sales of returnable soft drink bottles, crates, pallets, cartons, and containers used to transport returnable soft drink bottles are not taxable. Transfers of title or possession to returnable oil and chemical drums to any person not regularly engaged in the business of selling such returnable "oil

drums" are exempt from taxation. Deposits on other "returnable containers" such as barrels, drums, pallets, and wire spools are subject to sales tax. Refundable deposits made for returnable cartons, crates, pallets, and containers used to transport cement and cement products are not taxable.
(c) Gross receipts derived from the sale of or transfer of title to or possession of any returnable container which does or will contain water for human consumption are specifically exempt from taxation. Also specifically exempt are the charges made for cartons, crates, pallets, and containers to transport such returnable containers that do or will contain water for human consumption. [**See:** 68 O.S. §§ 1357(10) and 1359(4), (13)]
(d) The deposits, rent or other charges made for returnable cartons, crates, pallets, and containers used to transport mushrooms or mushroom products from a farm for resale to the consumer or processor shall be exempt from sales tax.

[**Source:** Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02]

PART 12. AIRCRAFT

710:65-13-63. Exemption for aircraft repair, modification and replacement parts

Beginning July 1, 2005, sales tax does not apply to sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, or sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint. [See: 68 O.S. § 1357(28)]

[**Source:** Added at 23 Ok Reg 2852, eff 6-25-06]

PART 13. CONTRACTORS REFUND; CHANGE OF RATES

710:65-13-70. Refund to contractor due to change of sales tax rate

(a) **Terms and limitations.** Any contractor who becomes liable for additional sales tax because of an increase in the rate of state, municipal, or county sales tax subsequent to the date a contract is executed is entitled to a refund of the additional sales taxes paid on property, equipment and services necessary to complete the contract due to the increase in rate. Provided however:

(1) The contractor must have a contract for the development or improvement of real estate which requires the purchase of materials, supplies, and equipment by the contractor to complete the contract.

(2) The contract must be a lump sum contract rather than a contract which provides for or permits the pass through of the additional tax to contracting entity.

(3) Subsequent to the date the contract was executed a state law increasing the rate of sales tax imposed by Sales Tax Code or an ordinance increasing the sales tax levy of a political subdivision becomes effective.

(4) The contractor makes purchases of materials, supplies and equipment required under the contract paying the increased rate of sales tax.

(5) Only those purchases of materials, supplies and equipment required to be made to complete the contract and affixed to or used to improve the real estate will qualify for the refund.

(b) **Rates in effect.** The rates in effect at the time the contract is entered will be applicable to purchases made pursuant to the contract or any change order under the contract until the earlier of:

(1) The contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order; or

(2) Two (2) years from the date on which the contract was entered.

(c) **Application.** In order to receive a refund within the time prescribed in subsection (f), the contractor must file the "Contractor's Application for Sales Tax Refund" on forms available from the Commission. The form may be submitted on an annual basis for purchases made the preceding year or upon completion of the contract. The following documentation must be supplied:

(1) A copy of the contract which qualifies the contractor for the lower sales tax rate.

(2) A separate schedule for each vendor detailing purchases made by invoice date, number, amount, and distribution of tax paid certified by the vendor.

(3) A summary sheet certified by the contractor which details those invoices on which the higher sales tax rate was paid.

(d) **Computation.** All vendor's remittances will be considered timely filed, therefore, the contractor's refund will be reduced by the remuneration in effect at the time the sale was made.

(e) **Documentation, forms, certification.** Before the Commission will process any refund due to change of rate, the contractor must supply all forms and documentation required by the Commission. Each vendor must complete the certification for property, materials and supplies the vendor sold to the contractor. The contractor must complete the certification pertaining to all purchases to which the refund provisions are applicable. [**See:** 68 O.S. § 1354(21)]

(f) **Time limitations.** The contractor shall file a claim for said refund before the expiration of three (3) years from the date of completion of the contract or five (5) years after the contract was entered into, whichever date is earlier.

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 34 Ok Reg 2089, eff 9-11-17]

PART 14. ESTATE SALES

710:65-13-78. Exemption for certain estate sales

The gross proceeds of sales made at estate sales are exempt from sales tax providing that:

(1) The sale is not held for more than three days;

(2) The sale is conducted within six (6) months of the date of death of the decedent;

(3) The property to be sold was part of the decedent's estate; and,

(4) The sale is conducted on the premises of the former residence of the decedent by a person that is not required to be licensed pursuant to 19 O.S. Section 1601, the Transient Merchant Licensing Act, or who is not otherwise required to hold a sales tax permit.

[**Source:** Added at 20 Ok Reg 2175, eff 6-26-03]

PART 15. HAZARDOUS WASTES

710:65-13-80. Exemption for purchases to reduce hazardous waste

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Directly used or consumed in the process of treatment"** means either the tangible personal property is:

(A) **"Directly used"** in the step-by-step processes by which hazardous waste is treated. Any tangible personal property or any services which are only indirectly related to the process of treatment are not included; or

(B) **"Consumed"** as in destroyed, used up, or worn out to the degree or extent that such property cannot be repaired, reconditioned, or rendered fit for further use. **"Consumed"** does not mean or include mere obsolescence.

(2) **"Equipment"** means the implements used in the direct process of treatment.

(3) **"Hazardous waste"** means waste materials and by-products, either solid or liquid, which

are to be discarded by the generator, and which are toxic to human, animal, aquatic or plant life and which are generated in such quantity that they cannot be safely disposed of in properly operated, state-approved sanitary landfills, waste or sewage treatment facilities. Hazardous waste may include, but is not limited to, explosives, flammable liquids, spent acids, caustic solutions, poisons, containerized gases, sludge, tank bottoms containing heavy metallic ions, toxic organic chemicals, infectious materials, and materials such as paper, metal, cloth or wood which are contaminated with hazardous waste, and excludes domestic sewage. For purposes of the sales and use tax exemption, the term "**hazardous waste**" may include low-level radioactive waste.

(4) **"Incorporated into"** means directly used or consumed in the process of treatment.

(5) **"Machinery"** means mechanically, electrically, or electronically operated devices used for performing the tasks of remediation of hazardous waste.

(6) **"Other materials"** means other items of tangible personal property which are used in the direct process of treatment of hazardous waste, but which are not machinery, equipment, fuel, or chemicals. For purposes of this Section, electricity is included in the category "**other materials**".

(b) **Exemption limited to eligible, properly documented transactions.** Only purchases of machinery, equipment, fuel, and chemicals or other materials incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume of harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Hazardous Waste Management Act and operated at the place of waste generation, or facilities approved by the Department of Environmental Quality for the cleanup of a site of contamination are exempt. Only purchases made by persons engaged in the process of treatment, invoiced to those persons, and paid for by such persons are exempt.

(c) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A written description of the process in which the person will be engaged;

(2) Information regarding the permit or approval under which the person is operating;

(3) Documentation that any nonresident contractor or subcontractor is in compliance with the registration requirements found at 68 O.S. § 1701 et. seq.; and

(4) Such additional information as the Commission may require to confirm eligibility.

(d) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying the exemption allowed will be forwarded to the applicant.

(e) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

(f) **Use of letter certifying eligibility for the exemption.** Persons claiming exemption under this Section should provide their vendors with a copy of the certification letter issued by the Commission and a signed statement that the purchase is being made exempt from sales tax. If purchases will be made from a vendor on a regular basis, the vendor may make subsequent sales without requiring proof of eligibility for each sale, providing the person to who the exempt sales are being made has agreed in writing to notify the vendor of any and all purchases which may be made to which the exemption would not apply. Vendors may accept the certification set out in this subsection in the same manner as any other letter certifying to a specific statutory exemption as set out in 710:65-7-6 and 710:65-7-15.

(g) **Limitations.** Any letter certifying an exemption issued under this Section is valid only for use by

the addressee and is not transferable. The exemption may **not** be used by any other entity, even if that entity claims to be an agent, administrator, party to a contract or other relationship. Each entity desiring to obtain a letter certifying an exemption must make application in its own name.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10]

PART 16. ELECTRONIC GOODS – REFITTING, REFURBISHING OR REPAIRING

710:65-13-85. Exemption for refitting, refurbishing, or repairing of consumer electronic goods

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Qualified devices"** means certain electronic consumer goods including but not limited to cell phones, compact disc players, personal computers, MP3 players, digital devices for the storage and retrieval of information through hard-wired or wireless computer or Internet connections.

(2) **"Qualified purchaser"** means an entity primarily engaged in the repair of consumer electronic goods which purchases from the original manufacturers qualified devices for refitting, refurbishing or repairing and subsequently sells these devices to either retail customers or to businesses primarily engaged in the sale of the enumerated qualified devices.

(3) **"Qualified purchases"** means only tangible personal property and services directly related to the activity of refitting, refurbishing, and repairing consumer electronic goods purchased from the original manufacturer of the qualified items for subsequent sale or resale. Qualified purchasers may not make exempt purchases for their regular consumer repair business, for other facets of their business or for the refitting, repairing, or refurbishing of consumer electronic goods purchased or acquired from sources other than the original manufacturer of the qualified devices.

(b) **General provisions.** Effective July 1, 2007, Section 1357(40) of Title 68 provides for a sales tax exemption for sales of tangible personal property or services to a business primarily engaged in the repair of consumer electronic goods if the devices are sold to the business by the original manufacturer of such devices and the devices are repaired, refitted, or refurbished for sale by the entity qualifying for the exemption directly to retail customers or if the devices are sold to another business entity for sale to retail customers.

(c) **Application.** Application for exemption may be made by filing a signed, sworn statement with the Business Tax Services of the Oklahoma Tax Commission, which includes:

(1) The name, address, and federal employer identification number of the applicant and the name and title of the person signing for the applicant;

(2) A complete description of the repair, refitting or refurbishing activities that will take place at the business location;

(3) A statement that applicant is primarily engaged in the repair of consumer electronic goods;

(4) Identification of the original manufacturers of the electronic consumer goods from which the applicant purchases qualified devices;

(5) A statement that applicant, once the consumer electronic goods are refitted, repaired or refurbished, will hold these devices for sale either directly to retail customers or to businesses regularly engaged in selling the qualified devices;

(6) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and

(7) Copies of written documentation substantiating the purchase of the consumer electronic goods from the original manufacturers of those items along with such additional information as the Business Tax Services may require to confirm eligibility.

(d) **Review and determination.** Upon receipt of the application, the Business Tax Services will review and make a determination as to the applicant's eligibility. Upon approval, certification in the form of a letter or card, of the exemption allowed will be forwarded to the applicant.
(e) **Issuance, scope, limitations of exemption certification.** The certification issued by the Business Tax Services will be effective for a period of twelve (12) months, and may be renewed, subject to annual review and recertification of the applicant's eligibility by the Business Tax Services.
(f) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08]

PART 17. EXPORT

710:65-13-90. Sales tax exemption on sales for export

(a) A sale made within this State for export outside the United States, is exempt as a sale for resale so long as the following conditions are met:
(1) The vendor issues, simultaneously with the sale, an export bill of lading; or
(2) If the vendor is not in the business of shipping its goods and products, the purchaser issues an export bill of lading or other documentation showing that the point of delivery of the property is for use and consumption in a foreign country and that the goods will not be used in the United States.
(b) Vendors are responsible for retaining copies of export bills of lading or other documentation verifying that the delivery point was actually outside the United States.
(c) The sale will be considered to be sales taxable at the location where title and/or possession are transferred to the purchaser in the absence of the documentation in (1) and (2) of subsection (a). [**See:** 68 O.S. §1352(23)(c)]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 19 Ok Reg 2070, eff 7-1-08]

PART 18. PRECIOUS METALS

710:65-13-95. Exemption for sales of gold, silver, platinum, palladium or other bullion items

(a) **General provisions**. The sale of gold, silver, platinum, palladium or other bullion items such as coins and bars and legal tender of any nation, which legal tender is sold according to its value as precious metal or as an investment is exempt. "Bullion" for purposes of this Section means any precious metal, including, but not limited to, gold, silver, platinum and palladium, that is in such a state or condition that its value depends upon its precious metal content and not its form.
(b) **Eligibility.** Transactions eligible for the exemption outlined in subsection (a) of this Section include:
(1) Sales of gold, silver, platinum or palladium in the form of coins, bars, ingots, blanks, rounds, and medallions.
(2) Sales of bullion that is or was at one time used as currency or a medium of exchange in the United States or a foreign country when:
(A) sold for an amount based on its value as a precious metal or
(B) sold or purchased as an investment.
(c) **Exclusions**. The exemption outlined in Subsection (a) does not apply to the following:

(1) Fabricated metals that have been processed or manufactured for artistic use or as jewelry,
(2) Jewelry or other accessory items such as belt buckles and money clips,
(3) Paper currency, and
(4) Bonds, certificates, and stocks.

[**Source:** Added at 28 Ok Reg 961, eff 6-1-11; Amended at 32 Ok Reg 1376, eff 8-27-15]

PART 19. COUNTY, DISTRICT AND STATE FAIRS

710:65-13-100. Fairs, circuses, carnivals, and other public exhibitions; sales tax exemption for county, district and state fair authorities; purchases by contractors

(a) Persons conducting games of chance or skill at fairs, carnivals, circuses, expositions, celebrations, bazaars, picnics and similar places and delivering merchandise as prizes are deemed consumers of such articles. All sales to them of tangible personal property, including merchandise, devices, apparatus, furnishings and other equipment are taxable. Credit cards and extension of credit in any form, given as prizes, will be deemed merchandise and taxable, unless the tax is paid at the time the credit is exchanged for merchandise. Concessionaires at fairs, circuses, carnivals, etc., must collect, report and remit the sales tax on all their sales. The Commission reserves the right to require a concessionaire to file a report and pay the tax at the close of any business day or period during which he operates.

(b) However, specifically exempted from sales tax are sales made upon the premises of a county, district or state fair authority when said sales are made directly by the county, district or state fair authority and the sales are made solely for the benefit of the fair authority.

(1) For purposes of this exemption, "*fair authority*" means:

(A) Any county, municipality, school district, public trust or any other political subdivision of this state, or

(B) Any not-for-profit corporation acting pursuant to an agency, operating management agreement which has been approved or authorized by the governing body of any of the entities specified in (1)(A) of this subsection which conduct, operate or produce a fair commonly understood to be a county, district or state fair.

(2) *"Sales made directly by the county, district or state fair authorities"* for purposes of this exemption requires that all persons making sales be employees of the authority or contract labor employed by the fair authority.

(3) *"For the sole benefit of the fair authority"* for purposes of this exemption requires that all proceeds of sales made go to the fair authority. Sales made under a proceeds splitting arrangement or pursuant to a contract requiring payment to persons or groups based on a percentage of sales do not qualify for this exemption. [68 O.S. §1356(4)]

(c) Provided further, sales of admissions to fairs or fair events made at any location other than the premises of the fair in this state that is authorized by the fair authority are subject to sales tax only with respect to any portion of an admission price that is not retained by or distributed to the fair authority. ***"Fair event"*** *shall be limited to an event held on the premises of the fair authority in conjunction with and during the time period of a county, district, or state fair.* [**See:** 68 O.S. § 1356(4)]

(d) Persons operating or sponsoring a fair, circus, carnival, etc., shall be held liable, as the principal, for the tax upon the sale or use of tangible personal property sold, given as prizes or otherwise disposed of by a person engaged in business without a sales tax license at such exhibition, unless the tax is paid by the dispenser of such property.

(e) Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for a county, district or state fair authority may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax.

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94;

Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 20 Ok Reg 2175, eff 6-26-03]

PART 21. FOOD STAMPS

710:65-13-110. Sales tax exemption for food stamps

(a) Sales tax does not apply to food or food products for home consumption purchased in whole or in part with food coupons (**"food stamps"**) issued by the U.S. Department of Agriculture under the Food Stamp Program as authorized by 7 U.S.C.A. §§ 2011 - 2029.

(b) The exemptions set forth in (a) of this Section, applies only to food or food products actually purchased with food coupons. Thus, all other purchases by food coupon participants that are not paid for with food coupons are subject to the tax.

(c) This exemption shall be inapplicable upon the effective date of any federal law that allows the State of Oklahoma to participate in the federal food stamp program without the requirement of this exemption. [**See:** 68 O.S. §1357(12)]

PART 23. GAS AND ELECTRICITY

710:65-13-120. Sales tax exemption for residential use

(a) **Definition.** The sale of natural or artificial gas and electricity, when sold exclusively for residential use is exempt from state sales tax, but remains subject to any applicable municipal and county sales taxes in effect at the time of sale. The term **"residential use"** means the use of gas or electricity by the individual customer exclusively for domestic purposes such as lighting, refrigeration, cooking, water, heating, space heating and air conditioning, in a private home or individual living unit served through a single meter or a master metered multi-unit apartment, condominium, or townhouse used exclusively for domestic purposes. Residential use includes service to buildings appurtenant to the residence, including garages, barns, and other minor buildings, for use of the residents served through the residential meter. Residential use does not include use in travel trailers, motor homes or other recreational vehicles.

(b) **Private homes or individual living units.** Users in a private home or individual living unit, such as apartments, condominiums and townhomes, who are served through a single meter and whose rate has been classified by statute or regulations as residential are automatically exempt.

(c) **Multiple unit dwellings.** Users in multi-unit apartments, mobile trailer home parks or condominium and townhouse associations who are billed through a master meter, i.e. a single meter for the entire complex, and are taking service under a commercial rate may nevertheless qualify for this exemption providing the gas or electricity is used exclusively for residential use as defined in (a) of this Section. [**See:** 68 O.S.§ 1357(8); 68 O.S.Supp.2004, § 1354]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1574, eff 6-11-05]

710:65-13-121. [RESERVED]

[**Source:** Reserved at 14 Ok Reg 2711, eff 6-26-97]

710:65-13-122. Exemption for sales of electricity for use in a reservoir dewatering project

(a) **General provisions.** Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for approved reservoir dewatering projects and associated operations shall be exempt from the levy of sales tax.

(b) **Where to apply.** To qualify for the exemption, the operator of the reservoir dewatering project must apply in writing to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, requesting an exemption letter.

(c) **Contents of the application letter.** The letter of application must set out the name of the operator, the physical location of the project, the federal identification number of the operator, the date the project commenced, and the electric service account number associated with services provided to the project. A copy of the Oklahoma Corporation Commission Order approving the designation of the area and reservoir as a "reservoir dewatering project" or a "reservoir dewatering unit" must accompany the application letter.
(d) **Review and approval procedure.** Upon review and approval, a letter of exemption shall be issued to the operator, who must forward the exemption letter to the electricity utility, to document the sales tax exemption on their purchases of electricity. The letter, when provided to the utility along with a statement by the operator that the purchases of electricity are exempt, shall constitute "properly completed documentation certified by the Oklahoma Tax Commission" as that phrase is used in 710:65-7-6.
(e) **Limitations.** The exemption shall apply to the electricity used in reservoir dewatering projects and associated operations which commenced after June 30, 2003. The exemption shall not apply to the transportation or distribution of the oil or gas once it has been produced.

[**Source:** Reserved at 14 Ok Reg 2711, eff 6-26-97; Added at 20 Ok Reg 2175, eff 6-26-03]

710:65-13-123. Exemption for sales of electricity for use in enhanced recovery methods of oil production
(a) **General provisions.** Beginning July 1, 2006, sales of electricity to the operator of a spacing unit or lease where oil is produced or is attempted to be produced using enhanced recovery methods shall be exempt from the levy of sales tax. Enhanced recovery methods include but are not limited to increased pressure in a producing formation through the use of water or saltwater if the electrical usage is associated with and necessary for the operation of equipment required to inject or circulate fluids in a producing formation for the purpose of forcing oil or petroleum into a wellbore for eventual recovery and production from the wellhead.
(b) **Where to file for exemption.** To qualify for the exemption, the operator of the enhanced recovery methods on a spacing unit or lease must apply in writing to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, requesting an exemption letter.
(c) **Supporting documentation required.** The request must set out the name of the operator, the physical location of the project, the federal identification number of the operator, the date the project commenced, and the electric service account number associated with services provided to the project and the Production Unit Number and Merge Number of the project. A copy of the application [Form 1535] filed with and approved by the Oklahoma Corporation Commission must accompany the request.
(d) **Review and approval procedure.** Upon review and approval, a letter of exemption shall be issued to the operator, who must forward the exemption letter to the electric utility, to document the sales tax exemption on their purchases of electricity. The letter, when provided to the utility along with a statement by the operator that the purchases of electricity are exempt, shall constitute "properly completed documentation certified by the Oklahoma Tax Commission" as that phrase is used in 710:65-7-6.
(e) **Eligibility.** In order to be eligible for the exemption set forth in this Section, the total content of oil recovered after the use of the enhanced recovery methods must not exceed one percent (1%) by volume.
(f) **Limitations.** The exemption shall apply only to the state sales tax rate and not to any county or municipal sales tax rate.

[**Source:** Added at 23 Ok Reg 2853, eff 6-25-06]

710:65-13-124. Rural electric cooperatives

(a) **General Rule.** Purchases by rural electric cooperatives and foreign corporations transacting business under the Rural Electric Cooperative Act of tangible personal property or taxable services are exempt from sales tax.
(b) **Sales related to the construction of a facility for a rural electric cooperative.** *Sales of tangible personal property consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative* are exempt from sales tax. *For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a rural electric cooperative for construction or expansion of a facility shall be considered sales made to a rural electric cooperative* are also exempt.
(c) **Documentation required on sales to a contractor or subcontractor with a rural electric cooperative.** In the case of a sale to a contractor or subcontractor claiming exemption pursuant to subsection (b) of this Section, the vendor must obtain:
(1) Documentation indicating the contractual relationship between the contractor or subcontractor and the rural electric cooperative; and
(2) Certification, by the purchasing contractor or subcontractor, as the case may be, setting out the name of the rural electric cooperative, and stating that the purchases are being made pursuant to a contract with that rural electric cooperative and that they are necessary for construction or expansion of a facility owned by that rural electric cooperative.

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07]

PART 25. GOVERNMENTAL ENTITIES

710:65-13-130. Sales to and by the government; taxable and exempt transactions

(a) **Sales "to" governmental entities.** Sales of tangible personal property or services to this State, its institutions or political subdivisions, and to the United States, including its agencies and instrumentalities are exempt from sales tax. Sales to other states' governments, political subdivisions, institutions, or agencies are not exempt, unless the state is one which borders Oklahoma and grants a like exemption from taxes on similar sales of items to Oklahoma or its political subdivisions.
(1) **Records required.** The books and records of the vendor must show that the purchase was billed to and paid by the government agency.
(2) **Sales to government employees.** Sales to individuals who are employees of this State, its institutions and subdivisions, or of the United States government, are not exempt from tax unless the sale is billed directly to the appropriate government agency or the purchase is by means of properly completed government purchase order or credit card. Sales made on credit cards bearing an employee's name and the name of the government agency for which the employee works will qualify for exemption only if the card is issued to the Federal Government, rather than to the individual, and is paid directly by the Federal Government. The credit cards that currently meet these criteria are those issued through the GSA SmartPay card program:
(A) **Fleet cards.** All Federal Government **fleet cards** are centrally-billed. This means that all charges are billed directly to the Federal Government and paid directly by the Federal Government. Charges made using an authorized **fleet card** are therefore, exempt from the levy of Oklahoma sales tax. Authorized **fleet cards** must meet all the requirements set out in this paragraph:
(i) The **fleet card** prefix (first 4 digits) must be 4486, 4614, 4716, 5565, 5568 or 8699;
(ii) The **fleet card** platform must be Voyager, MasterCard, Wright Express, or Visa; and

(iii) The Voyager **fleet card** must be issued by Citibank, or U.S. Bank; the MasterCard **fleet card** must be issued by Citibank, JP Morgan Chase or U.S. Bank; the Wright Express fleet card must be issued by Citibank.

(B) **Purchase cards.** All Federal Government **purchase cards** are centrally-billed. This means that all charges are billed directly to the Federal Government and paid directly by the Federal Government. Charges made using an authorized **purchase card** are therefore, exempt from the levy of Oklahoma sales tax. Authorized **purchase cards** must meet all the requirement set out in this paragraph:

(i) The **purchase card** prefix (first 4 digits) must be 4486, 4614, 4716, 5565 or 5568;

(ii) The **purchase card** platform must be Visa or MasterCard; and

(iii) The Visa **purchase card** must be issued by Citibank, JP Morgan Chase or U.S. Bank; The MasterCard **purchase card** must be issued by Citibank, JP Morgan Chase, or U.S. Bank**;**

(C) **Travel cards.** Federal Government **travel cards** may be centrally-billed or individually billed. Individually-billed charges are billed to and paid by the federal **employee**, and then reimbursed by the Federal Government. Individually-billed charges made using a **travel card** are **subject to** the levy of Oklahoma sales tax. Only centrally-billed charges made using an authorized **travel card**, because they are billed directly to and paid directly by the Federal Government, are exempt from the levy of Oklahoma sales tax. Authorized **travel cards** must meet all the requirements set out in this paragraph:

(i) The **travel card** prefix (1st four (4) digits) must by 4486, 4614, 5565 or 5568;

(ii) The sixth (6th) digit of the account numbering structure will denote whether the travel card is centrally-billed or individually-billed:

(I) A sixth digit of 0, 6, 7, 8, or 9 denotes that the **travel card** is centrally-billed;

(II) A sixth digit of 1, 2, 3, or 4 indicates that the **travel card** is individually-billed;

(iii) The **travel card** platform must be Visa or MasterCard; and

(iv) The **travel card**, whether Visa or MasterCard, must be issued by Citibank, U.S.Bank, or JP Morgan Chase.

(D) **Integrated cards.** Federal Government **integrated cards** may include **fleet**, **travel**, or **purchase card** functionality and offer the Federal Government a single card for all purchases. All **fleet and purchase type transactions** made on an **integrated card** are centrally-billed, and therefore exempt from the levy of Oklahoma sales tax, regardless of the sixth digit on the card. **Travel card** type functionality may be centrally-billed or individually-billed. Authorized **integrated cards** must meet all the requirements set out in this paragraph:

(i) The prefix (first four (4) digits) of an **integrated card** must be 4486, 4614, 4716, 5565 or 5568;

(ii) For travel functionality **only**, the sixth digit of the **integrated card** will denote whether the card is centrally or individually billed:

(I) A sixth digit of 0, 6, 7, 8, or 9 denotes that the **integrated card** being used for travel functionality is centrally-billed;

(II) A sixth digit of 1, 2, 3, or 4 indicates that the **integrated card** being used for travel functionality is individually-billed;

(iii) The **integrated card** platform must be Visa or MasterCard; and

(iv) The **integrated card**, whether Visa or MasterCard, must be issued by Citibank, U.S.Bank or JP Morgan Chase.

(3) **Sale to contractors.** Sales to contractors in connection with the performance of any contract with the United States government are not exempt unless the ownership and possession of the property purchased by the contractor or agent transfers immediately to the United States government. [**See:** 68 O.S. §§1356(1), 1356(2)]

(4) **Sales to foreign diplomats, consular mission and mission employees.** Foreign diplomats and consular missions and their personnel and eligible family members who

have been issued a *Diplomatic Tax Exemption Card* by the United States Department of State, Office of Foreign Missions may make eligible purchases exempt from sales tax. Qualifying Diplomatic Tax Exemption Cards may also be issued by the American Institute in Taiwan. Each category of tax exemption card bears an animal image indicating the purchases eligible for sales tax exemption by the cardholder as follows:

(A) **Owl image card** exempts the cardholder from sales tax on all official mission purchases.

(B) **Buffalo image card** exempts the cardholder from sales tax on all official mission purchases subject to the restrictions listed on the card. For example, the card may read: "Exempt from tax on purchases over $300; not valid for hotels."

(C) **Eagle image card** exempts the cardholder from sales tax on all personal purchases.

(D) **Deer image card** exempts the cardholder from sales tax on personal purchases, subject to the restrictions listed on the card. For example, the card may read: "Exempt from tax on purchases over $150; not exempt for hotels, restaurants, and services."

(5) **Transferability.** The Eagle and Deer exemption cards used for personal purchases are not transferable. The exempt use of the Owl and Buffalo cards is not restricted to the individual pictured on the card.

(6) **Exemption requirements.** To qualify for exemption, official mission purchases made with either an Owl or Buffalo Card must be invoiced to the cardholder and payments made with mission check or mission credit card. For personal purchases made pursuant to an Eagle or Deer Card to qualify for the exemption, they must be invoiced to the cardholder and payment may be in any form including cash, check, or credit card.

(b) **Sales by a lease or lease-purchase agreement with a municipality or county.** The sale of tangible personal property or services pursuant to a lease or lease-purchase agreement executed between a vendor and a school district is exempt from sales tax.

(c) **Sales "by" governmental entities.** Except as specifically exempt by statute, the State of Oklahoma, its agencies and instrumentalities, all counties, townships, and municipal corporations, their respective agencies and instrumentalities, and all other state governmental entities and subdivisions, including state colleges and universities, shall collect, report and remit sales tax on taxable sales of tangible personal property and services. For example, sales of city maps, sales of gifts and souvenirs, sales of food from city operated concessions at stadiums, ballparks, auditoriums, etc., are subject to tax.

(d) **Purchases by contractors.** Except where specifically authorized by statute, purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for a governmental entity may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to a governmental entity.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00, Amended at 22 Ok Reg 1574, eff. 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 33 Ok Reg 1094, eff 8-25-16]

710:65-13-131. Sales to U.S. government contractors; taxable and exempt transactions

Sales of tangible personal property to agents of the United States government are exempt from sales tax if ownership and possession of such property transfers immediately to the United States government. Sales to contractors who are improving real property for the United States government are not considered to be sales in which ownership transfers immediately to the United States government and are therefore taxable. [**See:** 68 O.S. §1356(1),(2),(3)]

[**Source:** Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-132. Sheriff's purchases; taxable and exempt transactions

Purchases by a county sheriff or county sheriff's office, as agent for the county, of food to be used in feeding prisoners are exempt from sales tax. Purchases made by a county sheriff personally or on behalf of a prisoner are subject to tax. [**See:** 68 O.S. §1356 (10)]

710:65-13-133. State parks

(a) **General provisions.** Sales of tangible personal property or services, directly used in or for the benefit of a state park, and made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., § 501(c)(3) and organized primarily for the purpose of supporting one or more state parks located in this state, are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of Incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-134. Sales under public contract with the Oklahoma Tourism and Recreation Department

(a) The sale of tangible personal property or services to any person with whom the Oklahoma Tourism and Recreation Department has entered into a public contract and which is necessary for carrying out such contract to assist the Department in the development and production of advertising, promotion, publicity and public relations programs is exempt from sales tax.

(b) In the case of a sale to a person claiming exemption pursuant to subsection (a) of this Section, the vendor must obtain:

(1) A copy of the exemption letter or card issued to the Oklahoma Tourism and Recreation Department; and

(2) Documentation indicating a contract to develop/produce advertising, promotion, publicity and/or public relations programs between the person claiming exemption and the Oklahoma Tourism and Recreation Department.

[**Source:** Added at 35 Ok Reg 2102, eff 9-14-18]

PART 26. SPACE INDUSTRIES

710:65-13-135. [RESERVED]

[**Source:** Reserved at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-136. [RESERVED]

[**Source:** Reserved at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-137. [RESERVED]

[**Source:** Reserved at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-138. [RESERVED]

[**Source:** Reserved at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-139. [RESERVED]

[**Source:** Reserved at 17 Ok Reg 2677, eff 6-25-00]

PART 27. TRUST AUTHORITIES [REVOKED]

710:65-13-140. Trust authority transactions [**AMENDED AND RENUMBERED TO 710:65-13-550]**

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended and renumbered to 710:65-13-550 at 18 Ok Reg 2823, eff 6-25-01]

PART 29. MANUFACTURING

710:65-13-150. Manufacturing exemption; taxable and exempt transactions [**REVOKED**]

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Revoked at 15 Ok Reg 4315, eff 9-16-98 (emergency); Revoked at 16 Ok Reg 2653, eff 6-25-99]

710:65-13-150.1. Manufacturing exemption; taxable and exempt transactions

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Administration"** means activities performed in the areas of general management, communications, security, employee training, personnel administration, including time-keeping, general accounting and purchasing, employee benefit activities and employee recognition, legal services, public relations, and the establishment, maintenance, billing and collection of accounts.

(2) **"Distribution"** means those activities involved in the movement of manufactured items by vehicles, aircraft, watercraft, railroads or pipelines from a manufacturing site to a customer's location.

(3) **"Incidental use"** means that the property or service is used infrequently or for a minor portion of the total time it is used.

(4) ***"Manufacturing"*** *means and includes the activity of converting or conditioning tangible personal property by changing the form, composition, or quality of character of some existing material or materials, including natural resources, by procedures commonly regarded by the average person as manufacturing, compounding, processing or assembling, into a material or materials with a different form or use. "**Manufacturing**" does not include extractive industrial activities such as mining, quarrying, logging, and drilling for oil, gas and water, nor oil and gas field processes, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration and compression.* [68 O.S.§ 1352]

(5) ***"Manufacturing operation"*** *means the designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site.* ***"Manufacturing operation"*** *does not include administration, sales,*

distribution, transportation, site construction, or site maintenance. Extractive activities and field processes shall not be deemed to be a part of a manufacturing operation even when performed by a person otherwise engaged in manufacturing. [68 O.S.§ 1352]

(6) ***"Manufacturing site"*** *means a location where a manufacturing operation is conducted, including a location consisting of one or more buildings or structures in an area owned, leased, or controlled by a manufacturer.* [68 O.S.§ 1352] It is not required that the building or structures owned, leased, or controlled by a manufacturer be located on a single tract of land or on contiguous tracts of land.

(7) **"Predominant or predominantly"** means the most frequent or for the most part.

(8) **"Sales"** means the activities involved in selling a manufacturer's goods to others, and includes advertising or marketing, printing, preparation, and distribution of catalogs and flyers, and product exhibition and promotion.

(9) **"Site construction"** means the construction of buildings and other structures and improvements to real property. The term includes land preparation, new construction, reconstruction, remodeling, renovation, repair, upgrading and making alterations and additions to the real property, whether the work is done by the manufacturer or by other firms.

(10) **"Site maintenance"** means the provision of facilities support services as defined in the North American Industry Classification System, Code 561210. **"Site maintenance"** does not include items used in the manufacturing operation, as defined in this Section, or in waste disposal activities resulting from the manufacturing operations.

(11) **"Transportation"** means to move or carry tangible personal property to a manufacturing site, prior to the time it enters into the manufacturing process, and to move or carry, tangible personal property from a manufacturing site, after such property leaves the manufacturing operation. The term "transportation" includes the purchase, maintenance, repair, overhaul, rebuilding, storage and operation of vehicles and transportation equipment.

(b) **Activities included in manufacturing operations.** Purchases by a manufacturer of tangible personal property or services for use in a manufacturing operation are exempt from sales and use taxes in Oklahoma. Operations performed by a sub-contractor to the manufacturer may also qualify as a manufacturing operation if the contractor is performing sub-assembly work leading to completion of the finished product. Activities included in a manufacturing operation include the following:

(1) **Product development.** Examples of property used in product development include raw materials, machinery, and equipment utilized in designing and making prototypes.

(2) **Production.** Production includes those processes and activities consisting of manufacturing, compounding, processing, assembling, or preparing of articles for sale as tangible personal property.

(A) **Production supplies.** Examples of production supplies include items used in the production process, such as:

(i) Raw materials.

(ii) Coal, fuel, oil, electricity, natural gas, artificial gas, steam and refrigeration, when used in the production process or when used to generate power or to create or maintain a temperature necessary for the production process.

(iii) Miscellaneous supplies that are consumed in the production process, such as lubricating oils and greases used on machinery and equipment.

(B) **Manufacturing supplies.** Examples of manufacturing supplies include items used to service and operate manufacturing equipment, such as:

(i) Work clothing, such as coveralls and uniforms; safety goggles; face masks; helmets, gloves, aprons, shoe and sleeve protectors.

(ii) Static mats.

(iii) Surge protectors.

(C) **Manufacturing tools.** Manufacturing tools eligible for exemption when purchased for use in a manufacturing operation are those tools used in the manufacturing process, such as:

(i) Scales to measure raw materials.
(ii) Knives, staple guns, tape guns.
(iii) Hand tools used on the product or in the maintenance of exempt machinery.

(D) **Manufacturing equipment and machinery.** Examples of manufacturing equipment and machinery eligible for exemption when purchased by a manufacturer include:
(i) Manufacturing equipment, machinery, and associated repair or replacement parts.
(ii) Dust collector equipment.
(iii) Paint booths.
(iv) Conveyors.
(v) Forklifts.

(3) **Testing or quality control.** Equipment and supplies used in testing or quality control, or both, may qualify for the exemption when purchased by a manufacturer for use in a manufacturing operation.

(4) **Production waste disposal.** Equipment and supplies purchased by a manufacturer to be used in production waste disposal at a manufacturing site may qualify for the exemption.

(5) **Warehousing supplies and equipment.** Examples of warehousing supplies and equipment eligible for exemption when purchased by a manufacturer include:
(A) Flow racks.
(B) Tables.
(C) Storage units.
(D) Wrapping, packing, or packaging supplies, used to further the sale of a product.
(E) Labels and label-makers.
(F) Inventory control items.

(6) **Shipping.** Examples of shipping supplies eligible for exemption when purchased by a manufacturer include:
(A) Boxes, scales, inserts.
(B) Tape dispensers.

(c) **Non-exempt uses.** The following items and uses will result in the taxability of the transaction:

(1) Items purchased for use, or manufactured and withdrawn from inventory and used, in the areas of administration, distribution, sales, site construction, site maintenance, or transportation, are subject to sales tax if the items are purchased or withdrawn from an inventory in Oklahoma. If tangible personal property is purchased or withdrawn from inventory outside Oklahoma, to be used in Oklahoma for these non-exempt purposes, it is subject to use tax. The amount of tax due is computed based upon the "**sales value**," of the goods withdrawn, as defined in *OAC* 710:65-1-2.

(2) *Goods, wares, merchandise, property, machinery and equipment, used in a non-manufacturing activity or process as set forth Section 1352* of Title 68 of the Oklahoma Statutes *shall not be eligible for the exemption* described in this Section *by virtue of the activity or process being performed in conjunction with or integrated into a manufacturing operation*. [68 O.S. § 1359(1)]

(d) **Predominant use.** Incidental use of otherwise qualifying items or machinery **predominantly** used in the manufacturing operation will not result in disqualification:

(1) Where an item is predominantly used in the manufacturing operation, any non-exempt use will be considered incidental, and will not disqualify the item from the exemption.

(2) Where electricity or natural gas is metered through a single meter, and the predominant use is in the manufacturing operation, any remaining usage will be considered incidental, and will be exempt.

(e) **Applicability of examples.** Items enumerated in (b) and (c) of this Section are examples and illustrations only, and are not intended to be exclusive or exhaustive.

[**Source:** Added at 17 Ok Reg 2712, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-13-151. Use of manufacturer's limited exemption certificate; guidelines to determine if exemption applies [**REVOKED**]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Revoked at 15 Ok Reg 4315, eff 9-16-98 (emergency); Revoked at 16 Ok Reg 2653, eff 6-25-99]

710:65-13-152. Manufactured goods transported out of Oklahoma [**REVOKED**]

[**Source:** Revoked at 11 Ok Reg 3521, eff 6-26-94]

710:65-13-152.1. Manufactured goods transported out of Oklahoma

(a) A manufacturer may sell tangible personal property it manufactures, exempt from sales tax, to a person who immediately takes the manufactured item outside Oklahoma for immediate and exclusive use outside Oklahoma. Provided however, that sales at a retail outlet shall not qualify for the exemption.

(b) In order to qualify for this exemption, the purchaser must give a written statement to the manufacturer-seller that the property will leave the State and will not be used in Oklahoma.

(c) For purposes of this section, **"retail outlet"** means any place where sales of tangible personal property are made in small quantities to ultimate consumers to meet personal needs, rather than for commercial or industrial uses of the articles sold. [**See:** 68 O.S. § 1359(5)]

[**Source:** Added at 11 Ok Reg 4695, eff 8-15-94 (emergency); Added at 12 Ok Reg 2635, eff 6-26-95; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-13-153. Exemption for "qualified manufacturers"

(a) **Qualification.** Sales of construction materials to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility are exempt from sales and use tax. For purposes of this exemption, sales made to a contractor or sub-contractor who has previously entered into a contractual relationship with a qualified manufacturer for construction or expansion of a manufacturing facility shall be considered sales made to the qualified manufacturer.

(1) **"Manufacturing facility"** for purposes of this exemption, means buildings and land improvements used in manufacturing as defined in Section 1352 of Title 68 of the Oklahoma Statutes, except that up to ten percent (10%) of the square feet of such building may be devoted to office to provide clerical support for the manufacturing operation and shall also mean building and land improvements used for the purpose of packing, packaging, repackaging, labeling or assembling for distribution to market, if at least seventy percent (70%) of the product is made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. Retail outlets will be included only if the retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility.

(2) **"Qualified manufacturer"** for purposes of this exemption, means:

(A) Any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Five Million Dollars ($5,000,000.00) and the new or expanded facility adds at least One Hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission, and such employees are maintained for a period of at least thirty-six (36) months, upon completion of the facility.

(B) If the cost of construction exceeds Ten Million Dollars ($10,000,000.00) and the combined cost of construction material, machinery, equipment, and other tangible personal property exceeds Fifty Million Dollars ($50,000,000.00), the required number of new full-time-equivalent employees to be added and maintained to be a **"qualified manufacturer"** is Seventy-five (75).

(C) If the total cost of construction exceeds the sum of Three Hundred Million Dollars ($300,000,000.00) the **"qualified manufacturer"** must maintain an employment level of a least 1,750 full time equivalent employees.

(3) **"Total costs of construction" defined.** For purposes of this Section, **"total cost of construction"** means and includes building and construction materials, and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility, but shall not include attorney fees. For purposes of (a)(2)(C) of this Section the **"total cost of construction"** shall also include the cost of qualified depreciable property, as defined by Section 2357.4 of Title 68 of the Oklahoma Statutes, and labor services performed in the construction of a new or expanded facility.

(4) **The employment requirement.** The employment requirement described in this Section can be satisfied by a portion of the required new full-time-equivalent employees being employed at a manufacturing facility related to or supported by the new or expanded business, so long as both or all facilities are owned by the same person.

(b) **Limitations.**

(1) The exemption pertains only to sales of tangible personal property consumed or incorporated in the construction of a new manufacturing facility or the expansion of an existing facility made after June 1, 1988. The exemption applies to sales made to a contractor or sub-contractor to be consumed or incorporated in the construction of a new or expanded manufacturing facility pursuant to a contract with a qualified manufacturer as well as to sales made to a qualified manufacturer.

(2) The exemption applies only to tangible personal property that becomes a part of the facility or that is directly consumed in the construction process.

(3) No exemption shall be granted if the qualified manufacturer fails to file both the documentation required in (e)(1) of this Section and the required certification issued by the Employment Security Commission with the Commission.

(c) **Administration.** Pursuant to statute, the exemption for sales to a qualified manufacturer outlined in this Section will be administered as a refund for state and local taxes paid by the qualified manufacturer to the vendor or, in the case of use tax, self-remitted to the state of Oklahoma.

(d) **Application process.**

(1) **Application.** All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specification of the new or expanded manufacturing facility a complete description of the product to be manufactured, and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the application will be forwarded to the Employment Security Commission for establishment of the entities base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) **Claims process.**

(1) **Records required for claim.**

(A) For each purchase made, the entity who believes that it will be certified as a qualified manufacturer shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(i) Invoice indicating the amount of state and local taxes billed to the qualified manufacturer;

(ii) Affidavit of the vendor of the construction materials reflected on the invoice that state and local sales tax reflected on that invoice has not been audited, rebated, or refunded to the qualified manufacturer but rather the sales tax charge has been collected to the vendor and remitted to the Commission. Any number of invoices from

the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the state and local sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with a qualified manufacturer, the qualified manufacturer shall file with the Commission the following:

(i) Invoices indicating the amount of state and local sales taxes billed;

(ii) An affidavit from the contractor or sub-contractor who made the purchase of construction materials reflected on the invoice stating that the sales tax reflected on the attached invoice and claimed by the qualified manufacturer is based on state and local sales tax paid by the contractor or sub-contractor on construction materials to be consumed or incorporated in a construction of new or expanded manufacturing facility and that the amount of state and local sales tax claimed was paid by the contractor or sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;

(iii) Additional documentation required by the Commission.

(2) **Filing claims.** At the option of the entity who believes it will be certified as a qualified manufacturer, the documentation can be filed monthly, quarterly, semi-annually, or annually. Certification issued by the Employment Security Commission must be filed within thirty-six (36) months of the date of first purchase.

(3) **Review.** The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for denial. The person who submitted the documentation will similarly be notified that a claim has been approved.

(f) **Fiscal procedure.** Each month, the Commission shall transfer from sales tax collected the estimated amount of claims approved by the Commission the previous month.

(g) **Certification process.**

(1) **Application review.** Upon completion of the new or expanded facility and the addition of the employees as required by statute, the person who believes he falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the thresholds required by law have been met. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Commission will notify the applicant of the approval or denial of the certification requested.

(2) **Approval.** The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The applicant will also receive accrued interest upon the principal amount of the refund made. [**See:** 68 O.S. § 1359.1(C)]

(3) **Assessment.** If at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission the number of full-time-equivalent employees drops below one hundred (100) such employees, any use or sales tax and interest previously refunded to the taxpayer will be assessed against the taxpayer receiving such refund and interest.

(4) **Denial of certification; protest procedure.**

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or his duly authorized agent setting out:
(i) a statement of denial as determined by the Commission;
(ii) a statement of the applicant's disagreement with such denial; and
(iii) supporting documentation relied on by the taxpayer in support of certification.
(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission shall become final and no appeal will be entertained.
(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing.
(D) The burden of proving that the denial of certification was erroneous is on the applicants. The applicant can present testimony, evidence and argument in support of the requested certification.
(E) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [**See:** 68 O.S. § 225]
(F) For further information the applicant should refer to the Rules of Practice and Procedure before the Office of the Administrative Law Judges (710:1-5-21 through 710:1-5-49). [**See:** 68 O.S. §§ 1359.1, 1404.1]

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07]

710:65-13-154. Limitation on credits

No qualified establishment, nor its contractors or subcontractors, receiving an incentive payment pursuant to the Oklahoma Quality Jobs Program Act, 68 O.S.§ 3601 et seq., shall be eligible to receive the credit described in 710:65-13-153 or 710:65-13-155. [**See:** 68 O.S. § 3607]

[**Source:** Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2853, eff 6-25-06]

710:65-13-155. Exemption for sales of tangible personal property to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility

(a) **Qualification**. Sales of tangible personal property to a qualified aircraft maintenance or manufacturing facility to be consumed or incorporated in a new facility or to expand an existing facility are exempt from sales and use tax. For purposes of this exemption, sales made to a contractor or sub-contractor who has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of a facility shall be considered sales made to the qualified aircraft maintenance or manufacturing facility.

(1) For purposes of this exemption "**facility**" is defined as buildings and land improvements used in maintaining or manufacturing aircraft, except that up to ten percent (10%) of the square feet of such building may be devoted to office space used to provide clerical support for the manufacturing operation.

(2) For purposes of this exemption, "**aircraft maintenance or manufacturing facility**" is defined as any enterprise whose total cost of construction exceeds the sum of Five Million Dollars ($5,000,000.00) and which employs at least Two Hundred Fifty (250) new full-time-equivalent employees, as certified by the Employment Security Commission, upon completion of the facility.

(b) **Limitations**.

(1) The exemption pertains only to sales of tangible personal property made after the effective date of the statute. The exemption applies to sales of tangible personal property made to a contractor or sub-contractor to be consumed or incorporated in the construction of a new or expanded facility pursuant to a contract with an aircraft maintenance or manufacturing facility, as well as to sales of tangible personal property made to an aircraft maintenance or manufacturing facility.

(2) No exemption shall be granted if the aircraft maintenance or manufacturing facility fails to file both the documentation required below with the Commission within thirty-six (36) months of first purchase and the required certification issued by the Employment Security Commission within sixty (60) months of first purchase.

(c) **Administration**. Pursuant to statute, the exemption outlined above will be administered as a refund for state and local taxes paid to the vendor or, in the case of use tax, self-remitted to the State of Oklahoma.

(d) **Application process**.

(1) **Application**. All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specifications of the new or expanded facility, a complete description of the maintenance, repair or manufacturing that will take place within the facility, and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the Application will be forwarded to the Employment Security Commission for establishment of the entity's base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) **Claims process**.

(1) **Records required for claim**.

(A) For each purchase made, the entity who believes that it will be certified shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(i) Invoice indicating the amount of state and local taxes billed to the aircraft maintenance or manufacturing facility;

(ii) Affidavit of the vendor of the tangible personal property that state and local sales tax reflected on that invoice has not been credited, rebated, or refunded to the aircraft maintenance or manufacturing facility, but rather, that the sales tax charged has been collected by the vendor and remitted to the Tax Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the state and local sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with an aircraft maintenance or manufacturing facility, the aircraft maintenance or manufacturing facility shall file with the Commission the following:

(i) Invoices indicating the amount of state and local sales taxes billed;

(ii) An affidavit from the contractor or sub-contractor who made the purchase of tangible personal property stating that the sales tax reflected on the attached invoice is based on state and local sales tax paid by the contractor or sub-contractor on tangible personal

property to be consumed or incorporated in a construction of new or expanded aircraft maintenance or manufacturing facility and that the amount of state and local sales tax claimed was paid by the contractor or sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;

(iii) Additional documentation required by the Commission.

(2) **Filing claims.** At the option of the entity who believes it will be certified as an aircraft maintenance or manufacturing facility, the documentation can be filed monthly, quarterly, semi-annually, or annually. However, all documentation must be filed no later than thirty-six (36) months after first purchase is made.

(3) **Review.** The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for the denial. The person who submitted the documentation will similarly be notified that a claim has been approved.

(f) **Fiscal procedure**. Each month, the Commission shall transfer from sales tax collected, to an account designated by the Commission, the estimated amount of claims approved by the Commission the previous month.

(g) **Certification process**.

(1) **Application review**. Upon completion of the new or expanded facility and the addition of the employees as required by statute, the person who believes he falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the total costs of construction for such facility exceeded the sum of Five Million Dollars ($5,000,000.00) required by law. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.

(2) **Approval**. The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The applicant will also receive accrued interest upon the principal amount of the refund made as provided for by statute. [**See:** 68 O.S. §1357.5(C)]

(3) **Denial of certification; protest procedure**.

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or a duly authorized agent setting out:

(i) a statement of denial as determined by the Commission;

(ii) a statement of the applicant's disagreement with such denial, and

(iii) supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission, shall become final and no appeal will be entertained.

(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing.

(D) The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested certification.

(E) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [**See:** 68 O.S. §225]

(F) **Additional information.** For further information the applicant should refer to the Rules of Practice and Procedure before the Office of the Administrative Law Judges (710:1-5-21 through 710:1-5-49). [**See:** 68 O.S. §§1357.5, 1404.4]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95]; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 34 Ok Reg 2089, eff 9-11-17]

710:65-13-156. Exemption for "qualified distributor" [REVOKED]

[**Source:** Added at 23 Ok Reg 2853, eff 6-25-06; Amended at 24 Ok Reg 2397, eff 6-25-07; Revoked at 38 Ok Reg 1538, eff 9-1-21; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-13-157. Exemption for persons engaged in the extraction and manufacturing crushed stone and sand

(a) **General rule.** The extraction and manufacturing of crushed stone and sand are manufacturing operations and the persons engaged in these operations, upon application will be issued Manufacturer Exemption Permits which will allow them to make purchases exempt from sales or use tax of tangible personal property or services to be used or consumed in all phases of the extraction and manufacturing of crushed stone and sand.

(b) **Activities included in exempt operations.** The exemption includes but is *not limited to site preparation, dredging, overburden removal, explosive placement and detonation, onsite material hauling and/or transfer, material washing, screening and/or crushing, product weighing and site reclamation.*

(c) **Administration.** Persons claiming exemption from sales or use tax under this Section should claim exemption from sales or use tax from their vendors when making purchases and provide their vendors a copy of their Manufacturer Exemption Permit as set out in *OAC* 710:65-7-9 to support their claimed exemption.

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-158. Sales of rolling stock

On or after July 1, 2019, and prior to July 1, 2029, sales or leases of rolling stock, regardless of whether the purchaser is a public services corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by a common carrier directly in the rendition of public service are exempt from sales tax. For purposes of this Section, "rolling stock" means locomotives, autocars and railroad cars and "sales or leases" includes railroad car maintenance and retrofitting of railroad cars for their further use only on the railways.

[**Source:** Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 37 Ok Reg 2234, eff 9-11-20]

710:65-13-159. Exemption for commercial mining of digital assets in a colocation facility

(a) **Qualification.** Beginning on November 1, 2024 and ending on December 31, 2029, sales of machinery and equipment, including but not limited to, servers and computers, racks, power distribution units, cabling, switchgear, transformers, substations, software, and network equipment, and electricity for use by a qualified entity engaged in commercial mining of digital

assets purposes in a colocation facility that has entered into a “load reduction agreement” are exempt from sales tax.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Blockchain technology"** means *shared or distributed data structures or digital ledgers governed by consensus protocols and maintained by peer-to-peer networks that store digital transactions; and verify and secure transactions cryptographically.* [68 O.S. § 1359]

(2) **"Colocation facility"** means *a facility or facilities located in this state that are utilized in the commercial mining of digital assets or in hosting persons engaged in the commercial mining of digital assets through utilization of the facility's infrastructure, including servers and network hardware powered by internet bandwidth, electricity, and other services generally required for such mining operations. Provided, no facility shall qualify as a "colocation facility" unless the facility has entered into a load reduction agreement.* [68 O.S. § 1359]

(3) **"Commercial mining of digital assets"** means *the process through with blockchain technology is used to mine digital assets at a colocation facility.* [68 O.S. § 1359]

(4) **"Digital Assets"** means *a type of virtual currency that utilizes blockchain technology and that can be digitally traded between users, or can be converted or exchanged for legal tender.* [68 O.S. § 1359]

(5) **"Load reduction agreement"** means *an agreement between the customer and the local electric cooperative municipality, electric utility, or market operator to temporarily reduce or curtail the customer's use of electric power in order to respond to inclement weather or other adverse conditions.* [68 O.S. § 1359]

(6) **"Mine"** or **"Mining"** means t*he process through which blockchain transactions are verified and accepted by adding the transactions to a blockchain ledger, which involves solving complex and mathematical cryptographic problems associated with a block containing transaction data.* [68 O.S. § 1359]

(c) **Limitations.** The exemption is limited to eligible, properly documented transactions. Only sales of tangible personal property and services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with organizations engaged in commercial mining of digital assets exempt from sales tax.

(e) **Application process.** Application for an exemption permit is made by submitting for each location a Form 13-16-A to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194. Form 13-16-A is contained in Packet E, available online at www.tax.ok.gov, and must be submitted with all information and supporting documentation for each location application:

(1) The name, address, and federal employer's identification number of the applicant company and the name and title of the person authorized to sign for the applicant;

(2) A complete description of the commercial mining of digital assets that will take place within the establishment;

(3) Physical address of the location of the colocation facility;

(4) Copy of an executed load reduction agreement(s) specific to the location of the colocation facility referenced in the application;

(5) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and

(6) Such additional information as the Commission may require to confirm eligibility.

(f) **Review and determination.** Upon receipt of the application, the Business Tax Services Division of the Tax Commission will review and make a determination as to the applicant's

eligibility for an exemption permit. Upon approval, an exemption permit will be issued to the applicant.

(g) **Denial of permit; cancellation, suspension, or revocation of permit.** The exemption permit may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a permit pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

(h) **Burden of proof.** The burden of establishing the right to retain the exemption permit is on the applicant.

[**Source:** Added at 42 Ok Reg, Number 20, effective 7-15-25]

PART 31. MEDICINE, MEDICAL APPLIANCES, AND HEALTH CARE ENTITIES AND ACTIVITIES

710:65-13-169. Definitions

The following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:

"Drug" *means a compound, substance or preparation, and any component of a compound, substance or preparation:*

(A) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;

(B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or,

(C) Intended to affect the structure or any function of the body. [68 O.S.§ 1352]

"Durable medical equipment" means equipment, *including repair and replacement parts for same,* which is used in the home; can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and *is not worn in or on the body. **"Durable medical equipment"** does not include "mobility enhancing equipment".* [68 O.S. § 1357.6(E)]

"Medical appliance, device, or equipment" includes corrective eyeglasses, hearing aids, contact lenses, prosthetic devices, durable medical equipment, and mobility-enhancing equipment.

"Mobility-enhancing equipment" *means equipment, including repair and replacement parts for same, which:*

(A) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;

(B) Is not generally used by persons with normal mobility; and,

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility-enhancing equipment" *does not include* ***"durable medical equipment"*** as defined in this Section. [68 O.S. § 1357.6(E)]

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

(A) A "Drug Facts" panel, or

(B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation. [68 O.S.§ 1352]

"Practitioner" means a physician, osteopathic physician, allopathic physician, surgeon, podiatrist, chiropractor, optometrist, pharmacist, psychologist, ophthalmologist, nurse practitioner, clinical nurse specialist, audiologist or hearing aid dealer or fitter who is licensed by the state as required by law.

"Prescription" means *an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed "practitioner"*, as defined by 68 O.S. § 1357.6. [68 O.S.§ 1352]

"Prosthetic device" means *a replacement, corrective or supportive device, including repair and replacement parts for same, worn on or in the body to:*

(A) Artificially replace a missing portion of the body;

(B) Prevent or correct physical deformity or malfunction; or,

(C) Support a weak or deformed portion of the body.

"Prosthetic device" *shall not include corrective eyeglasses, contact lenses, or hearing aids.* [68 O.S.§§ 1357(22), 1357.6(D)]

[**Source:** Added at 9 Ok Reg 4073, eff 9-21-92 (emergency); Added at 10 Ok Reg 3847, eff 7-12-93; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04, Amended at 22 Ok Reg 1575, eff 6-11-05; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 37 Ok Reg 2234, eff 9-11-20; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-13-170. Drugs and prosthetic devices

(a) **Prescription drugs.** Sales of drugs prescribed for the treatment of human beings by a person licensed to prescribe the drugs are exempt from sales tax. Ocular lenses, if permanently implanted through medical surgery, and sales of insulin and medical oxygen are also exempt from sales tax. [68 O.S.§ 1357(9)]

(b) **Over-the-counter drugs.** Sales of over-the-counter drugs do not qualify for the sales tax exemption outlined in subsection (a) of this Section.

(c) **Prosthetic devices**. Sales of prosthetic devices as defined in 710:65-13-169 for use by an individual are exempt from sales tax.

(d) **Documentation required to be maintained by the vendor when sales are made to healthcare providers.** For sales qualifying for exemption pursuant to subsections (a) and (c) of this Section to entities providing healthcare services to individuals, the documentation set out in (1) or (2) of this subsection must be obtained by the vendor and maintained as part of the vendor's records to substantiate the exemption claimed.

(1) Where the healthcare provider presents its direct payment permit, vendors should obtain and maintain in their files and records the information outlined in *OAC* 710:65-7-10, or

(2) Sufficiently detail the product sold and disclose as a separate line item on the bill or invoice.

[**Source:** Amended at 9 Ok Reg 4073, eff 9-21-92 (emergency); Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 34 Ok Reg 2089, eff 9-11-17; Amended at 37 Ok Reg 2234, eff 9-11-20; Amended at 40 Ok Reg 1278, eff 8-11-23]

710:65-13-171. Sales of prosthetic devices, durable medical equipment and mobility-enhancing equipment

(a) **General provisions.** Sales of prosthetic devices, durable medical equipment and mobility-enhancing equipment when administered, distributed or prescribed by a practitioner who is authorized by law to administer, distribute or prescribe such items are exempt from sales tax.

(b) **Documentation required to be maintained by the vendor.** The documentation set out in (1) and (2) of this subsection must be obtained by the vendor and maintained as part of the vendor's records to substantiate the exemption claimed:

(1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
(2) A copy of the prescription or work order.

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04, Amended at 22 Ok Reg 1576, eff 6-11-05; Amended at 34 Ok Reg 2089, eff 9-11-17; Amended at 37 Ok Reg 2234, eff 9-11-20]

710:65-13-172. Exemption for health centers, indigent health care clinics, certain community-based health care centers, and community mental health centers

(a) **Qualification for the exemption for health centers, indigent health care clinics, certain community-based health care centers and community mental health centers.** Sales tax does not apply to the sale of tangible personal property or taxable services when sold to:

(1) Any health center as defined in Section 254b(a) of Title 42 of the United States Code;

(2) Any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statues;

(3) Any community-based health center which provides primary care services at no cost to the recipients, **and** is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3). For purposes of this Section, **"primary care services"** means health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians, and where appropriate, physician assistants, nurse practitioners, or other licensed medical professionals; or

(4) Any community mental health center as defined in Section 3-302 of Title 43A of the Oklahoma Statutes. For purposes of this Section, "**community mental health center**" means *a facility offering:*

(A) *A comprehensive array of community-based mental health services, including, but not limited to, outpatient treatment, emergency evaluation and care, consultation, education, rehabilitation services, and aftercare, and*

(B) *Certain services at the option of the center, including, but not limited to, inpatient treatment, training programs, and research and evaluation programs.*

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with the applicable documentation set forth in (c) of this Section:

(c) **Supporting documentation required.**

(1) **Health centers.** Health centers must submit the letter of notification from the U.S. Department of Health and Human Services, recognizing that the center qualifies under Section 254b(a) of Title 42 of the United States Code.

(2) **Clinics receiving disbursements of state monies from the Oklahoma Indigent Health Care Revolving Fund.** Clinics receiving disbursements of state monies from the Oklahoma Indigent Health Care Revolving Fund must submit a copy of the letter or disbursement voucher from the Fund, showing the date the funds were disbursed.

(3) **Community-based health centers.** Community-based health centers must submit the documentation described in (A) through (C) of this paragraph:

(A) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(B) A written description of the primary care services provided must be submitted, stating the activities of the organization, and evidenced by copies of the following, as applicable:

(i) By-laws;

(ii) An audit or other financial statement, showing the types and amounts of

revenue received; and

(iii) Intake documents or other forms used to obtain information from clients and which specifically reflect that the primary care services were being provided at no cost to the recipients.

(C) For the purposes of this paragraph, **"at no cost to the recipient"** means at no cost to either the recipient or any unit of government, or any insurance company, or any other person or entity. Centers which provide primary care services on a "sliding scale" fee schedule do **not** qualify for the exemption.

(4) **Community mental health centers.** Community mental health centers must submit to the Commission, as part of its application, proof of recognition by the Oklahoma Department of Mental Health and Substance Abuse Services that applicant qualifies as a Community Mental Health Center, along with a written description of the comprehensive array of community-based mental health and other optional services the facility offers, as may be evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(d) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property and services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying health care organizations exempt from sales tax.

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 31 Ok Reg 2441, eff 9-12-14]

710:65-13-173. Exemption for medical appliances, medical devices and other medical equipment furnished to Medicare/Medicaid program recipients

(a) **General provisions.** Sales of medical appliances, medical devices and other medical equipment are exempt if all of the following requirements are met:

(1) The item is a drug, medical appliance, medical device, or medical equipment as defined in 710:65-13-169;

(2) The item is administered or distributed by a "practitioner" or purchased or leased, by or on behalf of an individual, pursuant to a prescription or work order of a practitioner; and

(3) The item is furnished to a Medicare or Medicaid program recipient and the cost of said item will be reimbursed by Medicare or Medicaid.

(b) **Documentation required when reimbursement is made to vendor.** The documentation set out in (1) through (3) of this subsection must be obtained by the vendor and maintained as part of the vendor's records to substantiate the exemption claimed:

(1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;

(2) A copy of the prescription or work order; and

(3) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

(c) **Documentation required when reimbursement is made directly to the Medicare recipient.** The documentation set out in this subsection must be maintained as part of the claimant's records to substantiate the exemption claimed:

(1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
(2) A copy of the prescription or work order;
(3) A copy of the eligible recipient's Medicare card; and
(4) A copy of the receipt or invoice issued by the vendor at the time of purchase, with a notation stating that the cost of the item is reimbursable by Medicare, but that Medicare will not be billed by the vendor.

(d) **Sales tax refund claims.**

(1) **Purchases made prior to July 1, 2022.** For purchases made prior to July 1, 2022, a refund may be claimed by hospitals, nursing homes, similar institutions and practitioners that dispense or provide medical appliances, medical devices or medical equipment to Medicare or Medicaid patients for the sales taxes previously paid by the institution or practitioner on such items. The documentation set out in (A) through (C) of this paragraph must be obtained as part of the claimant's records to substantiate the exemption claimed:

(A) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
(B) A copy of the prescription or work order; and
(C) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

(2) **Purchases made on or after July 1, 2022.** For purchases made on or after July 1, 2022, refund claims for items exempted pursuant to the provisions of this Section will not be allowed unless the purchaser's direct payment permit issued pursuant to 710:65-9-10 was presented to the vendor at the time of sale and the tax was accrued by the direct pay permit holder. To substantiate the refund claim the documentation outlined in subsection (e) of this Section will be required.

(e) **Medical equipment purchased pursuant to a direct payment permit.** To substantiate the sales tax exemption for certain medical equipment pursuant to subsection (a) of this Section, a healthcare provider holding a direct pay permit must maintain, separate from confidential patient records, the following information:

(1) Patient case number or account number;
(2) Type of insurance; and
(3) Item description or product number.

(f) **Medicare and Medicaid recipients.** Eyeglasses, contact lenses, and hearing aids are considered items of "medical equipment", and if their cost will be reimbursed by Medicare or Medicaid pursuant to the terms and conditions set out in this Section, the sale is tax exempt.

[**Source:** Added at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04, Amended at 22 Ok Reg 1577, eff 6-11-05; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 28 Ok Reg 1844, eff 6-25-11; Amended at 31 Ok Reg 2441, eff 9-12-14; Amended at 37 Ok Reg 2234, eff 9-11-20; Amended at 40 Ok Reg 1278, eff 8-11-23]

710:65-13-174. Exemption for tax-exempt, independent, nonprofit biomedical research foundations

(a) **Qualification for tax-exempt, independent, nonprofit biomedical research foundations.** Sales of tangible personal property or taxable services to independent, nonprofit biomedical research foundations who are entities qualified pursuant to 26 U.S.C. § 501(c)(3) and who provide educational programs for Oklahoma science students and teachers will be exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the foundation as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and
(2) A written description of the qualifying activities of the foundation, as may be evidenced by copies of:
(A) Articles of incorporation;
(B) By-laws;
(C) Brochure; and
(D) Notarized letter from the President or Chairman of the foundation.

(c) **Exemption limited to eligible, properly-documented transactions.** Only those purchases actually purchased by the foundation, and paid for by funds or check directly from the foundation, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for foundations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified foundations.

[**Source:** Amended and renumbered from 710:65-13-43 at 18 Ok Reg 2823, eff 6-25-01; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-175. Exemption for tax-exempt, independent, nonprofit community blood banks headquartered in this state

(a) **Qualification in general.** Sales of tangible personal property or taxable services to tax-exempt, independent, nonprofit community blood banks headquartered in this state are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:
(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and
(2) A written description of the qualifying criteria that the organization meets, as may be evidenced by copies of:
(A) Articles of incorporation;
(B) By-laws;
(C) Brochure; and
(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying community blood banks exempt from sales tax.

[**Source:** Amended and renumbered from 710:65-13-44 at 18 Ok Reg 2823, eff 6-25-01; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-176. Exemption for certain hospitals and nursing homes

(a) **Qualification for exemption of sales to a "qualified purchaser".** Exempted from sales tax are *sales of tangible personal property to a public trust having either a single city, town or county*

or multiple cities, towns or counties or combination thereof as beneficiary or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for the purpose of constructing improvements to or expanding a hospital or nursing home owned and operated by any such public trust or nonprofit entity prior to the effective date of this act in counties with a population of less than one hundred thousand (100,000) persons, according to the most recent Federal Decennial Census.

(1) As used in this section, *"constructing improvements to or expanding" shall not mean any expense for routine maintenance or general repairs and shall require a project cost of at least One Hundred Thousand Dollars ($100,000.00).*

(2) "Qualified purchaser" shall mean *a public trust having either a single city, town or county or multiple cities, towns or counties or combination thereof as beneficiary or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3).* In addition, *sales made to a contractor or subcontractor that enters into a contractual relationship with a public trust or nonprofit entity as described by this paragraph shall be considered sales made to the public trust or nonprofit entity.*

(b) **Administration.** Pursuant to statute, the exemption for sales to a "qualified purchaser" as outlined in this Section will be administered as a refund for sales or use taxes paid by the "qualified purchaser" to the vendor or, in the case of use tax not required to be charged by the vendor, self-remitted by the "qualified purchaser" or by a contractor or subcontractor to the "qualified purchaser."

(c) **Application process.**

(1) **Application.** All "qualified purchasers" shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specification of the new or expanded hospital or nursing home facilities and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. The applicant will be notified of any action taken regarding the Application by the Commission.

(d) **Claims process.**

(1) **Records required for claim.**

(A) For each purchase made, the "qualified purchaser", shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(i) Invoice indicating the amount of sales taxes billed to the "qualified purchaser" and;

(ii) Affidavit of the vendor of the tangible personal property reflected on the invoice that sales tax reflected on that invoice has not been audited, rebated, or refunded to the "qualified purchaser" but rather the sales tax charge has been collected by the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with a "qualified purchaser", the "qualified purchaser" shall file with the Commission the following:

(i) Invoices indicating the amount of sales taxes billed;

(ii) An affidavit from the contractor or sub-contractor who made the purchase of tangible personal property reflected on the invoice stating that the sales tax reflected on the attached invoice and claimed by the "qualified purchaser" is based on sales tax paid by the contractor or sub-contractor on tangible personal property purchased *for the purpose of constructing improvements to or expanding a hospital or nursing home owned and operated by a* "qualified purchaser" and that the amount of sales

tax claimed was paid by the contractor or sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;

(iii) Additional documentation required by the Commission.

(2) **Filing claims.** The refund request and required documentation must be filed and in the possession of the Commission on or before the 30th day after the end of the fiscal year in which the purchases were made.

(3) **Review.** The Commission will review the documentation submitted and determine whether the refund claimed will be allowed. In the event that the claim is denied, the "qualified purchaser" who submitted the documentation will be notified by the Commission as to the reason for denial. The "qualified purchaser" who submitted the documentation will similarly be notified that a claim has been approved.

(e) **Fiscal procedure.** After the 30th day after the end of each fiscal year, *the Tax Commission shall determine whether or not the total amount of sales tax exemptions claimed by all purchasers is equal to or less than Six Hundred Fifty Thousand Dollars ($650,000.00). If such claims are less than or equal to that amount, the Tax Commission shall make refunds to the purchasers in the full amount of the documented and verified sales tax amounts. If such claims by all purchasers are in excess of Six Hundred Fifty Thousand Dollars ($650,000.00), the Tax Commission shall determine the amount of each purchaser's claim, the total amount of all claims by all purchasers, and the percentage each purchaser's claim amount bears to the total. The resulting percentage determined for each purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars ($650,000.00) to determine the amount of refundable sales tax to be paid to each purchaser*.

[**Source:** Added at 23 Ok Reg 2855, eff 6-25-06]

710:65-13-177. Construction projects for organizations providing end-of-life care and hospice service

(a) **Qualification for exemption.** Sales of tangible personal property and services for use solely on construction projects for organizations exempt from taxation pursuant to the Internal Revenue Code, 26 U.S.C. § 501(c)(3) whose purpose is to provide low income individuals who live in a facility owned by the organization end-of-life care and access to hospice services.

(b) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov, along with the following information:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization.

(c) **Sales to qualified organization limited to eligible, properly-documented transactions.** Only sales of goods or services for use solely on construction projects actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of *OAC* 710:65-7-6 and 710:65-7-15.

(d) **Sales under contract.** Sales to any person, including contractors and subcontractors, with whom a qualifying organization has duly entered into a construction contract necessary for carrying out such contract are exempt from sales tax.
(e) **Documentation and certification required.** In the case of sales to a person including contractors and subcontractors claiming exemption pursuant to this Section, the vendor must obtain:
(1) A copy of the exemption letter or card issued to the qualified organization;
(2) Documentation indicating the contractual relationship between the purchaser and the qualified organization; and
(3) Certification by the purchaser, on the face of each invoice or sales ticket, setting out the name of the exempt organization that the purchases are being made for and on behalf of the organization, and that they are necessary for the completion of the contract.

[**Source:** Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10]

PART 33. MOTOR FUELS

710:65-13-180. Motor fuel and other petroleum products; taxable and exempt transactions
(a) **Exempt sales in general.** The sales tax will not be applicable to the gross receipts derived from the sale of gasoline, gasohol, or other motor fuel on which the Oklahoma motor fuel excise tax, gasoline excise tax, or special fuels tax has been paid.
(b) **Diesel fuel exemption.** Diesel fuel users whose purchases of diesel fuel in bulk quantities are primarily for delivery by them into the fuel supply tanks of motor vehicles in Oklahoma, must apply for a Sales Tax Permit issued by the Oklahoma Tax Commission and assume direct liability for the payment of state and local taxes upon all withdrawals from bulk storage of fuel not used **"on-the-road"** and therefore not subject to motor fuel or gasoline excise taxes.
(c) **Limitations on motor fuels exemption.** Sales of motor fuels which are exempt from the motor fuel tax, such as specially prepared naphtha used in established places of business for cleaning and dyeing purposes, and kerosene and any other motor fuel that is used for illuminating or heating purposes are subject to sales tax.
(d) **Aircraft fuels.** The gross receipts from the sales of all chemicals and petroleum products used as fuel to generate power in aircraft engines are exempt from all state and local sales and use taxes because such sales are subject to the levy of motor fuel excise tax.
(e) **Diesel fuel sold for use by commercial watercraft.** Sales of diesel fuel sold for consumption by commercial vessels, barges, and other commercial watercraft are exempt from all state and local sales and use taxes. [**See:** 68 O.S. § 1357(24)]
(f) **Crude and other oil and gas well exemptions.** Goods produced in Oklahoma that are subject to the gross production tax provisions at 68 O.S. §§1001 et seq. are exempt from sales and use taxes when produced. However, sales of such products which would normally be exempt under 68 O.S. §1355(3) are taxable when made to a taxable consumer/user, except for sales of crude petroleum, diesel, or natural or casing head gas, that are sold solely for the purpose of facilitating the production of oil or gas by injection into the earth.
(g) **Limitations on crude petroleum and other oil and gas well products exemption.** The exemption for crude petroleum and other oil and gas well products shall not include the application of a lubricant or cleaning agent, i.e. kerosene, to the oil and gas well production machinery. Nor shall it apply to fuel used for producing power for equipment used to drill or produce from an oil or gas well or to sales of petroleum-based chemicals, additives, or other substances used in the drilling of or production from a well. Even though these uses may indirectly facilitate production, they do not come within the purview of the exemption which is limited to crude petroleum, diesel fuel, natural or casinghead gas that is injected into the earth primarily and directly for the purpose of facilitating or promoting the production of oil or gas. [**See:** 68 O.S. §1355]

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2677, eff 6-25-00]

PART 35. NEWSPAPERS; PERIODICALS; PROGRAMS; MEDIA

710:65-13-190. Newspapers and periodicals; taxable and exempt transactions

(a) Sales of newspapers and periodicals are exempt from sales and use tax, regardless of whether purchased by single copy or subscription.

(b) The term **"newspaper"** is not defined by statute. For purposes of this exemption, **"newspaper"** is defined as: A paper that is printed and distributed daily, weekly, or at some other regular and usually short interval and that generally contains news, articles of opinion (editorials), features, advertising, or other matter regarded as of current interest.

(c) The term **"periodical"** is also not defined by statute. However, the Supreme Court of Oklahoma has defined **"periodical"** in the case of **Swap and Shop Advertiser v. Oklahoma Tax Commission**, 774 P.2d 1058 (Okla. 1989) as follows: Periodical: A magazine or other publication of which the issues appear at stated or regular intervals; usually used of a publication appearing more frequently than annually but infrequently used of a newspaper.

(d) The test which must be met in order to qualify for exemption as a periodical is that the publication must come out periodically and must be published on more than an annual basis. This periodicity test is met whether the publication is a weekly or a monthly or even a quarterly or semiannual publication.

(e) Other considerations in order of diminishing importance include the following:

(1) Does the publication contain articles and items which have value to the general public rather than to a specialized class of people?

(2) Is the publication one that has the basic format of a magazine, i.e., soft cover, individual pages, indexed articles, etc.?

(3) Can the publication be subscribed to?

(4) Does the publication contain general advertising?

(5) Is the publication commonly accepted as a magazine?

(f) An affirmative response to any of these considerations should tend to indicate the publication in question is a periodical, assuming the initial test of periodic publication, described in subsection (d), is met.

(g) Furthermore, each publication must stand alone. It must not, either singly or, when successive issues are put together, constitute a book such as loose-leaf packets which update a book or pocket parts.

(h) Finally, the sale of microfiche or microfilm which contains newspapers or publications which meet the test for a periodical are not exempt from tax as the sale of newspapers or periodicals under this rule. [**See:** 68 O.S. §1354(A)]

710:65-13-191. Definition of radio and television broadcasting for purposes of sales tax exemption

(a) **Definition.** By virtue of the judgment entered by the Supreme Court of Oklahoma in the case of **Oklahoma Association of Broadcasters v. Oklahoma Tax Commission**, No. 61 O.B.A.J.850 (Apr. 7, 1990), television and radio broadcasters are provided an exemption from the payment of sales tax on machinery and equipment that is used directly in the manufacturing process; machinery and equipment that is necessary for the proper production of a broadcast signal; or machinery and equipment which would cause broadcasting to cease if it failed to operate. For purposes of this Section, "**proper production**" shall include, but not be limited to, machinery and equipment required by F.C.C. rules and regulations. This exemption begins with either the equipment used in producing the live programming or the electronic equipment directly behind the satellite receiving dish (antenna) and ends with transmission of the broadcast signal from the end of the broadcast antenna system.

(b) **Examples**. The following list, although not all inclusive, contains examples of items which, if

used directly in the manufacturing process, qualify for exemption hereunder:

(1) Tapes, recordings and film
(2) Tape editing equipment
(3) Film processing, editing and preview equipment
(4) Film Cameras and projectors
(5) T.V. cameras and associated equipment
(6) Microphones
(7) Turntables and playback equipment
(8) Broadcast tape recorder systems, compact disks, audio cartridge decks, R-dated
(9) Audio tape recorders, edit controllers, mixers
(10) Routing/switching equipment
(11) Automated assembly system
(12) Audio and video cartridge machines
(13) Monitor and switching equipment
(14) Computer and weather graphic equipment
(15) Studio consoles and production interconnecting amplifiers
(16) Teleprompters
(17) Character generators, animation devises and frame synchronizers
(18) Digital audio and video effect equipment (paint box)
(19) Optical laser (video) equipment
(20) Electronic film production equipment
(21) Processing amplifiers
(22) EQ amplifiers
(23) Telephone lines/service between remote broadcast and permanent studio and/or for broadcast
(24) Main and auxiliary transmitters
(25) Transmitter cooling system, control console and power switching equipment
(26) Transmitter automation and emergency equipment
(27) Transmitter remote control equipment
(28) Antennas and supporting towers
(29) Satellite receiving and sending equipment, excluding satellite dishes
(30) Radio ground systems
(31) Tower guy lines
(32) Transmission lines and line pressurizing equipment
(33) Modulation, frequency and phase monitors
(34) Radio limiting amplifiers
(35) Bridging and distribution amplifiers
(36) Phase correcting equipment
(37) Visual and aural monitoring equipment
(38) Stereo generators and monitoring equipment in transmission area
(39) Production lighting systems
(40) Studio lighting boards and fixtures
(41) Racks and cabinets to house exempt equipment
(42) Two-way radio used for broadcast
(43) Mobile and cellular telephones used for broadcast
(44) Exempt production equipment contained in vehicles
(45) Replacement parts for exempt equipment

(c) **Predominant use test**. In cases where an item has multiple uses, the taxability or exemption will be determined by the item's predominant use.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 19 Ok Reg 1859, eff 6-13-02]

710:65-13-192. Definition of cablecasting machinery and equipment for purposes of sales tax

exemption

(a) As used in subsection (9) of Section 1359 of Title 68 of the Oklahoma Statutes, "**machinery and equipment**" used directly in the manufacturing process of cablecasting and which is necessary for the proper production of a cablecast signal or "**machinery and equipment**" the operation failure of which would cause cablecasting to cease means:

(1) AML transmit monitors
(2) AML transmitters and Klystron power supplies
(3) AML receivers
(4) Animation devices
(5) Antenna support towers
(6) Antennas
(7) Audio compressors
(8) Audio mixer
(9) Audio generator
(10) Audio amplifiers
(11) Audio cart decks
(12) Audio tape recorders
(13) Audio and video patch panels
(14) Audio monitors
(15) Audio-visual frequency modulation demodulators
(16) Audio-visual switchers
(17) Audio-visual router
(18) Audio-visual frequency modulation modulators
(19) Audio-video demodulators
(20) Audio-video cart machines
(21) Audio-video FM demodulators
(22) Audio-video FM modulators
(23) Audio-video patch panels
(24) Audio-video distribution amplifiers
(25) Automated assembly system
(26) Automatic VCR commercial insertion system
(27) Back-up power supply
(28) Broadcast tape recorders
(29) Cable advertisement insertion video switching equipment
(30) Cable advertisement insertion DTMF tone decoders
(31) Cable advertisement insertion switches
(32) Cable advertisement insertion video cassette recorders
(33) Character generators
(34) Compact discs
(35) Computer graphic equipment
(36) Computer
(37) Computerized character generator
(38) Cooling system for manufacturing equipment
(39) DAT decks
(40) Digital audio/video effect equipment and paint boxes
(41) Distribution amplifiers
(42) Edit controllers
(43) Editing control unit
(44) Emergency audio override system
(45) Equipment storage devices
(46) Equipment cables and connectors (cable trays and building attachments excluded)
(47) Film editing and preview equipment

(48) Film
(49) Film projectors
(50) Film cameras
(51) FM stereo transmission equipment
(52) Frame synchronizers
(53) Frequency monitors
(54) Frequency scopes
(55) Frequency modulation receiver
(56) Frequency modulation transmitters
(57) Frequency monitors
(58) Head-end extension amplifiers
(59) Insertion system and software
(60) Level matching interface
(61) Microphones
(62) Microwave receiver monitoring systems
(63) Microwave receiver cooling systems
(64) Mixers
(65) Mobile and cellular phones used for broadcast
(66) Monitor/switching equipment
(67) MTS stereo encoders
(68) Dedicated phone lines between remote and studio site
(69) Positive traps
(70) Positive notch filters
(71) Power switching equipment
(72) Power conditioning equipment
(73) Electronic printer, used to manufacture cable programs
(74) Processing amplifiers
(75) Production equipment contained in mobile units
(76) Production lighting systems
(77) Racks and cabinets to house equipment
(78) Radio ground systems
(79) Recordings
(80) Replacement parts for exempt equipment
(81) RF monitoring equipment
(82) Routing and switching equipment
(83) Satellite descramblers
(84) Satellite receiving and transmitting equipment
(85) Satellite antenna controllers
(86) Satellite receiving equipment
(87) Signal integrity enhancement devices
(88) Signal modulators
(89) Signal generators
(90) Signal strength enhancement devices
(91) Signal scrambling system
(92) Signal processors
(93) Stereo generators
(94) Stereo monitoring and troubleshooting equipment
(95) Studio lighting boards and fixtures
(96) Studio consoles and production interconnecting equipment
(97) Subcarrier demodulators
(98) Tape editing equipment
(99) Telephone lines and equipment between master control unit and headends
(100) Teleprompters

(101) Television monitors
(102) Television cameras and related equipment
(103) Time base corrector
(104) Tower guy lines
(105) Transmission line pressurizing equipment
(106) Transmission lines
(107) Transmitter cooling systems
(108) Tuner/signal switcher
(109) Turntables and playback equipment
(110) VHS video cassette player
(111) Video and synchronous generator
(112) Video cassette tapes
(113) Video cassette players
(114) Video/synchronous generator
(115)Videotape editing equipment
(116)Videotapes
(117) Visual and audio monitoring equipment
(118) VTR control switcher
(119) Weather graphic equipment

(b) For purposes of this rule, the term "**cable advertisement insertion**" shall be deemed to be included within the term "local programming" as used in subsection (9) of Section 1359 of Title 68 of the Oklahoma Statutes.
(c) The items enumerated in subsection (a) shall be considered illustrative and not exhaustive.

710:65-13-193. Definition of newspaper manufacturing for purposes of sales/use tax exemption

As applied to Oklahoma's Sales and Use Tax, newspaper publishing is currently recognized as a manufacturing process in Oklahoma and is exempt from Oklahoma Sales and Use taxes in the same manner as other types of manufacturing. [**See:** 710:65-13-150.1]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2677, eff 6-25-00]

710:65-13-194. Exemption for sales of tangible personal property and services to a motion picture or television production company to be used or consumed in connection with an eligible production

(a) **General provisions.** The sale of tangible personal property and services to a motion picture or television production company are exempt from sales and use taxes in Oklahoma, if used or consumed in connection with an eligible production.
(b) **Definitions.** Pursuant to 68 O.S. §1357(23), **"Eligible production"** means "*a documentary, special, music video, or a television commercial or television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series, filmed or taped for network or national or regional syndication; or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast.* **"Qualified purchaser"** means a motion picture or television production company making purchases of tangible personal property and services for use in producing an eligible production, which has received an exemption letter for its eligible production.
(c) **Examples of exempt items.** Items that may be purchased exempt from sales tax by a qualified purchaser include, but are not limited to:
(1) Accommodations and meals.
(2) Production equipment purchases and rentals.
(3) Set construction and rigging materials.

(4) Production office equipment and supplies.
(5) Prop and wardrobe purchases and rentals.
(6) Utilities used by the production company on location and in the production office.

(d) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-88, contained in Packet E, available online at www.tax.ok.gov.

(e) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying that the exemption is allowed will be forwarded to the applicant.

(f) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue an exemption letter pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

(g) **Use of letter certifying eligibility for the exemption.** Persons claiming exemption under this Section should provide their vendors with a copy of the certification letter issued by the Commission and a signed statement that the purchase is being made exempt from sales tax. If purchases will be made from a vendor on a regular basis, the vendor may make subsequent sales without requiring proof of eligibility for each sale, providing the person to who the exempt sales are being made has agreed in writing to notify the vendor of any and all purchases which may be made to which the exemption would not apply. Vendors may accept the certification set out in this subsection in the same manner as any other letter or card certifying to a specific statutory exemption as set out in 710:65-7-6 and 710:65-7-15.

(h) **Limitations.** Any letter certifying an exemption issued under this Section is valid only for use by the addressee and is not transferable. The exemption may **not** be used by any other entity, even if that entity claims to be an agent, administrator, party to a contract or other relationship. Each entity desiring to obtain a letter certifying an exemption must make application in its own name.

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 23 Ok Reg 2856, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-195. Exemption for sales of certain types of programs

Gross proceeds from the sale of programs relating to sporting and entertainment events are exempt from sales tax. [**See:** 68 O.S. Section 1357(5)]

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07]

PART 37. SALES FOR RESALE

710:65-13-200. Exemption on sales for resale

The gross proceeds derived from sales of goods, wares, merchandise, and telecommunications services by vendors, for resale, to persons having a valid sales tax permit who are regularly engaged in reselling the articles or services purchased are exempt from sales tax. If the purchaser is an Oklahoma resident, he must provide the vendor with his Oklahoma sales tax permit number if the sale is made in Oklahoma. In addition to furnishing his sales tax permit number to the vendor, the purchaser must certify in writing to the vendor that said purchaser is engaged in the business of reselling the articles purchased. Failure to so certify, or to falsely certify, with the knowledge that the items purchased are not for resale, shall be sufficient grounds upon which the Commission may cause the purchaser's sales tax permit to be canceled. The seller will be held liable for sales tax due on any sales where an exemption certificate is found to be invalid, for whatever reason. [**See:** 68 O.S. § 1365(G)]

(1) The required certification may be made on the bill, invoice or sales slip retained by the vendor or by furnishing a certification letter to the seller. The Multi-State Tax Commission Certificate, the Streamlined Sales and Use Tax Exemption Certificate, an Oklahoma Exemption Certificate, BT107, or a reasonable facsimile may be used.
(2) The vendor should obtain the information set out in 710:65-7-6 and 710:65-7-8.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01]

710:65-13-201. Sales between related entities
(a) Each interdepartmental transfer of tangible personal property and taxable services between various departments of a single legal entity shall not constitute a sale subject to sales tax.
(b) Except for transfers of tangible personal property between wholly owned subsidiaries of a parent company and between a parent company and its wholly owned subsidiary each transfer of tangible personal property, and taxable services between separate legal entities for use or consumption, and not for resale, shall be taxable, unless otherwise exempt by statute pursuant to a reorganization, winding up, dissolution, liquidation, or formation of a corporation, even though:
(1) The entities share common principals or ownerships and operations.
(2) The entities share the same business location.
(3) The entities file consolidated income tax returns for federal and state income purposes or one of the entities is disregarded for income tax purposes.
(4) The entities do not enjoy a profit or expense as a result of the transaction.
(c) When a transaction would be subject to sales tax if the transaction were between two separately owned and operated legal entities, the commonality of the two entities is irrelevant, and sales tax is imposed on the transaction between the two related entities.
(d) **"Separate legal entities"** means entities which are recognized as individual entities either in fact or at law. Taxable transfers of tangible personal property and services between separate legal entities for use or consumption, and not for resale, shall include:
(1) Transfers between individuals and partnerships.
(2) Transfers between individuals and corporations.
(3) Transfers between individuals and unincorporated associations.
(4) Transfers between partnerships and corporations.
(5) Transfers between partnerships and unincorporated associations.
(6) Transfers between partnerships.
(7) Transfers between unincorporated associations and corporations.
(8) Transfers between corporations, whether between sister corporations or parent and subsidiary corporations. [**See:** 68 O.S. §§ 1354, 1360]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 19 Ok Reg 1859, eff 6-13-02, Amended at 22 Ok Reg 1580, eff 6-11-05; Amended at 39 Ok Reg 2264, eff 9-11-22]

PART 39. SCHOOLS AND HIGHER EDUCATION

710:65-13-210. Exemption for public and private schools and institutions of higher education
(a) **Sales to schools.** Sales of tangible personal property or services to the following entities are exempt from taxation:
(1) Private institutions of higher education.
(2) Private elementary and secondary schools.
(3) Members of the Oklahoma system of higher education.
(4) Public school districts.
(b) **Scope of exemption.** The exemption in this subsection shall apply only if said institution or

school is accredited by the State Department of Education, registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher education which are exempt from taxation pursuant to 26 U.S.C.A § 501(c)(3) of the Internal Revenue Code. Included in sales which are exempt are materials, supplies and equipment used in construction and improvement of buildings owned by said entities and operated for educational services.

(c) **Sales by a lease or lease-purchase agreement with a school district.** Sales of tangible personal property or services pursuant to a lease or lease-purchase agreement executed between a vendor and a school district are exempt from sales tax.

(d) **Sales under public contract.** Sales to any public school, institution of the Oklahoma system of higher education and to any person, including subcontractor, whom a public school or institution of the Oklahoma system of higher education has duly entered into a contract pursuant to law necessary for carrying out said contract are exempt from taxation.

(e) **Certification required.** Certification on the face of the invoice is required of persons making purchases on behalf of an entity listed in (a) of this Section. The invoice containing the certification must be retained by the vendor. Wrongful or erroneous certification may result in criminal punishment.

(f) **Campus or school construction.** Sales for use on campus or school construction projects for the benefit of either the institutions of the Oklahoma system of higher education, private institutions of higher education accredited by the Oklahoma State Regents for Higher Education, or for public schools or school-districts, are exempt when the projects are financed by or through the use of nonprofit entities exempt from taxation pursuant to the provisions of the Internal Revenue Code 26 U.S.C., § 501(c)(3).

(g) **Obtaining exemption for campus or school construction projects.** The general contractor shall request a letter of confirmation that the project qualifies for the exemption from the Business Tax Services Division. Along with the request, the following must be supplied:

(1) A letter from the institution confirming that the not-for-profit entity is financing the project and that the requestor is the general contractor for the project.

(2) A copy of the IRS letter to the not-for-profit entity showing its exemption status.

(h) **Private schools tuition.** Tuition and educational fees paid to private institutions of higher education, private elementary and secondary institutions of education duly accredited by the State Board of Education or registered to participate in federal programs are exempt from sales tax. The institution must be exempt from income taxation pursuant to the provisions of 26 U.S.C.A. § 501(c)(3) for this exemption to apply.

(i) **Sales in school cafeterias.** Sales of food in cafeterias or lunchrooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils are exempt from taxation so long as the cafeteria or lunch room is not operated primarily for the public or for profit. Management companies operating for a profit who contract with a school, college or university to operate a lunchroom or cafeteria will be denied the exemption. Also, sales of food made on school premises but not in a cafeteria or lunchroom do not fall within the exemption provided by statute.

(j) **Sales of admission tickets.** That portion of the gross receipts received from the sale of admission tickets which is for the repayment of money borrowed by an accredited state-supported college or university for the purposes outlined in the statute is exempt from taxation if said amount is:

(1) separately stated on the admission ticket; and

(2) imposed, collected and used for the sole purpose of servicing the debt incurred by the college or university for capital improvements described in the statute.

(k) **Sales by school, student, parent-teacher organizations or associations.** Private schools, public schools, public or private school boards, public school districts, public or private school student organizations and parent-teacher organizations or associations can make sales of tangible personal property exempt from sales tax. Public or private school personnel can make sales for fund-raising projects to benefit the school, school district, school board or student

group or organization without collecting and remitting sales tax. For purposes of subsections (k) and (l) tangible personal property includes the sale of admission tickets and concessions at athletic events. [**See**: 68 O.S. § 1356(13)]

(l) **Sales to, or by, parent-teacher organizations.** Parent-teacher associations and parent-teacher organizations that are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code may make purchases and sales free from the levy of Oklahoma sales taxes.

(m) **Sales to, or by, nonprofit local public or private school foundations.** Nonprofit local public or private school foundations which solicit money or property in the name of any public or private school or public school district may make purchases and sales of tangible personal property exempt from sales tax.

(n) **Sales to career technology student organizations.** Career technology student organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education may make purchases exempt from Oklahoma sales and use taxes and local sales and use taxes.

(o) **Application process.** The entities set forth in (l) through (n) of this Section may make application for exemption by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with the applicable documentation outlined in (p) of this Section.

(p) **Supporting documentation required.**

(1) **Parent-Teacher Associations or Organizations.** Parent-Teacher Associations or Organizations must submit the Internal Revenue Service determination letter recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3).

(2) **School foundations.** School foundations must submit the documentation described in (A) and (B) of paragraph (2).

(A) A letter from the Internal Revenue Service recognizing the foundation as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(B) A written description of the qualifying activities of the foundation or organization, as may be evidenced by copies of:

(i) Articles of Incorporation;

(ii) By-laws;

(iii) Brochure; and

(iv) Notarized letter from the President or Chairman of the foundation.

(3) **Career Technology School Organizations.** Career Technology School Organizations must submit documentation that the organization is under the direction and supervision of the Oklahoma Department of Career and Technology Education.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1581, eff 6-11-05 ; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-13-211. [RESERVED]

710:65-13-212. [RESERVED]

710:65-13-213. [RESERVED]

710:65-13-214. [RESERVED]

710:65-13-215. [RESERVED]

710:65-13-216. [RESERVED]

710:65-13-217. [RESERVED]

710:65-13-218. [RESERVED]

710:65-13-219. [RESERVED]

710:65-13-220. Exemption for child care facilities which provide on-site universal pre-kindergarten education

(a) **Qualification for child care facilities which provide on-site universal pre-kindergarten education exemption.** Sales of tangible personal property and services to a child care facility, licensed pursuant to the Oklahoma Child Care Facilities Licensing Act which possesses either a 3-star rating from the Department of Human Services Reaching for the Stars Program or a national accreditation and provides on-site universal pre-kindergarten education to four-year-old children through a contractual agreement with any public school or school district are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A copy of the Oklahoma Child Care Facility License;

(2) A copy of the 3-star rating Certificate from the Department of Human Services Reaching for the Stars Program or documentation which shows that the entity has a national accreditation; and

(3) A copy of a current year contractual agreement with a public school or school district for provision, by the child care facility, of on-site universal pre-kindergarten education to four-year-old children.

(c) **Sales to child care center limited to eligible, properly-documented transactions.** Only sales of goods or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of *OAC* 710:65-7-6 and 710:65-7-15.

(d) **Sales under contract.** Sales to any person, including contractors and subcontractors, with whom a child care center has duly entered into a contract for construction and improvement of buildings and other structures owned by the child care center and operated for education purposes are exempt from sales tax.

(e) **Documentation and certification required.** In the case of sales to a person including contractors and subcontractors claiming exemption pursuant to this Section, the vendor must obtain:

(1) A **copy** of the exemption letter or card issued to the qualified child care center;

(2) Documentation indicating the contractual relationship between the purchaser and the qualified child care center; and

(3) Certification by the purchaser, on the face of each invoice or sales receipt, setting out the name of the exempt entity, that the purchases are being made on behalf of the entity, and that they are necessary for the completion of the contract.

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10]

PART 41. [RESERVED]

PART 42. DISABLED VETERANS IN RECEIPT OF COMPENSATION AT THE ONE HUNDRED PERCENT RATE

710:65-13-275. Exemption for disabled veterans in receipt of compensation at the 100% rate, unremarried surviving spouses thereof, unremarried surviving spouses of persons who died while in the line of duty and unremarried surviving spouse of persons whose disability determination was made after their death

(a) **General provisions for exemption afforded certain veterans.** Sales of tangible personal property or services are exempt from sales tax when made to persons who have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard, and who have been certified by the United States Department of Veterans Affairs, or its successor, to be in receipt of compensation at the 100% rate for a permanent disability sustained through military action or accident or resulting from a disease contracted while in such service and are registered with the veterans registry created by the Oklahoma Department of Veterans Affairs (ODVA). The exemption includes sales to the spouse of such veteran or to a household member where the veteran resides and who is authorized to make purchases on behalf of the veteran in the veteran's absence, so long as the purchase is for the benefit of the qualified veteran.

(b) **General provisions for exemption afforded an unremarried surviving spouse of a veteran qualifying under subsection (a) of this Section or a person who died in the line of duty or a person who disability determination was made after their death**. Sales of tangible personal property or services are exempt from sales tax when made to an unremarried surviving spouse of a deceased veteran qualifying for the exemption set out in subsection (a) of this Section or to an unremarried surviving spouse of a person determined by the United States Department of Defense or any branch of the United States military to have died while in the line of duty or to an unremarried surviving spouse under circumstances where the disability determination that would have been made while the disabled veteran was still living is not made final until after the death of the disabled veteran. The exemption includes sales to a household member where the qualifying surviving spouse resides who is authorized to make purchases on behalf of the spouse in his or her absence, so long as the purchase is for the benefit of the spouse.

(c) **Qualification to receive an exemption card.** To qualify for exemption under this Section and receive an exemption card a veteran or surviving spouse of a qualifying veteran must be an Oklahoma "resident" as defined in 68 O.S. §2353 and submit to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194 the following information:

(1) **Qualifying veteran**. Verification from the United States Department of Veterans Affairs or the Oklahoma Department of Veterans Affairs certifying that the veteran is receiving disability compensation at the 100% rate and proof of registration with the veterans registry established in accordance with 72 O.S. § 421.

(2) **Unremarried surviving spouse of veterans qualifying for exemption under subsection (a) of this Section**. Verification from the United States Department of Veterans Affairs, Muskogee, OK certifying that the applicant is the unremarried spouse of the qualifying veteran.

(3) **Unremarried surviving spouse of a person who died in the line of duty.** An original or certified copy of the Department of Defense Form DD-1300 which certifies that the applicant is the surviving spouse of a person who died in the line of duty.

(4) **Unremarried surviving spouse of a person whose disability determination was made after their death.** Verification from the United States Department of Veterans Affairs, Muskogee, OK certifying that the applicant is the unremarried spouse of a deceased veteran which also provides for the veteran's qualifying service and disability determination made by the Department subsequent to their death.

(d) **Exemption limitations.** The authorized exemption in this Section is subject to the following limitations:

(1) **Disabled veterans in receipt of compensation at the 100% rate.** The authorized exemption for a qualified veteran is limited to $25,000 per year of qualifying purchases made by the qualified veteran, spouse or household member authorized to make purchases on behalf of the qualified veteran in the veteran's absence. The Tax Commission may request persons asserting or claiming exemption under this Section to provide a statement executed under oath, that the total sales amounts for which the exemption is applicable have not exceeded the yearly limitation of $25,000. If an exempt sale exceeds the exemption limitation, the sales tax in excess of the limitation shall be treated as a direct sales tax liability and the Tax Commission may recover the tax including penalty and interest by the use of any method authorized by law.

(2) **Unremarried surviving spouse.** The exemptions authorized in subsection (b) of this Section for an unremarried surviving spouse are limited to $1,000 per year of qualifying purchases made by the qualified surviving spouse. The Tax Commission may request persons asserting or claiming exemption under this Section to provide a statement executed under oath, that the total sales amount for which the exemption is applicable has not exceeded the yearly limitation of $1,000. If an exempt sale exceeds the exemption limitation, the sales tax in excess of the limitation shall be treated as a direct sales tax liability and the Tax Commission may recover the tax including penalty and interest by the use of any method authorized by law.

(e) **Qualifying sales.** Sales are exempt if the qualified veteran or surviving spouse has an interest in the funds presented and the purchase is made on his or her behalf, and the qualified person's spouse or household member or the surviving spouse's household member authorized to make purchases on behalf of the veteran or surviving spouse in their absence has presented the exemption card issued by the Oklahoma Tax Commission.

(f) **Perfection of exemption.** The sales tax exemption afforded 100% disabled veterans must be perfected by presenting the sales tax exemption card, issued to the qualifying veteran by the Tax Commission, at the time of sale so that the vendor does not charge and collect sales tax on the purchase.

(g) **Denial of exemption by vendor**. All vendors shall honor the proof of eligibility for the sales tax exemption to both the qualified veteran, qualified unremarried surviving spouse and persons making purchases for the benefit of the disabled veteran or surviving spouse. Qualifying 100% disabled veterans and qualifying unremarried surviving spouses who have had claims for sales tax exemption denied by vendors may notify the Tax Commission of such denial by submitting to the Audit Services Division a signed and completed OTC Form 13-37, which is available online at tax.ok.gov.

(h) **Refund request.** A refund of sales taxes erroneously paid may be claimed only under circumstances where a vendor refused to honor the proof of exemption eligibility issued by the Tax Commission and the person eligible for the exemption submits to the Tax Commission a completed and signed OTC Form 13-37 *Disabled American Veterans Notification of Denial of Exemption*.

(i) **Purchases by contractors**. Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. Section 1352 are taxable to the contractor. A contractor who performs improvements to real property for a disabled veteran in receipt of compensation at the 100% rate or an unremarried surviving spouse of the qualifying veteran who qualifies for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to disabled veterans in receipt of compensation at the 100% rate.

[**Source:** Added at 23 Ok Reg 2858, eff 6-25-06; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 28 Ok Reg 961, eff 6-1-11; Amended at 30 Ok Reg 2089, eff 7-25-13; Amended at 39 Ok Reg 2264, eff 9-11-22; Amended at 40 Ok Reg 1278, eff 8-11-23; Amended at 42 Ok Reg, Number 20, effective 7-15-25; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

PART 43. SOCIAL, CHARITABLE, AND CIVIC ORGANIZATIONS AND ACTIVITIES

710:65-13-330. Oklahoma City National Memorial and Museum

Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and is operating the Oklahoma City National Memorial and Museum are exempt from sales tax. [68 O.S. § 1356(46)]

[Source: Added at 22 Ok Reg 1582, eff 6-11-05]

710:65-13-331. Sales to veterans' organizations for museums and memorials

Sales of tangible personal property or services to organizations which are exempt from federal taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, the members of which are limited to honorably discharged veterans, and which furnish financial support to area veterans' organizations to be used for the purpose of constructing a memorial or museum are exempt from sales and use tax. [68 O.S. § 1356(47)]

[Source: Added at 22 Ok Reg 1582, eff 6-11-05]

710:65-13-332. Exemption for sale of tickets to collegiate athletic championship events

Sales of tickets for admission to a collegiate athletic event that is held in a facility owned or operated by a municipality or a public trust of which the municipality is the sole beneficiary and that actually determines or is part of a tournament or tournament process for determining a conference tournament championship, a conference championship, or a national championship are exempt from sales tax. [68 O.S. § 1356(45)]

[Source: Added at 22 Ok Reg 1582, eff 6-11-05]

710:65-13-333. Sales made in conjunction with public library construction

Sales of tangible personal property or services made on or after January 1, 2003, to an organization, which is exempt from taxation pursuant to the provisions of the 26 U.S.C.§ 501(c)(3), and that is expending monies received from a private foundation grant in conjunction with expenditures of local sales tax revenue to construct a local public library, are exempt from sales tax. . [68 O.S. § 1356(48)]

[Source: Added at 22 Ok Reg 1582, eff 6-11-05]

710:65-13-334. Exemption for qualified museums

(a) **General provisions.** Museums or other entities accredited by the American Alliance of Museums formally the American Association of Museums are exempt from the levy of sales tax on their purchases of tangible personal property and services, and provided that the museum is in compliance with (d)(2) of this Section, on the sales of tickets for admission.

(b) **Certification required for purchases.** Certification, in which the name of the museum or other accredited entity is set out on the face of the invoice or sales receipt to be obtained and retained by the vendor, is required of persons making purchases on behalf of a qualifying museum or other accredited entity, in order to support the exemption pursuant to *OAC* 710:65-3-30 and 710:65-3-33.

(c) **Application procedure.** Application for the exemption is made by submitting to the Taxpayer Resource Center, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with written confirmation that the applicant is currently accredited by the American Alliance of Museums formally the American Association of Museums.

(d) **Exemption limited to eligible, properly-documented transactions.**

(1) Only those purchases actually purchased by the museum or other accredited entity, invoiced to the museum or entity, and paid for by funds or check directly from the museum or other accredited entity, will qualify for the exemption on purchases.

(2) To qualify for the exemption on sales of admission tickets, the museum must separately state an amount equivalent to the tax which would otherwise have been required to be collected on the face of the admission ticket and must use the amount so stated and so collected solely for the purpose of servicing debt incurred by the museum in the construction, enlargement, or renovation of facilities used or to be used for the entertainment, edification, or cultural cultivation of persons admitted to the museum or facility. The museum or other accredited entity must maintain records adequate to show that the proper amount was collected in lieu of the tax and that those funds were used for purposes of servicing qualifying projects.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to museums and other accredited entities.

[**Source:** Renumbered from 710:65-13-34 at 22 Ok Reg 1582, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-335. Limited exemption for organizations which sponsor and promote educational, charitable, and cultural events for disadvantaged children

(a) **Qualification for educational, charitable, and cultural events for disadvantaged children exemption.** The first $15,000.00 of each calendar year's sales to or by organizations which were established to sponsor or promote educational, charitable, or cultural events for disadvantaged children, are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov and the supporting documentation described in (c) of this Section.

(c) **Supporting documentation required.** To support the exemption claimed under this Section, the applicant must submit to the Commission, along with the application:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(2) Documentation showing that the organization was established to sponsor and provide educational, charitable, and cultural events for disadvantaged children, along with a written description of the activities of the organization, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;
(B) By-laws;
(C) Brochure; or,
(D) Notarized letter from the President or Chairman of the organization.

(d) **Exemption limited to eligible, properly-documented transactions.** Only the first $15,000 of either sales or purchases of the organization are exempt. The organization must keep accurate records to enable it to properly document the exemption on its purchases and to know when it is required to charge sales tax on its sales. If sales tax is collected by the organization on sales which could have been exempt under the provisions of this Section, the sales tax must be remitted to the Oklahoma Tax Commission. Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations exempt from sales tax.

[**Source:** Renumbered from 710:65-13-35 at 22 Ok Reg 1582, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-336. Exemption for Disabled American Veterans, Department of Oklahoma, Inc. and subordinate chapters

(a) **General provisions.** Disabled American Veterans, Department of Oklahoma, Inc. and its subordinate chapters are exempt from the levy of sales tax on purchases of tangible personal property and services.

(b) **Application procedure.** Application for exemption is made by submitting to the Taxpayer Resource Center, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with written confirmation that the applicant is a currently recognized chapter of the Disabled American Veterans, Department of Oklahoma, Inc.

[**Source:** Renumbered from 710:65-13-36 at 22 Ok Reg 1583, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-337. Qualifications for "Meals on Wheels" exemption

(a) **Qualification for Meals on Wheels exemption.** Sales tax does not apply to the sale of food, food products, or any equipment or supplies used in the preparation of the food or food products to or by organizations enumerated in 68 O.S. § 1357(13)(a), and which are commonly referred to as "Meals on Wheels," "Mobile Meals," and the like.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of food, food products, or any equipment or supplies used in the preparation of the food or food products purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying "Meals on Wheels," "Mobile Meals," and similar programs enumerated in 68 O.S. § 1357(13)(a) exempt from sales tax.

[**Source:** Renumbered from 710:65-13-37 at 22 Ok Reg 1583, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-13-338. Qualifications for "Older Americans Act" exemption

(a) **Qualification for the Older Americans Act exemption.** Sales tax does not apply to the sale of

food or food products, or any equipment or supplies used in the preparation of the food or food products to or by organizations enumerated in 68 O.S. § 1357(13)(b), and which receive federal funding pursuant to the Older Americans Act of 1965, for purposes of providing nutrition programs for the care and benefit of elderly persons.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization; and,

(3) Copy of notification letter approving the organization for funding under the Older Americans Act of 1965.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of food or food products, purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying "Older Americans Act" organizations exempt from sales tax.

[**Source:** Renumbered from 710:65-13-38 at 22 Ok Reg 1583, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-13-339. Qualifications for "Collection and Distribution Organization" exemption

(a) **Qualification for Collection and Distribution Organization exemption.** Sales tax does not apply to the sale of tangible personal property or services to or by organizations exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and;

(1) are primarily involved in the collection and distribution of food and household products to other organizations that facilitate the distribution of such products to the needy and such distributee organizations are exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) or

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

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization; and,

(3) For organizations described in (a)(1) a list of organizations, including federal employer identification numbers, to which items were distributed for the previous calendar year must also be provided.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services purchased by the organization, invoiced to the organization, and

paid for by funds or check directly from the organization will qualify for the exemption described in this Section.
(d) **Other limitations.** The exemption set out in this Section does not apply to sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business.
(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352 are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying "Collection and Distribution Organizations" exempt from sales tax.

[**Source:** Renumbered from 710:65-13-39 at 22 Ok Reg 1584, eff 6-11-05; Amended at 23 Ok Reg 2858, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 41 Ok Reg 1652, eff 8-11-24]

710:65-13-340. Exemptions for volunteer fire departments
(a) Sales to volunteer fire departments which are organized under 18 O.S. § 592 are exempt from sales tax. Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation that the department is registered with the Oklahoma Secretary of State.
(b) A vendor shall obtain the documentation set out in *OAC* 710:65-7-15 in order to be relieved of liability for sales tax on such sales.
(c) Additionally, volunteer fire departments which are organized under 18 O.S. Section 592 are exempt from having to charge sales tax on the first Fifteen Thousand Dollars ($15,000.00) of sales per year which are made for the purpose of raising funds for the benefit of the department, provided the sales are made on no more than six days per year. [68 O.S. § 1356(19)]

710:65-13-341. Exemption for Council organizations or similar state supervisory organizations of Boy Scouts of America, Girl Scouts of U.S.A., and Camp Fire USA
(a) **General provisions.** Council and state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A., and Camp Fire USA are exempt from the levy of sales tax on purchases of tangible personal property and services. **Dens**, **packs**, **troops**, or similar groups affiliated with a council or state supervisory organization of the Boy Scouts of America, Girl Scouts of U.S.A., or Camp Fire USA are not included within the scope of the exemption described in this Section.
(b) **Application procedure.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with a determination letter or group ruling from the Internal Revenue Service.

[**Source:** Renumbered from 710:65-13-41 at 22 Ok Reg 1585, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-342. Qualifications for "Juvenile Rehabilitation" exemption
(a) **Qualification for the Juvenile Rehabilitation exemption.** Sales tax does not apply to the sale of goods or services to organizations which take court-adjudicated juveniles for purposes of rehabilitation and which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3). However, at least fifty percent (50%) of the juveniles served by the organization must be court-adjudicated and the organization must receive state funds in an amount which is less than ten percent (10%) of the annual budget of the organization.
(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting

documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A copy of the last audit, income tax informational return, or other financial statements which will show that for the last fiscal year end before application, less than 10% of the budget of the organization was from state funds;

(3) A statement signed by a responsible officer of the organization that sets out the percentage of juveniles served which were court-adjudicated during the last fiscal year, giving the total number served, and the total number of those that were court-adjudicated;

(4) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization which states the services provided by the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of goods or services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for "Juvenile Rehabilitation" organizations may **not** purchase the tangible personal property or services used to perform the contract exempt from sales tax under the exemption provided by statute to "Juvenile Rehabilitation" organizations.

[**Source:** Renumbered from 710:65-13-42 at 22 Ok Reg 1585, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-343. Exemption for qualified youth athletic teams

(a) **General provisions**. Sales tax does not apply to the first $15,000.00 of each year's sales to or by youth athletic teams, made for the purpose of raising funds for the benefit of the team. In order to qualify for exemption the youth athletic team must be a part of an athletic organization exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(4).

(b) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov, along with the following information:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(4); and,

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only the first $15,000 of either sales or purchases of the organization are exempt. The organization must keep accurate records to enable it to properly document the exemption on its purchases and to know when it is required to charge sales tax on its sales. If sales tax is collected by the organization on sales which could have been exempt under the provisions of this Section, the sales tax must be remitted to the Oklahoma Tax Commission. Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase

tangible personal property or services to perform contracts with qualifying organizations exempt from sales tax.

[**Source:** Added at 22 Ok Reg 1585, eff 6-11-05; Amended at 23 Ok Reg 2859; eff 6-25-06; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-344. Exemption for tax exempt, nonprofit organizations, which provide services during the day to homeless persons

(a) **Qualification for tax-exempt, nonprofit organizations which provide services during the day to homeless person exemption.** Sales of tangible personal property to a nonprofit organization exempt from income taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. Section 501(c)(3), which is organized primarily for the purpose of providing services to homeless persons during the day and located in a metropolitan area with a population in excess of five hundred thousand (500,000) persons according to the latest Federal Decennial Census are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3); and

(2) Documentation showing that the organization was established to provide services to homeless persons during the day and is located in a metropolitan area with a population in excess of five hundred thousand (500,000) persons according to the latest Federal Decennial Census. Also, a written description of the services of the organization, as may be evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 23 Ok Reg 2859, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-345. Exemption for tax exempt organizations, which provide funding for the preservation of wetlands or habitats for wild ducks or preservation and conservation of wild turkeys

(a) **Qualifications for exemption.** Sales of tangible personal property or services are exempt from sales tax when made to or by an organization exempt from income taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. Section 501(c)(3), for events the principal purpose of which is to provide funding for the preservation of wetlands and habitats for wild ducks or preservation and conservation of wild turkeys.

(b) **Exemption limited to eligible, properly-documented transactions.** Only those purchases or sales which are made for an event, the principal purpose of which is to provide funding for the

preservation of wetlands and habitats for wild ducks and/or the preservation and conservation of wild turkeys will qualify for the exemption described in this Section.

(c) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov, along with the following information:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization.

(d) **Purchases by contractors.** Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations enumerated in 68 O.S. §1356(55) & (56) exempt from sales tax.

[**Source:** Added at 23 Ok Reg 2859, eff 6-25-06; Amended at 26 Ok Reg 2354, eff 6-25-09]

710:65-13-346. Exemption for tax exempt organizations which are a part of a network of community-based, autonomous member organizations providing job training and employment services

(a) **Qualifications for exemption.** Sales of tangible personal property or services are exempt from sales tax when made to an organization, exempt from income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, which is a part of a network of community-based, autonomous member organizations provided that the organization meets the following criteria;

(1) Serves people with workplace disadvantages and disabilities by providing job training and employment services, as well as job placement opportunities and post-employment support,

(2) Has locations in the United States and at least twenty other countries,

(3) Collects donated clothing and household goods to sell in retail stores and provides contract labor services to business and government, and

(4) Provides documentation to the Oklahoma Tax Commission that over seventy-five percent (75%) of its revenues are channeled into employment, job training and placement programs and other critical community services.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3);

(2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax

on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 23 Ok Reg 2860, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-347. Exemption for specialized facilities, which provide services for physically and mentally handicapped persons

(a) **Qualification for specialized facilities, which provide services for physically and mentally handicapped persons.** Sales of tangible personal property and services are exempt from sales tax when made to an organization exempt from income taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which assists, trains, educates, and provides housing for physically and mentally handicapped persons provided that the organization receives at least eighty-five percent (85%) of its annual budget from state or federal funds.

(b) **Application process.**

(1) **Application.** All "specialized facilities" shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, the following information:

(A) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3);

(B) A written description stating the activities of the organization, as evidenced by copies of:

(i) Articles of incorporation;

(ii) By-laws;

(iii) Brochure; or

(iv) Notarized letter from the President or Chairman of the organization; AND

(C) Copy of the organization's annual budget representing that eighty-five percent (85%) of its budget is from state or federal funds.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. The applicant will be notified of any action taken regarding the Application by the Commission.

(c) **Exemption limited to eligible, properly documented transactions.** The exemption will be administered as a refund to the qualified organization. To receive the benefit of the exemption, the qualified organization must pay the applicable sales tax at the time of purchase to the vendor. Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the refund described in this Section.

(d) **Refund procedure.** To obtain a refund under this Section, the qualified organization must file within one (1) year after the date of the sales transaction, a claim for a refund on forms provided by the Commission, along with invoices, and all receipts indicating the amount of state and local sales tax paid on sales exempt from tax under this section. Refund claims will be processed in the order of claims received by the Oklahoma Tax Commission. The sales tax qualifying for the exemption is limited to One Hundred Seventy-five Thousand Dollars ($175,000.00) each fiscal year and timely filed claims that exceed that total amount of refunds payable will be barred.

(e) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for qualified organizations may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by this Section.

[**Source:** Added at 23 Ok Reg 2860, eff 6-25-06]

710:65-13-348. Limited exemption for qualified neighborhood watch organizations

(a) **Qualification for exemption.** Effective July 1, 2005, the first $2,000 of each calendar year's sales of tangible personal property or services, to, by, or for the benefit of a qualified neighborhood watch organization that is endorsed or supported by or working directly with a law enforcement agency with jurisdiction in the area in which the neighborhood watch organization is located are exempt from sales tax. For purposes of this exemption "**qualified neighborhood watch organization**" *means an organization that is a not-for-profit corporation under the laws of the State of Oklahoma that was created to help prevent criminal activity in an area through community involvement and interaction with local law enforcement and which is one of the first two thousand organizations which makes application to the Oklahoma Tax Commission for the exemption after March 29, 2006.* [68 O.S. § 1356(53)]

(b) **Application process.** Only the first two thousand applications received by the Oklahoma Tax Commission are eligible for exemption. Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Documentation showing that the organization is a not-for profit corporation under the laws of Oklahoma established to help prevent criminal activity in a specific area through community involvement and interaction with local law enforcement, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;

(B) By-laws;

(C) Other documents that show the intent of the incorporators at the time of incorporation.

(2) Documentation showing that the organization is either endorsed, supported by or working directly with a law enforcement agency that has jurisdiction in the area where the neighborhood watch is located. Documentation may consist of membership lists, notices or minutes of meetings or letters from the applicable law enforcement agencies concerning their support, endorsement or involvement with the organization.

(3) A description of the boundaries of the area in which the neighborhood watch organization is located.

(4) The name and address of the person representing the organization to whom the exemption card will be mailed and who will be responsible for keeping track of the sales made to, by, or for the benefit of the organization so that the annual limit of $2,000 will not be exceeded by the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only the first $2,000 of either sales to, by or on behalf of the organization are exempt. The organization must keep accurate records to enable it to properly document the exemption. The exemption documentation that vendors are required to obtain on purchases to, or for the benefit of the organization is set out in 710:65-7-17.

(d) **Purchases by contractors**. Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

(e) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, an exemption card will be sent to the applicant.

(f) **Denial of exemption; cancellation, suspension, revocation of exemption card.** The exemption may be denied, and the exemption card cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification

pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

[**Source:** Added at 23 Ok Reg 2861, eff 6-25-06; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-349. Exemption for sale of food boxes

Sales of boxes of food by a church or by an organization, which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) are exempt from sales tax, provided the boxes *only contain edible staple food items. To qualify under the provisions of this* Section*, the organization must be organized for the primary purpose of feeding needy individuals or to encourage volunteer service by requiring such service in order to purchase food.*

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07]

710:65-13-350. Exemption for Daughters of the American Revolution

(a) **General provisions.** Sales of tangible personal property or services to or by the Daughters of the American Revolution are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Written confirmation that the applicant is currently recognized as an Oklahoma chapter of the Daughters of the American Revolution; and

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-351. Exemption for Veterans of Foreign Wars, Department of Oklahoma, Inc. and subordinate posts

(a) **General provisions.** Sales of tangible personal property or services to or by the Veterans of Foreign Wars, Department of Oklahoma, Inc. and its subordinate posts are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U. S. C. § 501(c)(19);

(2) Written confirmation that the applicant is currently recognized as a post of the Veterans of

Foreign Wars, Department of Oklahoma, Inc.; and
(3) A written description stating the activities of the organization, as evidenced by copies of:
(A) Articles of incorporation;
(B) By-laws;
(C) Brochure; or
(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-352. Exemption for YWCA or YMCA organizations

(a) **General provisions.** Sales of tangible personal property or services to or by YWCA or YMCA organizations are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:
(1) Written confirmation that the applicant is currently recognized as part of a national nonprofit community service organization meeting the health and social service needs of its members; and
(2) A written description stating the activities of the organization, as evidenced by copies of:
(A) Articles of incorporation;
(B) By-laws;
(C) Brochure; or
(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-353. Exemption for organizations primarily engaged in providing educational services and programs concerning health-related diseases and conditions

(a) **Qualification for organizations primarily engaged in providing educational services and programs concerning health-related diseases and conditions exemption.** Sales of tangible personal property or services to an organization primarily engaged in providing educational services and programs concerning health-related diseases and conditions to individuals suffering from such health-related diseases and conditions, their caregivers and family members, or in health-related research of such diseases and conditions, or both, are exempt from sales tax.

However, in order to qualify, such organization must itself be a member of a tax-exempt organization that is primarily engaged in advancing the purposes of its member organizations through fundraising, public awareness or other efforts for the benefit of its member organizations.
(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U. S. C. § 501(c)(3);

(2) Proof of membership in a tax-exempt organization primarily engaged in advancing the purposes of its member organization, including a description of the activities of the membership organization; and

(3) Documentation showing that the organization is primarily engaged either in providing educational services, programs or support concerning health-related diseases and conditions to individuals suffering from such diseases or their caregivers and family members and or health-related research of such diseases or conditions, along with a written description of the activities of the organization, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.
(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-354. Exemption for organizations whose purpose is to provide training and education to developmentally disabled persons

(a) **Qualification for organizations whose purpose is to provide training and education to developmentally disabled persons.** Sales to or by qualifying organizations of tangible personal property and services to be used exclusively for charitable or educational purposes are exempt from sales tax. To qualify an organization must be exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code; must have filed a Not-for-Profit Certificate of Incorporation in Oklahoma, and must be organized for the purpose of providing training and education to developmentally disabled individuals; educating the community about the rights, abilities and strengths of developmentally disabled individuals; and promoting unity among developmentally disabled individuals in their community and geographic area.
(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U. S. C. § 501(c)(3);

(2) Proof of Not-for-Profit Certificate of Incorporation in Oklahoma; and

(3) Documentation showing that the organization is organized for the purpose of providing training and education to developmentally disabled individuals, educating the community about the rights, abilities and strengths of developmentally disabled individuals and promoting unity among developmentally disabled individuals in their community and geographic area, along with a written description of the activities of the organization, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization which states the services provided by the organization.

(c) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations exempt from sales tax.

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-355. Exemption for shelters for abused, neglected, or abandoned children from birth to age eighteen

(a) **Qualification for shelters for abused, neglected, or abandoned children from birth to age eighteen.** Sales of tangible personal property and services to an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, which is a shelter for abused, neglected, or abandoned children from birth to age eighteen.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U. S. C. § 501(c)(3); and

(2) Documentation showing that the organization is a shelter for abused, neglected, or abandoned children from birth to age eighteen.

(3) A written description of the activities of the organization, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure;

(D) Intake documents or other forms used to obtain information from clients which specifically reflect age of children and reason for being sheltered; or

(E) Notarized letter from the President or Chairman of the organization which states the services provided by the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only sales of goods or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. Section 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations exempt from sales tax.

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-356. Exemption for Blue Star Mothers of America, Inc.

(a) **Qualification for Blue Star Mothers of America, Inc.** Sales of tangible personal property made to tax exempt 501(c)(19) service organizations of mothers who have children serving or have served in the military known as the Blue Star Mothers of America, Inc. are exempt from state sales tax. The exemption shall only apply to purchases of tangible personal property actually sent to United States Military personnel overseas who are serving in a combat zone.
(b) **Administration.** Pursuant to statute, the exemption for sales to "Blue Star Mothers of America, Inc." will be administered as a refund of state sales taxes which were paid by "Blue Star Mothers of America, Inc." to vendors. State sales tax shall only be refundable on purchases of tangible personal property actually sent to United States Military personnel overseas who are serving in a combat zone.
(c) **Refund procedure.** Before making its first refund claim or simultaneous thereto the claimant organization must provide to the Business Tax Services the following information:
(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(19);
(2) A written description stating the activities of the organization, as evidenced by copies of:
(A) Articles of incorporation;
(B) By-laws;
(C) Brochure; or
(D) Notarized letter from the President or Chairman of the organization.
(d) **Application process**. To claim a refund under this Section, the qualified organization may, within sixty (60) days after the end of each calendar quarter, submit a completed and signed Form 13-9A, *Application for Refund of State Sales Tax*, along with invoices and all receipts indicating the amount of state sales tax paid on qualifying purchases during such preceding calendar quarter. Form 13-9A may be obtained online at www.tax.ok.gov.

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08]

710:65-13-357. Organizations providing funding for scholarships in the medical field
(a) **Qualification for exemption.** Sales tax does not apply to the sale of food and snacks items to or by organizations exempt from taxation pursuant to Internal Revenue Code, 26 U.S.C., Section 501(c)(3) who primary and principal purpose is providing funding for scholarships in the medical field.
(b) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov, along with the following information:
(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,
(2) A written description stating the activities of the organization, as evidenced by copies of:
(A) Articles of incorporation;
(B) By-laws;
(C) Brochure; or,
(D) Notarized letter from the President or Chairman of the organization.
(c) **Exemption limited to eligible, properly documented transactions.** Only sales of food or snack items, purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.
(d) **Purchases by contractors.** Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations enumerated in 68 O.S. §1356(71) exempt from sales tax.

[**Source:** Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-358. Exemption for sale of event tickets by organizations supporting general hospitals

Sales of tickets for admission to events held by organizations exempt from taxation pursuant to the Internal Revenue Code, 26 U.S.C. 501(c)(3) that are organized for the purpose of supporting general hospitals licensed by the State Department of Health are exempt from sales tax. [68 O.S. § 1356(73)]

[**Source:** Added at 26 Ok Reg 2354, eff 6-25-09]

710:65-13-359. Nonprofit foundations supporting NRA and other like organizations

(a) **Qualifications for exemption.** Sales of property to a nonprofit foundation which raises tax deductible contributions in support of a wide range of firearms related public interest activities of the National Rifle Association of America and other organizations that defend and foster the Second Amendment are exempt from sales tax.

(b) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov, along with the following information:

(1) A letter from the Internal Revenue Service (IRS) recognizing the foundation or organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(2) A written description of the qualifying activities of the foundation or organization, as may be evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; and

(D) Notarized letter from the President or Chairman of the foundation or organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only property purchased by the foundation/organization, invoiced to the foundation/organization, and paid for by funds or check directly from the foundation/organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchase of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying foundations/organizations enumerated in 68 O.S. §1356(74)(a) exempt from sales tax.

[**Source:** Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-360. Grassroots fundraising programs supporting the NRA

(a) **Qualification for exemption.** Sales of property to or by grassroots fundraising programs related to events to raise funds for nonprofit foundations which raise tax deductible contributions in support of firearms related public interest activities of the National Rifle Association are exempt from sales tax.

(b) **Exemption limited to eligible, properly documented transactions.** Only those purchases or sales which are made in relation to events to raise funds for nonprofit foundations which raise tax deductible contributions in support of firearms related public interest activities of the National Rifle Association will qualify for the exemption described in this Section.

(c) **Application process.** Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov, along with a written description stating the activities of the organization, as evidenced by copies of:

(1) Articles of incorporation;

(2) By-laws;

(3) Brochure; or,

(4) Notarized letter from the President or Chairman of the organization.

[**Source:** Added at 26 Ok Reg 2354, eff 6-25-09; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-13-361. [RESERVED]

710:65-13-362. Exemption for Boys & Girls Clubs of America affiliates

(a) **General provisions.** Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in Oklahoma which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the Internal Revenue Code, 26 U.S.C. § 501(c)(3) are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(2) Documentation verifying that the applicant club is not affiliated with the Salvation Army.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may not purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 27 Ok Reg 2308, eff 7-11-10; Amended at 41 Ok Reg 1652, eff 8-11-24]

710:65-13-363. Exemption for the National Guard Association of Oklahoma

(a) **General provisions.** Effective July 1, 2018, sales of tangible personal property or services to or by an association which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(19) and which is known as the National Guard Association of Oklahoma are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(19); and

(2) Written confirmation that the applicant is currently recognized as the National Guard Association of Oklahoma.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 35 Ok Reg 2102, eff 9-14-18]

710:65-13-364. Exemption for the Marine Corps League of Oklahoma

(a) **General provisions.** Effective July 1, 2018, sales of tangible personal property or services to or by an association which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(4) and which is known as the Marine Corps League of Oklahoma are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(4); and

(2) Written confirmation that the applicant is currently recognized as the Marine Corps League of Oklahoma.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 35 Ok Reg 2102, eff 9-14-18]

710:65-13-365. Exemption for tax exempt organizations who operate as a collaborative model which connects community agencies to serve individuals and families affected by violence

(a) **Qualifications for exemption.** Effective November 1, 2017, sales of tangible personal property or services are exempt from sales tax when made to an organization exempt from income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that operates as a collaborative model which connects community agencies in one location to serve individuals and families affected by violence and where victims have access to services and advocacy at no cost to the victim. For the purposes of this paragraph, **"at no cost to the recipient"** means at no cost to either the recipient or any unit of government, or any insurance company, or any other person or entity. Organizations which provide services on a "sliding scale" fee schedule do **not** qualify for the exemption.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3);

(2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible

personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.
(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 35 Ok Reg 2102, eff 9-14-18]

710:65-13-366. Exemption for tax exempt organization who is an official member of the Fab Lab Network
(a) **Qualifications for exemption.** Effective November, 1, 2019, sales of tangible personal property or services are exempt from sales tax when made to, or by, an organization which is exempt from taxation pursuant to 26 U.S.C., Section 501(c)(3), who is an official member of the Fab Lab Network in compliance with the Fab Charter as verified by a letter from the MIT Fab Foundation and whose primary and principal purpose is to provide community access to advanced 21st century manufacturing and digital fabrication tools for science, technology, engineering, art and math ("STEAM") learning skills, developing inventions, creating and sustaining businesses and producing personalized products.
(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:
(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3).
(2) A written description stating the activities of the organization which shows the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:
(A) Articles of incorporation;
(B) By-laws;
(C) Brochure;
(D) Letter from the MIT Fab Foundation verifying the organization is an official member of the Fab Lab Network and in compliance with the Fab Charter.
(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.
(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 37 Ok Reg 2234, eff 9-11-20]

710:65-13-367. Exemption for the American Legion
(a) **Qualifications for exemption.** Sales of tangible personal property or services are exempt from sales tax when made to the American Legion, whether the purchase is made by the

entity charterd by the United States Congress or is an entity organized under the laws of this or another state pursuant to the authority of the national American Legion organization.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Documentation that the applicant is the entity chartered as the American Legion by the U.S. Congress;

(2) Proof the applicant is organized under the laws of Oklahoma or another state pursuant to the authority of the national American Legion organization;

(3) Written confirmation the applicant is currently recognized as an organization of the American Legion.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 37 Ok Reg 2234, eff 9-11-20]

710:65-13-368. Exemption for nonprofit organizations that construct, remodel and sell affordable housing

(a) **Qualifications for exemption.** Effective November 1, 2021, sales of tangible personal property or services used solely for construction and remodeling projects are exempt from sales tax when made to an organization exempt from income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which meets the following requirements:

(1) Its primary purpose is to construct or remodel and sell affordable housing and provide homeownership education to residents of Oklahoma that have an income below one hundred percent (100%) of the Family Median Income guidelines as defined by the U.S. Department of Housing and Urban Development,

(2) Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes,

(3) Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interest of its clients, and

(4) Compensates its employees in a manner that does not incentivize employees to act other than in the best interest of its clients.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3); and

(2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.
(d) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may not purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at 39 Ok Reg 2264, eff 9-11-22]

710:65-13-369. Exemption for nonprofit organizations restoring single family housing following a disaster
(a) **General provisions**. Sales of tangible personal property or services to a nonprofit entity, organized pursuant to Oklahoma law before January 1, 2022, exempt from federal income taxation pursuant to Section 501(c) of the Internal Revenue Code of 1986, as amended, the principal functions of which are to provide assistance to natural persons following a disaster, with program emphasis on repair or restoration to single-family residential dwellings or the construction of a replacement single-family residential dwelling. As used in this Section, "disaster" means damage to property with or without accompanying injury to persons from heavy rain, high winds, tornadic winds, drought, wildfire, snow, ice, geologic disturbances, explosions, chemical accidents or spills and other events causing damage to property on a large scale. For purposes of this exemption, an entity that expended at least 75% of its funds on the restoration to single-family housing following a disaster, including related general and administrative expenses, shall be eligible for the exemption authorized by this Section.
(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3);
(2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:
(A) Articles of incorporation;
(B) By-laws;
(C) Brochure; or
(D) Notarized letter from the President or Chairman of the organization; and
(3) A copy of an audit, income tax informational return or financial statement which demonstrates that for the last fiscal year end before application that at least 75% of the applying organization's funds were expended on the restoration to single family housing following a disaster including related general and administrative expenses.

(c) **Exemption limited to eligible, properly documented transactions**. Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.
(d) **Purchases by contractors**. Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may not purchase the tangible personal property or services to perform the contract exempt from sales tax under the

exemption provided by statute to the qualified organizations.

[**Source:** Added at 39 Ok Reg 2264, eff 9-11-22]

710:65-13-370. Exemption for non-accredited museums

(a) **General provisions.** Effective November 1, 2021 through December 31, 2024, sales of tangible personal property or services to a museum that operates as part of an organization which is exempt from taxation pursuant 26 U.S.C., § 501(c)(3) and is not accredited by the American Alliance of Museums are exempt from sales and use tax. To qualify, the described entities must operate on an annual budget of less than One Million Dollars ($1,000,000.00). [**See**: 68 O.S. § 1356]

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A written description stating the activities of the organization which shows that the applicant operates within the organization as a museum as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization; and

(3) A copy of an audit, income tax informational return, or other financial statement which demonstrates the organization's annual budget is less than One Million Dollars ($1,000,000.00).

(c) **Exemption limited to eligible, properly documented transactions**. Only sales of goods or services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for "non-accredited museums" may **not** purchase the tangible personal property or services used to perform the contract exempt from sales tax under the exemption provided by statute to "non-accredited museums".

[**Source:** Added at 39 Ok Reg 2264, eff 9-11-22]

710:65-13-371. Exemption for Oklahoma Women Veterans Organization and Subchapters

(a) **General provisions.** *Sales of tangible personal property or services to or by a women's veteran's organization, and its subchapters in Oklahoma, that is exempt from taxation pursuant to 26 U.S.C., § 501(c)(19) and is known as the Oklahoma Women Veterans Organization* are exempt from sales tax. [68 O.S. § 1356(85)]

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(19); and,

(2) Written confirmation that the applicant is currently recognized as the Oklahoma Women Veterans Organization or a subchapter thereof.

(c) **Exemption limited to eligible, properly documented transactions**. Only sales of goods or services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at

710:65-13-372. Exemption for nonprofit organizations that provide support to veterans, active duty members of the Armed Forces, reservists and members of the National Guard

(a) **General provisions.** *Sales of tangible personal property or services to an organization that is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which provides support to veterans, active duty members of the Armed Forces, reservists and members of the National Guard to assist with the transition to civilian life, and that provides documentation to the Tax Commission that over 70% of its revenue is expended on support for transition to civilian life* are exempt from sales tax. [68 O.S. § 1356(84)]

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) of this Section as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairperson of the organization; and

(3) A copy of an audit, income tax informational return or financial statement which demonstrates that for the last fiscal year end before application that over 70% of the applying organization's funds were expended on the support for veterans, active duty members of the Armed Forces, reservists and members of the National Guard to assist with the transition to civilian life.

(c) **Exemption limited to eligible, properly documented transactions**. Only sales of goods or services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

[**Source:** Added at

710:65-13-373. Organizations providing school supplies for underserved students

(a) **General provisions.** Sales to or by a 501(c)(3) nonprofit whose principal purpose is to provide school supplies or clothing for underserved pre-K through 12th grade public school students in Oklahoma are exempt from sales tax. [**See:** 68 OS. § 1356]

(b) **Application process.** To apply for this sales tax exemption permit, a completed Form 13-16-A must be mailed to the Oklahoma Tax Commission, Business Tax Services Division, Oklahoma

city, OK 73194, along with all required documentation. Form 13-16-A is included in Packet E, which may be found online at tax.ok.gov. The following documentation must be included with he application at the time of submission:

(1) A letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and,

(2) Documentation which shows the applicant meets the criteria set out in subsection (a) above as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales to or purchases by the organization are exempt. The organization must keep accurate records to enable it to properly document the exemption on its purchases and to know when it is required to charge sales tax on its sales. If sales tax is collected by the organization on sales which could have been exempt under the provisions of this Section, the sales tax must be remitted to the Oklahoma Tax Commission. Only those purchases actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchase of tangible personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying organizations exempt from sales tax.

[**Source:** Added at 43 Ok Reg, Number 20, effective 7-11-26]

PART 45. MODULAR DWELLING UNITS

710:65-13-450. Partial exemption for modular dwelling units

Forty-five percent of the total sales price for the sale of a modular dwelling unit is exempt from sales tax when the modular dwelling unit is built at a production facility and moved in whole or in parts, to be assembled on site, and permanently affixed to the real property and used for residential or commercial purposes. For purposes of this exemption a "modular dwelling unit" means a structure that is not subject to the motor vehicle excise tax imposed pursuant to Section 2103 of Title 68.

[**Source:** Added at 23 Ok Reg 2861, eff 6-25-06]

PART 47. COMMERCIAL FORESTRY EQUIPMENT

710:65-13-470. Exemption for sales of commercial forestry service equipment

(a) **General provisions**. Effective January 1, 2022 and ending January 31, 2027, sales of commercial forestry service equipment, limited to forwarders, fellers, bunchers, track skidders, wheeled skidders, hydraulic excavators, delimbers, soil compactors, and skid steer loaders are exempt to business engaged in logging, timber, and tree farming.

(b) **Qualifying activities**. Business engaged in growing trees as classified under NAICS 1132 [Forest Nurseries and Gathering of Forest Products] or the cutting, harvesting or removal of trees as classified under NAICS 113 [Forestry and Logging] are eligible for the exemption outlined in this Section.

(c) **Application process**. Application is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov, along with the following information:

(1) Proof of business registration with the State of Oklahoma under one of the NAICS groups

outlined in subsection (b), or
(2) A written description which demonstrates the qualifying activities of the applicant as evidenced by copies of:
(A) Contracts;
(B) Agreements, or
(C) Notarized statement from the owner or chief operating officer of the business.

[**Source:** Added at 39 Ok Reg 2264, eff 9-11-22]

PART 49. [RESERVED]

PART 51. SALES TAX HOLIDAY

710:65-13-510. [RESERVED]

710:65-13-511. Exemption for sales of clothing and footwear during three-day period in August

(a) **General provisions.** Beginning at 12:01 a.m. on the first Friday in August and ending at twelve midnight on the following Sunday, sales of any item of clothing or footwear with a sales price of less than one hundred dollars ($100) per article will be exempt from sales and use tax.
(b) **Exemption applicability.** This exemption does not apply to the sale of any accessories or to the sale of any special clothing or footwear primarily designed for athletic activity or protective use or to the rental of clothing or footwear.
(c) **Definitions.** For purposes of this section:
(1) "Accessories" means any item, other than clothing or footwear that is carried on or about the human body, without regard to whether the item is worn on the body in a manner that is characteristic of clothing or footwear. Such items include jewelry, nonprescription eyewear, handbags, wigs, hair pieces, wallets, purses, umbrellas, watches, cosmetics, briefcases, luggage, barrettes, cuff links, hair bows, hair clips, hair nets, handkerchiefs, and other similar type items.
(2) "Clothing" means all human wearing apparel suitable for general use.
(A) A nonexclusive list of clothing is as follows:
(i) Aprons, household and shop;
(ii) Athletic supporters;
(iii) Baby receiving blankets;
(iv) Bathing suits and caps;
(v) Beach capes and coats;
(vi) Belts and suspenders;
(vii) Boots;
(viii) Coats and jackets;
(ix) Costumes;
(x) Diapers, children and adult, including disposable diapers;
(xi) Ear muffs;
(xii) Footlets;
(xiii) Formal wear;
(xiv) Garters and garter belts;
(xv) Girdles;
(xvi) Gloves and mittens for general use;
(xvii) Hats and caps;
(xviii) Hosiery;
(xix) Insoles for shoes;
(xx) Lab coats;

(xxi) Neckties;
(xxii) Overshoes;
(xxiii) Pantyhose;
(xxiv) Rainwear;
(xxv) Rubber pants;
(xxvi) Sandals;
(xxvii) Scarves;
(xxviii) Shoes and shoe laces;
(xxix) Slippers;
(xxx) Sneakers;
(xxxi) Socks and stockings;
(xxxii) Steel toed shoes;
(xxxiii) Underwear;
(xxxiv) Uniforms, athletic and non-athletic; and
(xxxv) Wedding apparel.

(B) "Clothing" shall not include:
(i) Belt buckles sold separately;
(ii) Costume masks sold separately;
(iii) Patches and emblems sold separately;
(iv) Sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and
(v) Sewing materials that become part of "clothing" including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

(3) "Eligible item" means tangible personal property that is exempt from tax under this Section that is purchased during the three day period in August and includes certain clothing and footwear with a sales price of less than $100.00 per article of clothing or pair of footwear.

(4) "Footwear" means any shoe, boot or other similar article that is designed to be worn on a foot.

(5) "Layaway sale" means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller, when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser.

(6) "Rain check" means the seller allows a customer to purchase an item at a certain price at a later time because the particular item was out of stock.

(7) "Special clothing or footwear primarily designed for protective use that is not normally worn except when used for the protective use for which it is designed" or "protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. This type of clothing and footwear includes, but is not limited to, breathing masks; clean room apparel and equipment; ear and hearing protectors; face shields; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welder's gloves and masks.

(8) "Special clothing or footwear that is primarily designed for athletic activity that is not normally worn except when used for the athletic activity for which it is designed" or "sport or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. This type of clothing and footwear includes, but is not limited to, ballet and tap shoes; cleated or spiked athletic shoes; gloves for athletic or recreational activity such as baseball, bowling, boxing, football, hockey, golf and other sports gloves; goggles; elbow, hand, knee and shin guards

or pads; life preservers and vests; mouth guards; roller and ice skates; shoulder pads; fishing and ski boots; and wetsuits and fins.

(d) **Exemption applications.** The application of the exemption to the sale of clothing or footwear during the exemption period is illustrated by the following examples:

(1) A customer purchases three shirts for $45.00 per shirt. All three items qualify for the exemption, even though the customer's total purchase price ($135.00) exceeds $99.99.

(2) A customer purchases a pair of shoes for $110.00. The purchase does not qualify for the exemption because the customer's purchase price exceeds $99.99.

(3) A customer purchases a tie for $50.00, a shirt for $55.00 and a suit for $300.00. The purchase of the tie and shirt qualify for the exemption, but the suit does not qualify.

(4) A customer purchases a sport's team jersey for $35.00. The purchase would qualify for the exemption.

(5) A customer purchases a football uniform for $75.00 and football cleats for $50.00. The purchase of the football uniform would qualify for the exemption, but the football cleats do not qualify.

(6) A customer purchases a gold pin for $99.00. The purchase would not qualify for the exemption because the item is an accessory.

(e) **Application of rules to exemption.**

(1) **Articles normally sold as a unit**. Articles that are normally sold as a unit may not be priced separately and sold as individual items in order to be exempt. The following examples illustrate the application of the rule to the exemption:

(A) A pair of shoes sells for $198.00. The pair of shoes cannot be split in order to sell each shoe for $99.00 to qualify for the exemption.

(B) A suit is normally priced at $300.00. The suit cannot be split into a coat and slacks so that one of the articles may be sold for less than $100.00 to qualify for the exemption. However, articles that are normally sold as separate articles, such as a sport coat and slacks, may continue to be sold as separate articles and qualify for the exemption.

(C) A packaged gift set consisting of a wallet (ineligible item) and tie (eligible item) would not qualify for the exemption.

(2) "**Buy One, Get One Free" and other similar offers**. If a seller offers "buy one, get one free" or "two for the price of one" on eligible items, the purchase shall qualify for the exemption when all other conditions of the exemption are met. However, if a seller offers a "buy one, get one for a reduced price" the two prices cannot be averaged to qualify both items for the exemption. The following examples illustrate the application of the rule to the exemption:

(A) A seller offers "buy one, get one free" on a pair of shoes. The first pair of shoes has a sale price of $99.00 and the second pair is free. Both pairs of shoes will qualify for the exemption because the first pair of shoes does not exceed the less than $100.00 exemption limitation.

(B) A coat is purchased for $120.00 and a second coat is purchased for half price ($60.00) at the time the first coat is purchased. The second coat will qualify for the exemption, but the tax will be due on the first coat. In this example, the sales price of the items may not be averaged in order to qualify for the exemption.

(3) **Discounts, coupons, and rebates**. The application of the exemption to discounts, coupons and rebates extended on an eligible item during the exemption period is illustrated by the following examples:

(A) Discounts offered by the retailers at the time of sale and which are taken by the customer at the time of sale affect the sales price of the purchased item. For example, if a seller sells a pair of jeans with a sales price of $110.00 and offers to discount the item 10 percent at the time of sale, the exemption would apply because the actual sales price of the jeans is $99.00.

(B) Coupons offered by the seller or vendor and used at the time of sale to reduce the sales price of an eligible item affect the sales price of the purchased item. For example, if a seller offers a reduction in sales price of $10.00 through a store coupon for an item of clothing with a sales price of $100.00, the exemption would apply to the purchase because the seller's actual sales price to the customer is $90.00.

(C) Coupons offered by a manufacturer that are used to pay for an eligible item do not affect the sales price of the purchased item. For example, if a customer gives to a seller a manufacturer's coupon for $20.00 for a pair of tennis shoes with a sales price of $100.00, the exemption would not apply.

(D) Rebates generally occur after the sale, thus the amount of the rebate does not affect the sales price of the purchased item. For example, if a pair of jeans was purchased for $100.00 with a manufacturer's rebate for $10.00, the exemption would not apply because the sales price is in excess of $99.99.

(4) **Exchanges.** The application of the exemption to an exchange of an eligible item purchased during the exemption period is illustrated by the following examples:

(A) A customer purchases an eligible item during the exemption period, but later exchanges the item for a different size, color, or other feature. No additional tax is due even though the exchange is made after the exemption period.

(B) A customer purchases an eligible item during the exemption period. After the exemption period has ended, the customer returns the item and receives credit on the purchase of a different item. Sales tax is due on the total sales price of the newly purchased item.

(C) A customer purchases an eligible item before the exemption period, but during the exemption period the customer returns the item and receives credit on the purchase of a different eligible item, no sales tax is due on the sale of the new item if the new item is purchased during the exemption period.

(5) **Gift certificates and gift cards.** Eligible items purchased during the exemption period using a gift certificate or gift card will qualify for the exemption, regardless of when the gift certificate or gift card was purchased. Eligible items purchased after the exemption period using a gift certificate or gift card are taxable even if the gift certificate or gift card was purchased during the exemption period. A gift certificate or gift card cannot be used to reduce the selling price of an eligible item in order for the item to qualify for the exemption.

(6) **Layaways.** For the purposes of this exemption, an eligible item will qualify for the exemption when final payment on the layaway is made by, and the item is given to the customer during the exemption period. The application of the exemption to a layaway of an eligible item purchased during the exemption period is illustrated by the following examples:

(A) A dress with a sales price of $75.00 is placed in layaway during the exemption period. The customer picks up the dress and makes final payment after the exemption period. The exemption does not apply.

(B) A coat with a sales price of $95.00 is placed in layaway before the exemption period. The customer makes the final payment and picks up the coat out of layaway on August 3, 2007. The exemption would apply because the coat was paid for and picked up during the exemption period.

(7) **Mail, telephone, e-mail, and internet sales.** The sale of an eligible item of clothing or footwear may qualify for the exemption when sold through the mail, telephone, e-mail or internet sales if:

(A) The item is both paid for and delivered to the customer during the exemption period; or

(B) The customer orders and pays for the item and the seller accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period. An order is considered for immediate shipment when the customer

does not request delayed shipment. The seller must accept an order during the exemption period even if delivery is not made during the exemption period. Actions to fill an order include placement of an "in date" stamp on a mail order or assignment of an "order number" to a telephone order. If the seller delays shipment of an order because of a backlog, or because stock is currently unavailable, the order is still for immediate shipment.

(8) **Out of stock sales.** A purchase where a customer orders and pays for the eligible item and the seller accepts the order during the exemption period will be eligible for the exemption, even if delivery is made after the exemption period.

(9) **Rain checks.** Eligible items purchased during the exemption period with the use of a previously issued rain check will qualify for the exemption. However, a rain check that is issued during the exemption period will not qualify an eligible item for the exemption if purchased after the exemption period.

(10) **Preorder sales.** The preorder of an eligible item of clothing or footwear may qualify for the exemption if the payment occurs during the exemption period.

(f) **Records.** The retailer is not required to obtain an exemption certificate on sales of eligible items during the exemption period. However, the retailer's records should clearly identify the type of item sold, the date on which the item was sold, the sales price of all items and, if applicable, any tax charged.

(g) **Refunds, receipts.** For the period of sixty (60) calendar days following the last day of the exemption period, when a customer returns an item that would qualify for the exemption, no refund of tax shall be given unless the customer provides a receipt or invoice showing tax was paid, or the retailer has sufficient documentation to show that tax was paid on the specific eligible item.

(h) **Time zones.** The time zone of the seller's location determines the authorized time period for a sales tax holiday when the purchaser is located in one time zone and the seller is located in another.

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-13-512. Reimbursement to municipality or county

For the fiscal years beginning on or after July 1, 2007, an amount of revenue shall be apportioned to each municipality or county which levies a sales tax subject to the provisions of 68 O.S. §§1357.10 and 2701(F) equal to the amount of sales tax revenue of such municipality or county exempted by the provisions of 68 O.S. §§1357.10 and 2701(F) based upon an estimate, by the Oklahoma Tax Commission, of the aggregate cost of the exemption for the municipalities or counties. The sales tax revenue shall be apportioned to the municipalities and counties in the proportions which total municipal and county sales tax revenue was apportioned by the Tax Commission for sales in the month of August for the preceding calendar year. Each municipality's and county's sales tax revenue collected for sales made in August of the preceding calendar year shall be divided by the total municipal and county sales tax revenue collected for sales made in August of the preceding calendar year. The resulting ratio shall determine the apportionment percentage for each municipality and county for August of the current fiscal year. The apportionment percentage shall be multiplied by the Tax Commission's estimated aggregate cost of the exemption to determine the amount of sales tax revenue each municipality or county is entitled to receive under 68 O.S. §1353(B).

[**Source:** Added at 19 Ok Reg 2070, eff 7-1-08]

PART 53. [RESERVED]

PART 55. TRUST AUTHORITIES

710:65-13-550. Trust authority transactions

(a) Trust authorities organized pursuant to 60 O.S. § 176 et seq. may purchase material exempt from sales tax, but may not appoint an agent to do so. In order for the transaction to be exempt from sales tax, the purchase must be invoiced to and paid for by the authority, using authority funds or revenue received from bonds let by the authority.

(b) Purchases made with flow-thru funds are taxable. Flow-thru funds are defined as monies deposited in a trust authority account, by private industry, with the authority to dispense the funds under the trust's own name. [**See:** 68 O.S. § 1356]

(c) The amount of proceeds received from the sale of admission tickets which is separately-stated on the ticket of admission, for the repayment of money borrowed by any public trust of which a county in this state is the beneficiary, for purposes set out in 68 O.S. § 1356(8), is not taxable.

(d) The amount of any surcharge, separately stated on an admission ticket, which is imposed, collected, and used for the sole purpose of constructing, remodeling, or enlarging facilities of a public trust having a municipality or county as its sole beneficiary is exempt from sales tax.

(e) Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with the enabling document for the Trust or Authority showing organization under 60 O.S. § 176 et. seq.

[**Source:** Amended and renumbered from 710:65-13-140 at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 27 Ok Reg 2308, eff 7-11-10]

PART 57. FOOD AND FOOD INGREDIENTS

710:65-13-570. Definitions

The following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:

"**Bottled water**" means *water that is placed in a safety sealed container or package for human consumption. Bottled water is calorie-free and does not contain sweeteners or other additives except that it may contain:*

(A) *Antimicrobial agents:*
(B) *Fluoride;*
(C) *Carbonation;*
(D) *Vitamins, minerals, and electrolytes;*
(E) *Oxygen;*
(F) *Preservative; and*
(G) *Only those flavors, extracts, or essences derived from a spice or fruit.* [68 O.S. § 1352(1)]

"Candy" means *a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients, or flavorings, in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour or requiring refrigeration.* [68 O.S. 1352(5)]

"Dietary supplements" means any product, other than tobacco which is required to be labeled pursuant to 21 C.F.R. Section 101.36 as a dietary supplement and are intended to supplement the diet. Dietary supplements are ingested in tablet, capsule, powder, softgel, gelcap, or liquid form. If not intended for ingestion in such form, they are not represented as conventional food and are not meant to be the sole item of a meal or of the diet. Dietary supplements contain one or more of the following dietary ingredients:

(A) *a vitamin;*
(B) *a mineral;*
(C) *an herb or other botanical;*
(D) *an amino acid;*

(E) *a dietary substance to supplement the diet by increasing the total dietary intake; or*

(F) *a concentrate, metabolite, constituent, extract, or combination of any ingredient described in subparagraphs (A) through (E) of this paragraph.* [68 O.S. § 1352(11)

"**Eating utensil**" means a useful tool or instrument used in the consumption of food. Eating utensil does not include material that is used solely to package and transport food. The term includes, but is not limited to:

(A) Bowls
(B) Chopsticks
(C) Cups
(D) Forks
(E) Glasses
(F) Knives
(G) Napkins
(H) Plates
(I) Skewers inserted into food and handed to the customer
(J) Spoons
(K) Straws

"**Food and food ingredients**" means *substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients shall include bottled water, candy, and soft drinks. Food and food ingredients shall not include:*

(A) *Alcoholic beverages;*
(B) *Dietary supplements;*
(C) *Marijuana, usable marijuana, or marijuana-infused products;*
(D) *Over-the-counter medications with a drug facts box or active ingredients labeling;*
(E) *Prepared food; or*
(F) *Tobacco.* [68 O.S. 1352(16)]

"**Food sold with eating utensils provided by the seller**" means *food sold with eating utensils provided by the seller who meets the following requirements:*

(A) *For a seller with a prepared food sales percentage (PFS%) of greater than 75%, the seller makes eating utensils available to purchasers or, if a food item is bottled water, candy, or soft drinks, the seller gives or hands the eating utensils to purchasers or makes plates, bowls, glasses, or cups that are necessary for the purchaser to receive the food available to purchasers. If a food item has four or more servings packaged as one food item sold for a single price, the seller must give or hand eating utensils to the purchaser. Serving sizes must be determined based on a label on an item sold, or if no label is available, then a seller shall determine the reasonable number of servings in an item, or*

(B) *For a seller with a PFS% of 75% or less, the seller's business practice is to give or hand eating utensils to purchasers. Eating utensils necessary for the purchaser to receive the food, such as bowls and cups, need only be made available to purchasers.* [68 O.S. § 1352(17)]

"**Food sold with eating utensils provided by the seller**" *does not include food items that have a utensil placed in a package with the food items by a food manufacturer.* [68 O.S. § 1352(17)]

"**Prepared food**" means:

(A) *Food sold in a heated state or that is heated by the seller;*
(B) *Two or more food ingredients mixed or combined by the seller for sale as a*

single item; or

(C) *Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws, but does not include a container or packaging used to transport the food; and*

(D) *Prepared food shall not include:*

(i) Food sold by food manufacturer, except for bakeries and tortilla manufacturers (NAICS subsector 3118);

(ii) *Food sold in an unheated state by weight or volume as a single item; and*

(iii) *Food sold that ordinarily requires additional cooking, not including just reheating, by the consumer prior to consumption.* [68 O.S. § 1352(25)]

"**Soft drinks**" means *any nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks shall not include beverages that contain:*

(A) *Milk or milk products:*

(B) *Soy rice, oat, or similar milk substitutes; or*

(C) *Greater than 50% of vegetable or fruit juice by volume.* [68 O.S. § 1352(31)]

[**Source:** Added at 41 Ok Reg, Number 23, effective 6-6-24 (emergency); Added at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-13-571. Food and food ingredients

(a) Effective August 29, 2024, the gross receipts or gross proceeds derived from the sale of food and food ingredients are subject to the state sales and use tax rate of 0%, except as otherwise provided in subsection (b).

(b) The gross receipts or gross proceeds derived from the sale of prepared food, alcoholic beverages, and dietary supplements are taxed at the state sales and use tax rate of 4.5%.

(c) The sale of food and food ingredients remains subject to any applicable municipal and county sales and use taxes.

[**Source:** Added at 41 Ok Reg, Number 23, effective 6-6-24 (emergency); Added at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-13-572. Prepared food

Prepared food is food generally intended for immediate consumption and is prepared to a point generally accepted as ready to be eaten without further preparation. Food which meets any of the criteria of paragraphs (1), (2) or (3) of this subsection is prepared food and taxed at the state sales tax rate of 4.5%.

(1) **Food and food ingredients sold in a heated state or that is heated by the seller.** Food that was heated by the seller at any time before the sale, is fully taxable as prepared food even if it is in an unheated state at the time of the sale. Heating includes baking, braising, boiling, broiling, dehydrating, frying, microwaving, roasting, simmering, smoking, steaming, or other forms of warming or cooking. The heating may occur at a premises other than the sales location. Food heated by the customer, not the seller, on the seller's premises is not food sold in a heated state.

(2) **Two or more food ingredients mixed or combined by the seller for sale as a single item.** Prepared foods include foods made or combined by the seller. A seller who mixes or combines two or more foods or food ingredients and sells the mixture or combination as a single item, is selling prepared food. For example, meals, salads, sandwiches, baked goods, and ice cream sundaes that are made by the seller are prepared food and are taxed at the state sales tax rate of 4.5% and any applicable municipal and count sales taxes.

(3) **Food sold with eating utensils provided by the seller.** Food is considered to be sold

with an eating utensil provided by the seller when the food is intended for consumption with the utensil provided. A customer's choice not to use a provided utensil does not affect whether an item is prepared food.

(A) For a seller with a PFS% of greater than 75% calculated pursuant to Section 710:65-13-573, food is sold with eating utensils provided by the seller if:

(i) The seller physically gives or hands the utensils to the purchaser or makes the utensils available to its customers by way of self-service station or other central location on the premises;

(ii) A food item has four or more servings packaged as one food item sold for a single price and the seller physically gives or hands the eating utensils to purchasers. To determine the number of servings in the food item, use the information on the product label. If there is no product label, the seller can make a reasonable determination as to the number of servings in the food item. If the transaction is for less than four servings, or the seller does not maintain adequate records of these sales, these food sales are taxed at the state sales tax rate of 4.5%.

(B) For a seller with a PFS% of 75% or less, food is sold with eating utensils provided by the seller if the seller's business practice is to physically give or hand eating utensils to purchasers, except that plates, bowls, glasses, and cups necessary for the purchaser to receive the food need only be made available to purchasers.

(C) Food is not sold with eating utensils provided by the seller if the food items have a utensil placed in a package with the food items by a person other than the seller, and that other person is a food manufacturer (NAICS sector 311). For any packager with any other NAICS classification code, the seller is considered to have provided the eating utensil.

[**Source:** Added at 41 Ok Reg, Number 23, effective 6-6-24 (emergency); Added at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-13-573. Prepared Food Sales Percentage (PFS%)

(a) **General provisions.** All sellers with prepared food sales greater than 75% of their total food sales and utensils are made available by way of a self-serve station or otherwise, are required to collect state sales tax on all food sales, unless the item meets the serving -size exception in subsection (c). Examples of seller that usually exceed the 75% rule include, but are not limited to:

(1) Cafes
(2) Restaurants
(3) Fast food restaurants
(4) Food court restaurants
(5) Diners
(6) Delicatessens
(7) Food trucks
(8) Concession stands
(9) Cafeterias
(10) Coffee shops
(11) Sports/entertainment area sellers
(12) Hot dog stands
(13) Juice bars
(14) Popcorn/Kettle corn sellers
(15) Sandwich shops
(16) Ice cream shops
(17) Sushi bars

(18) Taverns, bars, and grills
(19) Donut shops

(b) **Calculation of PFS%.** All sellers that primarily sell prepared food and food sold with eating utensils provided by the seller shall annually calculate their PFS%.

(1) If a seller has a PFS% of greater than 75%, food and food ingredients, bottled water, candy, and soft drinks are taxed at the state sales tax rate of 4.5%.

(2) If a seller has a PFS% of 75% or less, food and food ingredients, bottled water, candy, and soft drinks are subject to the state sales tax rate of 0%. All sales of prepared food are taxed at the state sales tax rate of4.5%.

(3) The 75% test is determined in the following manner:

(A) The numerator is the total sales of prepared food as defined in Section 710:65-13-570.

(B) The denominator is the total sales of food, ingredients, prepared food, bottled water, candy, and soft drinks.

(C) Exclude sales of alcoholic beverages, tobacco, motor vehicle fuels, and all other non-food sales from the numerator and denominator.

(4) On or before January 31 of each calendar year, sellers must calculate a PFS% using data from the prior year to calculate the PFS% for the current year. Sellers with multiple locations will only calculate one PFS%. New businesses shall make a good faith estimate of a PFS% for the first year. The good-faith estimate will be reviewed after three months and adjusted, if appropriate.

(5) The Tax Commission may request documentation from sellers to substantiate the PFS% calculation.

(c) **Exception to the 75% rule.** Even if more than 75% of the sales of food by the seller are sales of prepared food, sales of food or food ingredients are subject to the state sales tax rate of 0% if:

(1) The food item contains four or more servings packaged as one item for a single price;

(2) The food item has not been made or heated by the seller; and

(3) Eating utensils are made available to the buyer. However, if the seller's customary practice is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction, the food item is taxed at the state sales tax rate of 4.5%.

(d) **Serving size determination.** To determine the number of servings in the food item, use the information on the product label. If there is no product label, the seller can make a reasonable determination as to the number of servings in the food item. If the transaction is for less than four servings, or the seller does not maintain adequate records of these sales, these food sales are taxed at the state sales tax rate of 4.5%.

[**Source:** Added at 41 Ok Reg, Number 23, effective 6-6-24 (emergency); Added at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-13-574. Exclusions from prepared food

There are some items of prepared food that are exceptions to the rule and are not taxed as prepared food.

(1) Food that contains raw eggs, fish, meat, or poultry products that require cooking after the sales to prevent food-borne illnesses and food the customer generally cooks or heats after the sale. Food that would be fully taxable prepared food because two or more ingredients were mixed or combined by the seller, or because the food was at some time heated by the seller, or because the food was at some time heated by the seller, is not taxable when additional cooking is required (as opposed to just reheating) by the customer prior to eating.

(2) Food that is only cut, repackaged, or pasteurized by the seller. For example, meat from the deli counter that is sliced and wrapped for a customer or packaged into containers or onto platters for sale.

(3) Food sold in an unheated state by weight or volume as a single item and eating utensils are not provided by the seller.
(4) Food sold by manufacturers.
(5) Food that ordinarily requires additional cooking to finish the product to its desired final condition. Food that would be fully taxable prepared food because two or more ingredients were mixed or combined by the seller, or because the food was at some time heated by the seller, are subject to the state sales tax rate of 0% when additional cooking is required (as opposed to just reheating) by the customer prior to eating. For example, at a specialty store, a customer purchases a take-and-bake pizza. If eating utensils are not provided by the specialty store, the take-and -bake pizza is not taxed as prepared food.

[**Source:** Added at 41 Ok Reg, Number 23, effective 6-6-24 (emergency); Added at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-13-575. Claims for refund of state sales tax paid on food and food ingredient purchases

Claims for refund of the state portion of sales tax on food and food ingredients shall be submitted using Form 13-9-G. The following information and documentation must be included in order for the claim to be considered.
(1) The name, address, telephone number of the person claiming a refund;
(2) The name, address, telephone number of the vendor;
(3) A written, detailed explanation of why the credit/refund is due;
(4) A copy of the invoice or receipt that clearly identifies the items as qualifying for the state sales tax rate of 0% and shows the incorrect rate was charged on those specific items to qualify for a refund; and
(5) Proof of payment, such as copies of cancelled checks, bank statements or credit card receipts. If payment was made in cash, that shall be corroborated by the receipt. If the description on the invoice or receipt does not contain enough information to make a determination, the claim for refund shall be denied.

[**Source:** Added at 41 Ok Reg, Number 23, effective 6-6-24 (emergency); Added at 42 Ok Reg, Number 20, effective 7-15-25]

PART 65. WEB PORTALS

710:65-13-650. Exemption for sales of tangible personal property and services to a web search portal

(a) **General provisions.** Exempted from sales tax are *sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a web search portal located in this state which derives at least eighty percent (80%) of its annual gross revenue from the sale of a product or service to an out-of-state buyer or consumer. For purposes of this paragraph, "web search portal" means an establishment classified under NAICS code 519130 which operates web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format.* [68 O.S. § 1357(38)]
(b) **Where to apply.** To qualify for the exemption, the entity operating the web search portal must apply in writing to Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, requesting an exemption letter.
(c) **Application.** Application for exemption may be made by filing a signed, sworn affidavit with the Commission, stating:
(1) The name, address, and federal employer identification number of the applicant and the name and title of the person signing for the applicant;

(2) A statement that the entity which owns the establishment derives at least eighty percent (80%) of its annual gross revenue from the sale of products or services to out-of-state buyers or consumers, a statement of the entity's annual gross revenues, and the percentage of the annual gross revenues derived from sales made to out-of-state buyers and consumers, determined for the most recently completed income tax year;
(3) A statement that the applicant is primarily engaged in the activities appropriate to NAICS code 519130;
(4) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and
(5) Such additional information as the Commission may require to confirm eligibility.

(d) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying the exemption will be forwarded to the applicant.

(e) **Issuance, scope, limitations of certification letter.** The letter of certification issued by the Commission will become effective as of the date of the letter and will remain effective until revoked. The letter is valid only for property actually purchased by the qualifying entity, invoiced to that entity, and paid for by funds or check directly from the qualifying entity.

(f) **Purchases by contractors.** Purchases of taxable tangible personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor who performs improvements to real property for entities which are certified for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the certified entity.

(g) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance under the provisions of this Section and applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

[**Source:** Added at 24 Ok Reg 2397, eff 6-25-07; Amended at 26 Ok Reg 2354, eff 6-25-09]

PART 67. BROADBAND EQUIPMENT

710:65-13-700. Sales and use tax exemption for the sale, lease, rental, storage, use, or other consumption of qualifying broadband equipment by providers of Internet service or their subsidiaries

(a) **Definitions**. The following words and terms, when used in this Part, shall have the following meaning unless the context indicates otherwise:

(1) **"Broadband"** means those services and underlying facilities that provide access to and from the Internet of continuous speeds of at least twenty-five (25) megabits per second (Mbps) downstream, from the provider to the customer, and continuous speeds of at least three (3) megabits per second (Mbps) upstream, from the customer to the provider, using fixed, terrestrial facilities, including, but not limited to, wireless, copper wire, fiber-optic cable, or coaxial cable, to provide such service. The minimum Internet speeds listed in this paragraph shall be subject to change or update when, or if, the Federal Communications Commission makes new rulings related to its definition of broadband. [17 O.S. § 139.102(4)]
(2) **"Underserved"** means an area or region that has Internet service at speeds higher than those that meet the definition of an unserved area, but lower than those service speeds of high-speed Internet. [17 O.S. § 139.102(48)]
(3) **"Unserved"** means an area or region in which there is not at least one provider of terrestrial broadband service that is either:
(A) Offering a connection to the Internet, or

(B) Required, under the terms of the Federal Universal Service Fund or other federal or state grant, to provide a connection to the Internet. [See: 17 O.S. § 139.102]

(b) **General provisions.** The sale, lease, rental, storage, use or other consumption of qualifying broadband equipment by providers of Internet service or subsidiaries if the property is directly used or consumed by the provider or subsidiary in or during the distribution of broadband Internet service is exempt from state and local sales and use taxes.

(c) **Exemption exceptions**. Equipment purchased for the following functions, operations and other uses do not qualify for exemption:

(1) Supporting or ancillary functions, such as office operations, field operations, marketing, transportation, warehousing, data storage, or similar operations that do not directly result in the distribution of broadband Internet service do not qualify for exemption.

(2) Property directly used or consumed in or during the provision, creation, or production of a data processing service or information service, or property the provider grants, sells, or leases to the customer for use within the home or establishment receiving broadband.

(3) The following is a nonexclusive list of items that do not qualify for the exemption:

(A) Boxes, ducts, enclosures, frames, housing, shelter, vaults, conduit/pipes that hold wires, cables, and equipment
(B) Cable lashing wires
(C) Clamps
(D) Faceplates
(E) Guy wires
(F) Grounding equipment
(G) Mounting brackets,
(H) Nuts, bolts and other types of connectors
(I) Pedestals
(J) Racks
(K) Splice trays
(L) Tools
(M) Towers, poles
(N) Testing equipment
(O) Monitoring equipment
(P) Data storage
(Q) Cell phones
(R) Laptops/tablets
(S) Fiber splicing and repair

(d) **Administration.** Pursuant to statute, the exemption for sales of qualifying broadband equipment will be administered as a rebate of the state and local sales or use taxes paid by the providers of Internet services or subsidiaries thereof to the vendor or accrued and self-remitted to the State of Oklahoma.

(e) **Purchases qualifying for exemption.** No claim for a rebate shall be approved unless the following conditions are met:

(1) The equipment was purchased in order to establish or expand broadband services in underserved or unserved areas; and

(2) Claimant establishes that as a result of the equipment purchase there has been net growth in the number of potential customers served in underserved or unserved areas.

(f) **Claim deadlines.** Rebate claims for the outlined periods are governed by the following deadlines:

(1) **FY 23 rebate claims**. To qualify for rebate payments for FY 23, equipment or other items qualifying for the exemption must be purchased and placed in service between January 1, 2022, and December 31, 2023. To receive a rebate of sales/use tax paid on purchases of qualifying broadband equipment placed in service in calendar year 2022, a claim for rebate must be filed with the Tax Commission no later than September 1, 2023. Rebate claims for

sales/use tax paid for qualifying equipment purchased in calendar year 2023 must be filed with the Tax Commission not later than September 1, 2024. All claims attributable to calendar years 2022 and 2023 are to be processed by the Tax Commission not later than March 1, 2025.

(2) **FY 24 rebate claims.** To qualify for rebate payments for FY 24, equipment or other items qualifying for the exemption must be purchased and placed in service between January 1, 2024, and December 31, 2025. To receive a rebate of sales/use tax paid on purchases of qualifying broadband equipment placed in service in calendar year 2024, a rebate claim must be filed with the Tax Commission no later than September 1, 2025. Rebate claims for sales/use tax paid for qualifying equipment purchased in calendar year 2025 must be filed with the Tax Commission not later than September 1, 2026. All claims are to be processed by the Tax Commission not later than March 1, 2027.

(g) **Rebate cap**. For the fiscal year beginning July 1, 2023, and all subsequent fiscal years, the total amount of rebate is capped at $42,000,000 with $31,500,000 of the total reserved for eligible projects serving counties having a population density of fewer than one hundred (100) persons per square mile and $10,500,000 of the total reserved for eligible projects serving counties having a population density of one hundred (100) or more persons per square mile.

(h) **Distribution of rebate dollars**. The amount of rebate paid to each claimant shall be computed by dividing the applicable total rebate pool amount by the dollar amount of claims timely received by the Tax Commission with respect to each fiscal year, and paying in full the amount of the claims submitted if the amount of claims are equal to, or less than, the total rebate pool, or a pro rata share if the total amount of claims submitted exceed the rebate pool. Qualifying claim amounts which are not paid will not rollover to the next claim period.

(i) **Application process.** The sales/use tax rebate claims with supporting documentation are to be mailed to Credits and Refunds Section, Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194. Rebate claims must include the following information:

(1) The name, address, and telephone number of the contact person along with the name, address, telephone number and at least the last four digits of the purchaser's identification number.

(2) A written detailed explanation of why the rebate is due.

(3) Copies of the original invoices included in the rebate request, in chronological order, from the oldest to the most current. If the number of invoices exceeds twenty-five (25), the invoices must be accompanied by an electronic spreadsheet of the invoices associated with the rebate claim that relates back to the tax amount requested on the application for credit. The required fields should accurately list the vendor name, invoice date, invoice number, description of the items, the taxable amount, the sales/use tax requested, period the tax was remitted, permit number the tax was remitted under, and the jurisdiction(s) for which the tax was paid.

(4) Additional documents which support the rebate claim, including proof that equipment purchases established or expanded broadband services in underserved or unserved areas and resulted in a net growth in the number of potential customers served in the covered areas.

(5) If the amount of the request exceeds $10,000, the purchaser must also provide the following:

(A) A statement from each vendor to whom the purchaser paid the tax setting forth each invoice included in the claim;

(B) The amount of state, city and/or county tax collected from the purchaser and reported by the vendor and the local jurisdiction(s) for which the tax was paid; and

(C) The date on which the tax was remitted to the Tax Commission.

(6) Further, the claim must differentiate between project property serving counties with a population density of fewer than one hundred (100) persons per square mile and those with a population density of one hundred (100) or more persons per square mile.

[**Source**: Added at 41 Ok Reg 1652, eff 8-11-24]

SUBCHAPTER 15. INTERSTATE COMMERCE

710:65-15-1. Sales related to interstate commerce

(a) **General provisions.** Oklahoma Sales Tax does not apply to a transaction which is not within the taxing power of this State under the Constitution of the United States, as interpreted from time to time by applicable court decisions.

(b) **Tangible personal property shipped from this state.**

(1) Except in the limited situation provided for by 710:65-13-152.1, if tangible personal property is sold within this State, and possession is taken by the buyer within this State, sales tax applies, even if the property is to be transported out of this State immediately upon delivery.

(2) If tangible personal property is sold within this State and possession is taken by the buyer outside this State, the tax does not apply if the property is not to be used in Oklahoma. Possession is taken by the buyer outside this State only if either of the following is met:

(A) The seller is obligated to personally deliver the tangible personal property outside this State; or

(B) The seller is, by terms of the sales contract, obligated to deliver the tangible personal property to a common carrier or to the mails for transportation outside this State.

(3) If tangible personal property is sold within this State and possession is taken by the buyer outside this State, sales tax applies if the property is to be brought back into this State for use in this State.

(c) **Tangible personal property shipped into this state.** In those cases in which tangible personal property is shipped into this State pursuant to a contract of sale, the sale will be considered to be made in this State, and subject to sales tax, if either of the following is met:

(1) The delivery of the tangible personal property is made by the seller to the buyer in this State. Delivery of tangible personal property will be considered as made in this State if either:

(A) Physical possession of the tangible personal property is transferred by the seller to the buyer in this State; or

(B) If delivery is made by an out-of-state vendor in the vendor's own vehicle, then the transaction is subject to sales tax. [**See:** 68 O.S. § 1402]

(2) The tangible personal property is installed in this State, by the seller or seller's agent.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 17 Ok Reg 2677, eff 6-25-00]

710:65-15-2. Exempt sales to ships, motor vessels, or barges being used in interstate or international commerce

Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce are specifically exempted from the levy of sales tax, if the materials and supplies:

(1) Are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge; or,

(2) Enter into and become component parts of the ship, motor vessel or barge.

[**Source:** Added at 19 Ok Reg 1859, eff 6-13-02]

710:65-15-3. Sales by solicitation [REVOKED]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Revoked at 35 Ok Reg 2102, eff 9-14-18]

SUBCHAPTER 17. CITY AND COUNTY SALES TAXES [REVOKED]

710:65-17-1. Administration of city and county sales taxes [REVOKED]

[**Source:** Amended at 9 Ok Reg 3033, eff 7-13-92; Amended at 19 Ok Reg 1859, eff 6-13-02; Revoked at 21 Ok Reg 2581, eff 6-25-04]

SUBCHAPTER 18. SOURCING PURSUANT TO THE STREAMLINED SALES AND USE TAX ADMINISTRATION ACT

710:65-18-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes under the Streamlined Sales and Use Tax Administration Act. [68 O.S.Supp.2003, §§1354.14 through 1354.23]

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. **"Direct mail"** includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. **"Direct mail"** does not include multiple items of printed material delivered to a single address.

"Primary property location" *means a location indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith.* ***"Primary property location"*** *shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.* [68 O.S.Supp.2003, §1354.27(B)]

"Receive" *and* ***"receipt"*** *mean:*

(A) Taking possession of tangible personal property;

(B) Making first use of services; or,

(C) Taking possession or making first use of digital goods, whichever comes first.

"Receive" *and* ***"receipt"*** *do not include possession by a shipping company on behalf of the purchaser.* [68 O.S.Supp.2003, § 1354.27(E)]

"Sourced" means the location for which local sales and use taxes are to be applied.

"Transportation equipment" *means and includes:*

(A) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(B) Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:

(i) Registered through the International Registration Plan; and,

(ii) Operated under authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(C) Aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or,

(D) Containers designed for use on and component parts attached or secured on the items set forth in this subsection. [68 O.S.Supp.2003, § 1354.27(D)]

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-3. Sourcing of retail sales

For those sales that are not sales of mobile telecommunications services and are not the lease or rental of tangible personal property other than transportation equipment, the sales shall be sourced to the location for which city and county sales taxes will be charged in the following manner:

(1) *When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location;*

(2) *When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser, or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller. All sales by florists shall be sourced to its business location;*

(3) *When the provisions of paragraphs (1) and (2) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;*

(4) *When the provisions of paragraphs (1), (2), and (3) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and,*

(5) *When none of the previous rules of paragraphs (1), (2), (3) or (4) of this subsection apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.* [68 O.S.Supp.2003, § 1354.27(A)]

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 28 Ok Reg 961, eff 6-1-11]

710:65-18-4. Sourcing for lease or rental of tangible personal property

(a) For a lease or rental of tangible personal property:

(1) Where the lease or rental requires recurring periodic payments:

(A) The first payment will be sourced as set out in 710:65-18-3.

(B) For those payments made after the first payment, the payment will be sourced to the "primary property location", as defined by 710:65-18-2, for each period covered by the payment. The periodic rental or lease payments shall be sourced to the primary property location even though the property may be used intermittently at different locations.

(2) Where the lease or rental does not require periodic payments, the payment is sourced in accordance with the provisions of 710:65-18-3.

(3) Where the lease or rental is based on a lump sum or accelerated basis, the payment is sourced in accordance with the provisions of 710:65-18-3.

(b) This Section does not apply to motor vehicles, trailers, semitrailers, aircraft and "transportation equipment" as defined in *OAC* 710:65-18-2.

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-18-5. Sourcing of telecommunications services

(a) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise:

(1) ***"Air-to-ground radiotelephone service"*** *means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;*

(2) ***"Call-by-call basis"*** *means any method of charging for telecommunications services where the price is measured by individual calls;*

(3) ***"Communications channel"*** *means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;*

(4) ***"Customer"*** *means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service.* ***"Customer"*** *does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;*

(5) ***"Customer channel termination point"*** *means the location where the customer either inputs or receives the communications;*

(6) ***"End user"*** *means the person who utilizes the telecommunications service. In the case of an entity,* ***"end user"*** *means the individual who utilizes the service on behalf of the entity.* [68 O.S.Supp.2003, § 1354.30(A)(6)]

(7) ***"Home service provider"*** *means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act.* [68 O.S.Supp.2003, § 1354.30(A)(7)]

(8) ***"Mobile telecommunications service"*** *means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act;*

(9) ***"Place of primary use"*** *means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services,* ***"place of primary use"*** *must be within the licensed service area of the home service provider;*

(10) ***"Post-paid calling service"*** *means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service that would be a prepaid calling service except it is not exclusively a telecommunications service;*

(11) ***"Prepaid calling service"*** *means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;*

(12) "***Prepaid wireless calling services"*** *means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other nontelecommunicaton services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.* [68 O.S. Supp 2007 1354.30(A)(12)]

(13) ***"Private communication service"*** *means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels*

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

(14) ***"Service address"*** *means:*

(A) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in (A) of this paragraph is not known, ***"service address"*** *means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and,*

(C) If the locations in (A) and (B) of this paragraph are not known, ***"service address"*** *means the location of the customer's place of primary use.*

(b) **Services sold on a call-by-call basis.** *Except for those telecommunications services defined in (d) of this Section, sales of telecommunications which are sold on a "call-by-call" basis are sourced in accordance with the following:*

(1) When the call both originates and terminates in the same jurisdiction, the call is sourced to that jurisdiction.

(2) The jurisdiction in which the service address is located when the call either originates or terminates in that jurisdiction.

(c) **Services sold on a basis other than on a call-by-call basis.** *For those telecommunications services sold on a basis other than on a call-by-call basis, and except for those services defined in (d) of this Section, the sale is sourced to the customers place of primary use.*

(d) **Other telecommunication services.** *The sale of the following services shall be sourced as in the following manner:*

(1) *A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the provisions of Section 55001 of Title 68 of the Oklahoma Statutes;*

(2) *A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:*

(A) *The seller's telecommunications system, or*

(B) *Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;*

(3) *A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with* 710:65-18-3. *Provided, in the case of a sale of a prepaid wireless calling service, the provisions of paragraph (5) of* 710:65-18-3 *shall apply; and*

(4) *A sale of a private communication service is sourced as follows:*

(A) *Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located,*

(B) *Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located,*

(C) *Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty (50) percent in each level of jurisdiction in which the customer channel termination points are located, and*

(D) *Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel*

termination points in such jurisdiction by the total number of customer channel termination points. [68 O.S.Supp.2003, § 1354.30]

(e) **Ancillary services.** The sale of an ancillary service is sourced to the customer's place of primary use.

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 19 Ok Reg 2070, eff 7-1-08; Amended at 27 Ok Reg 129, eff 10-2-09 (emergency); Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-18-6. Sourcing of sales involving direct mail

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Advertising and promotional direct mail**" means printed material that meets the definition of "**direct mail**," in *OAC* 710:65-18-2, the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used in this definition, the word "**product**" means tangible personal property, a product transferred electronically or a service.

(2) "**Other direct mail**" is defined as not "**advertising and promotional direct mail**" regardless of whether "**advertising and promotional direct mail**" is included in the same mailing. "**Other direct mail**" does not include the development of billing information or the provision of any data processing service that is more than incidental. The term includes, but is not limited to:

(A) Transactional direct mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, payroll advices;

(B) Any legally required mailings including, but not limited to, privacy notices, tax reports and stockholder reports; and

(C) Other non-promotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

(b) *Notwithstanding the provisions of* 710:65-18-3, *a purchaser of* advertising and promotional *direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either a Direct Mail Form or information to show the jurisdictions to which the* advertising and promotional direct *mail is delivered to recipients.* [68 O.S.Supp.2003, § 1354.29(A)]

(1) Upon receipt of the Direct Mail Form, the seller is relieved of all obligations to collect, pay or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A Direct Mail Form shall remain in effect for all future sales of advertising and promotional *direct mail by the seller to the purchaser until it is revoked in writing.* [68 O.S.Supp.2003, § 1354.29(A)]

(2) Upon receipt of information from the purchaser showing the jurisdictions to which the advertising and promotional *direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.* [68 O.S.Supp.2003, § 1354.29(A)]

(c) *If the purchaser of* advertising and promotional *direct mail does not have a direct pay permit and does not provide the seller with either a Direct Mail Form or delivery information, as required by subsection* (b) *of this Section, the seller shall collect the tax according to paragraph (5) of* 710:65-18-3. *Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state to which the* advertising and promotional *direct mail is delivered*. [68 O.S.Supp.2003, § 1354.29(B)]

(d) *If a purchaser of* advertising and promotional *direct mail provides the seller with*

documentation of direct pay authority, the purchaser shall not be required to provide a Direct Mail Form or delivery information to the seller. [68 O.S.Supp.2003, § 1354.29(C)]
(e) The sale of "**other direct mail**" as defined herein is not taxable under the provisions of the Oklahoma Sales Tax Code.

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04; Amended at 29 Ok Reg 563, eff 5-11-12]

710:65-18-7. [RESERVED]

[**Source:** Reserved at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-8. [RESERVED]

[**Source:** Reserved at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-9. Effective date for taxable services which span a rate change
The effective date for sales and use taxes for services spanning a statutory change in rates shall be:
(1) *For a rate increase, the new rate shall apply to the first billing period starting on or after the statutory effective date*; and
(2) *For a rate decrease, the new rate shall apply to bills rendered on or after the statutory effective date.* 68 O.S.Supp.2003, § 1354.25

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04]

710:65-18-10. Effective dates of sales and use tax rate changes and of municipal boundary changes
(a) Changes in municipal or county sales or use tax rates shall become effective on the first day of the calendar quarter following the sixty (60) day notice to vendors of such rate change, as required by law, or in the case of purchases from printed catalogs, the notice provided shall be one hundred twenty (120) days.
(b) To facilitate giving sixty (60) day notice to vendors of the changes in municipal and county sales tax rates and changes in the boundaries of municipalities, and to ensure compliance with the statutory directive that such changes be effective on the first of a calendar quarter, the municipality or county must give the notice of any changes in accordance with the following schedule:
(1) Where notice of a change in rate or boundary is received by the Tax Commission on January 1 through January 15, such rate or boundary change shall be effective for sales and use tax purposes on the following April 1.
(2) Where notice of a change in rate or boundary is received by the Tax Commission on April 1 through April 15, such rate or boundary change shall be effective for sales and use tax purposes on the following July 1.
(3) Where notice of a change in rate or boundary is received by the Tax Commission on July 1 through July 15, such rate or boundary change shall be effective for sales and use tax purposes on the following October 1.
(4) Where notice of a change in rate or boundary is received by the Tax Commission on October 1 through October 15, such rate or boundary change shall be effective for sales and use tax purposes on January 1 of the following year.
(c) Failure to provide timely notice to the Commission of a rate or boundary change will delay the effective date of the rate or boundary change to the first day of the calendar quarter following such notice being given to the Commission and to the public for the requisite sixty (60) days.
(d) Vendors will be notified of rate changes by posting the changes to the rate charts available on

the Tax Commission website at: www.tax.ok.gov.

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04]

SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES

PART 1. "A"

710:65-19-1. Accountants

(a) Accountants use books, supplies and equipment which are sales or use taxable to them at the time of purchase. Accountants also subscribe to and receive tax reporting services which are subject to tax. Books and other publications sold by tax service companies are also subject to the tax.

(b) Accountants and accounting firms must collect, report, and remit sales tax on gross receipts from sales of tangible personal property and services taxable under the Sales Tax Code, including photocopying and FAX.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-2. Advertising agencies

(a) Advertising agencies perform a service in formulating ideas and programs for advertising purposes. All materials purchased by an advertising agency including, but not limited to, drawing supplies, photographic supplies, and office supplies are consumed by the agency in performing the service and are subject to sales or use tax at the time of purchase. The subsequent transfer of materials to the agencies' clients are not subject to the tax.

(b) Advertising agencies which sell letterhead paper, business cards, etc. shall be subject to the rules pertaining to printers for said sales.

710:65-19-3. Vendors of tangible personal property employed for advertising

(a) The sale of blotters or calendars to a purchaser who gives such items to others as part of a general goodwill, sales promotion or advertising campaign, apart from his sale of other tangible personal property or service, is a taxable sale of the blotters or calendars to such purchaser.

(b) Likewise, the sale of tangible personal property to a purchaser who sends such tangible personal property to others upon receipt of a small sum "to cover postage and handling charges," apart from his sale of other tangible personal property or service, is a taxable sale of such property to such purchaser.

710:65-19-4. Alarm systems

(a) As used in this Section, the term **"monitored systems"** means burglar, security and fire alarm systems which are furnished, installed and monitored under contract with the person furnishing and installing such systems. Systems which are monitored by a person other than the person who furnished and installs such system, e.g., those which are connected directly to the police or fire department, are not **"monitored systems"** as the term is used in this Section.

(b) Charges, separately stated, exclusively for monitoring systems constitute charges for a service which are not subject to sales tax. The person selling/leasing and installing the monitored system is deemed to be selling tangible personal property and must collect and remit the tax on such property at the time of sale.

(c) Persons engaged in the sale or lease and installation of burglar, security or fire alarm systems are engaged in making sales, the total charge for which is subject to sales tax. Separately stated installation charges are not subject to sales tax. Persons engaged in sales or leases must register as a vendor and collect and remit sales tax in respect to the sales or leases. All items used by the vendor in installing such a system, for example wiring which remains a part of the building, nails and similar items, are taxable to the vendor at the time of purchase.

(d) The sale of security and fire devices such as smoke detectors, and similar items which do not become attached to realty are sales of tangible personal property, the total charge for which is subject to sales tax. Persons engaged in the sale and installation of other types of security devices such as permanent window bars and similar items which become permanently affixed to realty are consumer/users with respect to such transactions and must pay the tax on all property installed.

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 21 Ok Reg 2581, eff 6-25-04]

710:65-19-5. Sales of alcoholic beverages

Persons selling alcoholic beverages to purchasers for use or consumption are required to remit sales tax to the Commission upon the total retail value from such sales, pursuant to *OAC* 710:20-5-4, notwithstanding the fact that manufacturers and importing distributors of alcoholic beverages are required to pay certain taxes.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 22 Ok Reg 1585, eff 6-11-05]

710:65-19-6. Place of amusement

(a) The total receipts accruing from sales of tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities, and free or complimentary admissions not included in (c) of this Section, which have a value equivalent to the charge that would have otherwise been made, are subject to sales tax. Places of amusement, sports, entertainment, exhibition, display or recreation include, but are not limited to, theaters, motion picture shows, auditoriums where lectures and concerts are given, amusement parks, fairgrounds, race tracks, baseball parks, football stadiums, swimming pools, street fairs, dance halls, cabarets, nightclubs, golf courses, skating rinks, art exhibits, and gymnasiums. Places of amusement or entertainment also include all places where the public is charged a fee for admission to see any kind of display or hear any kind of a program.

(b) Charges for the privilege of entering or engaging in any kind of activity such as golf, tennis, racquetball, handball and games of skill, such as billiards are subject to sales tax if spectators are not charged an admission fee.

(c) Complimentary or free tickets issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees are not subject to sales tax. The exemption for state institutions of higher education applies only to complimentary or free tickets issued after July 1, 1994. [**See:** 68 O.S. §§1354(12), (13); 1356(18)]

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 14 Ok Reg 2711, eff 6-26-97]

710:65-19-7. Animals and animal related, non-farm

(a) Sales of animals to a person who holds a valid sales tax permit and who is regularly engaged in raising animals for sale are exempt from sales tax. Purchases made by persons primarily engaged in raising animals for any other purpose or use other than raising animals for sale are subject to sales tax.

(b) Sales of eggs, feed, supplies, machinery, and equipment to a person who holds a valid sales tax permit and who is regularly engaged in the business of raising worms, fish, any insect, or other terrestrial or aquatic animal life for sale are exempt from sales tax. In order to qualify for the exemption, each purchaser must certify in writing, on the copy of an invoice or sales ticket to be retained by the vendor, that the purchaser is regularly engaged in the business of raising animal life and that the items purchased will only be used in that business.

(c) Sales of tangible personal property for use and consumption in operating boarding kennels and stables, or pet shops, are subject to sales tax.
(d) Sales of animals that are not defined as "livestock" by Section 710:65-13-15 are subject to tax if the purchaser is not the holder of a valid sales tax permit who is regularly engaged in the business of raising the animals for marketing or reselling the animals.
(e) Persons operating boarding kennels and stables only, and making few or no sales of animals, are considered consumer/users subject to tax on the property purchased to operate the kennel or stable.
(f) Sales of livestock, including cattle, horses, mules or other domestic or draft animals sold by the producer by private treaty or at a special livestock sale are exempt regardless of whether the purchaser has a valid sales tax permit. Also exempt is the sale of feed which is purchased for and is fed to horses, mules or other domestic or draft animals if such livestock is used directly in the producing and marketing of agricultural products. [**See:** Section 710:65-13-15]
(g) Sales of animals or items exempted by this section will qualify for exemption only where the purchaser certifies in writing on a copy of each invoice or sales ticket that "(**The Purchaser**) is **regularly engaged in the business of raising animal life for marketing and that the items purchased exempt from sales tax will be used only in that business.**"

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 17 Ok Reg 2708, eff 6-25-00]

710:65-19-8. Animals; non-farm equipment and supplies [**REVOKED**]

[**Source:** Revoked at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-9. Antiques, works of art, and artists
(a) Sales of antiques and works of art are sales taxable, without deductions for trade-in values or expenses of any kind. Vendors regularly engaged in the business of selling antiques or works of art should collect, report and remit sales tax, regardless of the infrequency of the sales.
(b) Sales of curios, antiques, art work, postage stamps and like articles to art collectors, philatelists, or other persons who purchase such items for use or storage and not for immediate resale are sales subject to tax.
(c) Artists are consumer users of all tangible personal property used to create a painting, statue, figurine, or other piece of tangible personal property. If an artist is hired to create a work of art to custom order, the artist is performing a service and the amounts received by the artist for rendering this service are not taxable. If the artist has an existing work of art, or if the artist creates a piece of art work for speculation, the sale of the piece of art is subject to sales tax without any deduction for the cost of the materials used.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-10. Auctioneer
(a) Persons engaged in the business of sales at auction of their own tangible personal property or of tangible personal property which is consigned to them for sale are vendors, and are, therefore, required to hold sales tax permits and collect, report and remit the sales tax measured by the gross receipts from such sales.
(b) Auctioneers are obliged to add, collect and remit the tax even though they have been engaged by executors, administrators, trustees, receivers or other officers of a court to make sales of tangible personal property, even though such sales may be connected with liquidation or bankruptcy proceedings or made pursuant to court order.
(c) For the purpose of administering the Sales Tax Code, it is deemed that the auctioneer will have the property on consignment when he receives payment for the property sold, issues his bill of sale or invoice, and pays the owner for the property sold with his check or other remittance.

710:65-19-11. Automotive repair

(a) **Lump-sum charge for automotive repairs.** Automotive repair shops, service centers and body shops ("repair shops") that charge customers a single price for parts and labor should not collect sales tax from their customers, but instead should pay sales tax to suppliers when purchasing parts, materials and other property used to perform repair service. For example, a repair shop performs a windshield replacement for the lump-sum price of $150.00. The repair shop should pay tax when buying the windshield, gasket, and other items used in the repair, and should not collect tax on any portion of the $150.00 charge to the customer. If a repair shop erroneously charges sales tax, it must remit the tax collected in error or refund the tax to its customer even when sales tax was previously paid on the purchase of the items used in the repair.

(b) **Separately stated sales of parts and other property.** Repair shops making sales of parts and other property and separately charging customers for labor or installation are required to hold a sales tax permit and collect sales tax on the gross receipts attributable to the sales of parts and other property. Separately stated labor/installation charges are not subject to sales tax. Pursuant to its sales tax permit, a repair shop can purchase parts and other property which are furnished to customers in connection with the automobile repair service without the payment of tax. For example, if a repair shop replaces a car windshield for $50.00 labor and $100.00 for a windshield and gasket, it can purchase the windshield and gasket exempt from sales tax and must collect tax on the $100 separately stated charge for parts.

(c) **Body shops deemed consumers of certain materials.** Repair shops are considered the consumer of certain materials outlined in paragraphs (1) and (2) of this subsection utilized in performing repair services and must pay tax on these items at the time of purchase.

(1) **Tools, equipment and supplies utilized by repair shops.** Materials such as shop rags, safety glasses, sandpaper, masking tape, tools, equipment, and related items that are not incorporated into the customer's automobile when the repair service is performed.

(2) **Materials transferred by repair shops to customers in irregular quantities.** Materials used in performing repair services which are transferred to customers in varying volumes or amounts and which the repair shop has determined are incapable of a fixed or definite sales price. The following is a nonexclusive list of items that may be included in the described category of materials.

(A) Paint, primer, paint thinner
(B) Body filler
(C) Undercoating
(D) Spray on bed liner
(E) Lubricants and coolants
(F) Abrasives and or polishing compounds
(G) Window tinting
(H) Glues, resins, sealants, and adhesives
(I) Cleaning solvents and other related chemicals

(d) **Erroneously charged sales tax.** If a repair shop charges and collects sales tax in error, it must remit the tax collected in error or refund the tax to its customer.

[**Source:** Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 22 Ok Reg 1586, eff 6-11-05; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 30 Ok Reg 1868, eff 7-11-13]

710:65-19-12. Automobile repairers [**REVOKED**]

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Revoked at 18 Ok Reg 2823, eff 6-25-01]

710:65-19-13. Automotive bodyshops [**REVOKED**]

[**Source:** Revoked at 18 Ok Reg 2823, eff 6-25-01]

PART 3. "B"

710:65-19-25. Barbers and beauticians
(a) Barber and beauty shop operators primarily render personal services. They are the consumers or users of such tangible personal property used or consumed incidentally in the rendering of such personal service.
(b) Barbers and beauty shops who make sales of tangible personal property apart from the rendering of personal service may obtain a sales tax permit so that only items sold apart from the rendering of personal service may be purchased exempt from tax.
(c) Barber and beauty shops must collect, report and remit tax on sales of tangible personal property for use or consumption, such as, package cosmetics, hair tonics, lotions and like articles when sold apart from the rendering of personal services.

710:65-19-26. Bingo [**REVOKED**]

[**Source:** Revoked at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-27. Blacksmiths
(a) Blacksmiths are considered to be in the business of selling tangible personal property to users or consumers and also rendering services. They are liable for the tax only with respect to their receipts from the sale of their tangible personal property either by itself or furnished in connection with repair work.
(b) Where a blacksmith makes or fabricates tangible personal property for sale separately from the rendering of services, he is liable for the tax on the gross receipts of the sale of such articles.
(c) The sale of horse or mule shoes in connection with services rendered to a person regularly engaged in "agricultural production" is not taxable. Sales of these items to riding stables or jockey clubs are taxable, since those and similar enterprises are not considered "agricultural production".

[**Source:** Amended at 17 Ok Reg 2677, eff 6-25-00]

710:65-19-28. Bookkeeping, service bureaus
When a service bureau performs a bookkeeping service for a client, such as keeping a set of records and furnishing financial statements, payrolls, tax reports, accounts receivable, accounts payable, and similar statements, the charge is for a professional service and the transfer of the data, records, statements, etc. is not subject to sales or use tax. [**See:** 68 O.S. §1354(H)]

[**Source:** Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-29. Buildings and structures
(a) Any building structure permanently attached to land will not be subject to sales tax upon the sale of that structure, even though it is located on leased land or railroad right of way.
(b) Buildings sold to be moved as a unit or which are sold to be torn down and moved will be subject to the applicable sales tax. Fixtures and equipment which have retained their personalty are not to be considered a building or structure and are therefore subject to sales tax even if they are not specifically mentioned or have a value assigned to them in the sale documents.
(c) Furniture, fixtures, and equipment included in the sale of a business are taxable, even if included in the bulk sale of real property, motels, hotels, and apartments.

PART 5. "C"

710:65-19-40. Caterers

(a) The term **"caterer"** means a person engaged in the business of preparing or serving meals, food, and drinks, without regard to whether the service is at the caterer's place of business, the customer's location, or some other location, usually for a specified price for a specific menu or offering, but not off a menu to the public. The term does **not** include wait persons hired directly by a caterer's customer, whether hired by the hour, by the day, or for the event.

(b) Sales tax must be collected, reported and remitted on all charges made by caterers for serving meals, food, and drinks, inclusive of charges for food, the use of dishes, silverware, glasses, chairs, tables, etc., used in connection with serving meals, and for the labor of serving the meals. Sales tax must be collected, reported and remitted on charges made by caterers for the rental of dishes, silverware, glasses, etc., even though no food is provided or served by the caterers in connection with such rental.

(c) The gross receipts or gross proceeds derived from the sale of catered foods or beverages are taxed at the state sales and use tax rate of 4.5% and any applicable municipal and county sales taxes.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-19-41. Cemeteries and crematories

(a) Sales of tangible personal property (boxes, urns, vaults, markers, vases, flowers, etc.) by cemeteries and crematories are subject to taxation.

(b) The sale of lots, crypts and niches are considered to be real estate and are not taxable.

(c) Sales not for resale to cemeteries and crematories are taxable. These include materials and supplies used in construction, maintenance, improvement or alteration of buildings and grounds, such as seeds, plants, fertilizer, etc.

(d) Sales of equipment to cemeteries and crematories for consumption and use are taxable.

710:65-19-42. Cemeteries; tombstones, markers, and other memorials

(a) Memorial dealers are vendors of tombstones, markers and other memorials sold by them and also are vendors of the materials used in setting a memorial in the cemetery. Such sales are subject to tax.

(b) If the memorial dealer furnishes a memorial and sets it in the cemetery for a lump sum, the tax applies to the entire amount charged. If a separate and additional charge is made for the labor of setting the memorial, the tax does not apply to this labor charge. No deduction may be made of charges for cutting, shaping, polishing or lettering a memorial or for transporting it to the cemetery.

(c) When a cemetery constructs the foundation upon which a memorial is placed, the cemetery is acting as a contractor and should follow the rules pertinent thereto.

710:65-19-43. Chamber of commerce

A chamber of commerce is not entitled to exemption on its purchases as it is not a governmental, educational or church institution exempt by statute. The fact that city funds may be distributed to the chamber of commerce does not exempt the chamber of commerce on the expenditure of those funds unless the property involved is purchased directly by the city.

710:65-19-44. Sales made to or by charitable, fraternal, civic, educational societies and non-profit organizations

(a) **Sales "to".** Sales to non-profit, charitable, fraternal, civic and educational societies are subject to sales tax unless specifically exempt by the Sales Tax Code. Examples of organizations which are specifically exempt are the Council Organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A., and Camp Fire USA.

(b) **Sales "by".** The gross proceeds derived from sales of tangible personal property, admission charges, and taxable services by fraternal, civic or educational societies or organizations are taxable within the meaning of the Act.
(c) **Examples.** Examples of such organizations are as follows: Fraternal organizations, veterans organizations, Masonic Lodges, I.O.O.F. Lodges, W. O. W. Lodges, K. of P. Lodges, Knights of Columbus Lodges, B.P.O.E. Lodges, American Legion, Lions Club, Rotary Club, Chambers of Commerce, Kiwanis Clubs and other civic organizations. Examples of taxable transactions are as follows:

(1) If a Masonic Lodge conducts a dance and charges admission therefore, the gross proceeds derived from the sale of such tickets are subject to tax.

(2) If Kiwanis or any other civic organization sponsors a rodeo and receives a certain percentage of the gross receipts they will be required to report and remit the tax on the gross proceeds derived from sales of tickets of admission thereto.

(3) Donations in the form of tangible personal property of items purchased exempt for resale to fraternal, religious, civic, charitable or educational societies or organizations are taxable to the donor as a consumer/user.

(d) **Exemptions and exclusions.**

(1) Provided, however, services of printing, copying or photocopying performed by a scientific and educational library sustained by dues paid by members sharing the use of such services with students interested in geology, petroleum, engineering or the like are specifically excluded from taxation.

(2) The first Seventy-five Thousand Dollars ($75,000) of gross receipts by an organization exempt from taxation pursuant to Section 501(c)(4) of the Internal Revenue Code received for the sale of tickets and concessions at athletic events is specifically exempt from taxation so long as no sales tax is collected from the purchaser. Sales in excess of Seventy-five Thousand Dollars ($75,000) or gross receipts from the sales of anything other than tickets and concessions at athletic events are subject to taxation. Each organization falling within the exemption must file sales tax reports for each period, reporting total gross sales and then indicating as exempt the amount of sales of tickets and concessions made during the period. All sales of tickets and concessions in excess of $75,000.00 are subject to taxation.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 26 Ok Reg 2354, eff 6-25-09]

710:65-19-45. Chiropodists, osteopaths and chiropractors

(a) When chiropodists, osteopaths or chiropractors sell such items as over-the-counter drugs, heating pads, appliances or other tangible personal property to purchasers apart from their rendering of service as chiropodists, osteopaths or chiropractors, they must collect, report and remit sales tax. *Sales of vitamins, minerals and dietary supplements by a licensed chiropractor to a person who is the patient of such chiropractor at the physical location where the chiropractor provides chiropractic care or services to such patient* are exempt from sales tax. [68 O.S. § 1357(37)]
(b) Chiropodists, osteopaths and chiropractors are engaged in professions and primarily render service. To the extent to which they engage in such professions, they are not engaged in the business of selling tangible personal property to purchasers within the meaning of the Code. Consequently, they are not required to remit sales tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property dispensed incidentally to such service. However, the chiropodist, osteopath, and chiropractor must pay sales or use tax when purchasing such tangible personal property.

[**Source:** Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-46. Clipping and information bureaus

(a) Sales of press clippings are not taxable. If a press clipping bureau merely furnishes special information derived from press clippings to which it retains title, its receipts are deemed to be derived from rendering service and not taxable. Sales of duplicate photocopies of press clippings are taxable.
(b) Sales of lists of names, statistics and other information in the form of cards, sheets or other tangible personal property are taxable.

710:65-19-47. Retailers of clothing
(a) Persons who engage in the business of selling clothing to purchasers for use or consumption and not for resale must collect, report and remit sales tax when making such sales whether such clothing is sold as a stock or standard item or whether it is produced on special order for the purchaser. Suits, hats and other forms of clothing, when made on special order, serve substantially the same function as stock or standard clothing items that are sold.
(b) In computing sales tax liability on the sale of custom-made clothing, no deduction may be taken for the cost of labor involved in producing the finished item for sale. This is true whether such production labor is included in a lump sum price with the tangible personal property or whether such production labor is priced separately from the tangible personal property. The thing that is being sold is the finished item of clothing, and the cost of labor involved in making such item is no more deductible than is the cost of labor that is involved in producing a stock or standard item for sale.

710:65-19-48. Tailors, clothiers, dressmakers, and milliners
(a) Total gross receipts from all sales of tangible personal property by custom tailors, clothiers, dressmakers and milliners for consumption or use are subject to taxation, with no deduction for services or other costs.
(b) When such a person does not provide the goods worked upon and sells services only, such services are exempt even though they may include incidental and negligible items of material like thread, tape, buttons, etc., but the sale of items such as thread, tape, buttons, etc. to him are taxable.
(c) Where ready-to-wear suits, dresses, hats, etc., are sold at an established price, charges for alterations are not taxable only if charged separately. If such alterations involve the sale of material such as linings, trimmings, etc., the tax applies to the total charge unless the material is billed separately.

710:65-19-49. Golf and country clubs
(a) Sales and leases of tangible personal property, including but not limited to food, beverages, locker rental, club storage, cart service charges, pool rental, room rental, golf shop sales, and pro shop sales are subject to sales tax.
(b) Membership dues, tennis dues, pool dues and any other dues charged by a club, or similar business or establishment, required as a condition precedent to membership, are subject to sales tax.
(c) Swim, tennis, golf and other lessons given at a club or country club are subject to sales tax unless the club or country club is merely a conduit for the instructor and the entire fee charged for the lesson is turned over to the instructor who taught the lesson and reported for income purposes.
(d) Fees for instructional services at locations where no membership dues are charged and there is no member/non-member difference in fees, will be considered the provision of nontaxable services.
(e) Club and country club initiation fees, defined as any payment, contribution, or loan, required as a condition precedent to membership, whether or not such payment, contribution or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or organization to whom paid, contributed or loaned, greens fees and other fees charged

to members and fees charged to members who bring guest(s) to enjoy a club's swimming, golf, tennis or other facility are subject to sales tax. "Fees" include free or complimentary dues or fees which shall have the value equivalent to the charge that would have otherwise been made.
(f) Cart fees, cart rider fees, cart service charges, driving range fees, cart rental, and cart storage fees are subject to sales tax.
(g) Gross receipts from sales of stock certificates received by a country club from its members when members must purchase stock to gain access to the club's facilities constitute dues or fees for the use of facilities or services rendered at a health spa, club or any similar facility or business and are subject to sales tax. Furthermore, where members must purchase stock to gain access to the club's facilities, any stock transfer fee is similarly subject to sales tax. [**See:** 68 O.S. § 1354(12)-(14)]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 20 Ok Reg 2175, eff 6-26-03; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-50. Coins and bullion [**REVOKED**]

[**Source:** Amended at 28 Ok Reg 961, eff 6-1-11; Revoked at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-51. Complimentary tickets, passes, dues, fees
(a) Complimentary tickets, passes, dues, or fees are defined to be any method, oral or written, whereby a patron gains access to a place of entertainment, recreation or amusement without being charged, when there is regularly a charge for such admission or access.
(b) For sales tax purposes, complimentary tickets, passes, dues, or fees are declared to have a value equivalent to the customary sales price of similar items, dues, or fees of like kind or character. [**See:** 68 O.S. §1354(12)]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97]

710:65-19-52. Computers and related systems; "hardware" and "software" defined
(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) ***"Computer"*** *means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S.§ 1352]
(2) **"Computer hardware"** means the machine and all of its components and accessories that make up the physical computer assembly.
(3) ***"Computer software"*** *means a set of coded instructions designed to cause a "computer" or automatic data processing equipment to perform a task*. [68 O.S.§ 1352]
(4) "**Computer software maintenance contract"** means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both.
(5) ***"Electronic"*** *means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities*. [68 O.S.§ 1352]
(6) **"Load and leave"** means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.
(7) ***"Prewritten computer software"*** *means "computer software", including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser*. [68 O.S.§ 1352]

(8) **"Mandatory computer software maintenance contract"** means a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software.

(9) **"Optional computer maintenance contract"** means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(b) **Sale or rental of a computer.** The sale of a computer and its related components is subject to sales or use tax. The rental of a computer and its related components, including terminal equipment (hardware) is subject to sales tax.

(c) **Sale of prewritten computer software.** The sale of prewritten computer software delivered in a tangible media format is taxable. Prewritten computer software delivered by means of "load and leave" is also taxable.

(d) **Maintenance contract sold with prewritten computer software.** The taxability of a maintenance contract sold with prewritten computer software delivered in a tangible media format depends on whether the maintenance contract is mandatory or optional.

(1) If the contract is mandatory, the entire sale price, including the charge for the contract, is subject to tax.

(2) The charge for an optional contract shall be subject to taxation:

(A) If it provides **only** upgrades or updates which include prewritten computer software delivered in a tangible media format; or,

(B) If it provides both upgrades or updates and support services, and the fee for the support services is **not** stated separately.

(3) If the contract is optional and provides **only** maintenance agreement support services, the contract is **not** taxable.

(e) **Written training materials.** Written training materials are taxable, although the training services themselves are not.

(f) **Modifications to prewritten computer software.** Modifications to "prewritten computer software" do **not** result in the production of custom computer software. *Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten software; provided, however, that where there is a reasonable, separately-stated charge or an invoice or other statement of the price is given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software*. [68 O.S.§ 1352]

(g) **Custom computer software.** For purposes of this Section, the term **"custom computer software"** means a program prepared to the special order of a customer. The sale of a custom computer program is a service transaction, and therefore, is not subject to tax. In addition, charges for maintenance are not taxable.

(h) **Software purchased with computer.** The charge for prewritten computer software purchased with a computer is subject to tax. If a computer is bought with custom software and the charge for the software is not separately stated, the entire purchase price is subject to tax. In addition, the entire charge is subject to tax if modifications are required and the charge for the modifications is not separately stated and records do not adequately document the extent of the modifications.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-19-53. Concrete mixer trucks

(a) A concrete mixing unit mounted on a truck is classified as machinery used directly in

manufacturing and such mixing unit may be purchased exempt from sales and use tax.
(b) The term **"mixing unit"** is restricted to the rotating mixer and the accessories necessary for connecting it with the motor. Where a separate motor operates the rotating mixer exclusively, such motor is exempt from the sales tax, but where a motor operates the truck and also the rotating mixer, the motor is regarded as a part of the truck proper, and repair or replacement parts are not exempt. Repair or replacement parts for the mixing unit itself are exempt; but tires, tubes, batteries, oil, and all repair or replacement parts for the truck portion of the mixer-truck are taxable.
(c) The tax applies to sales of concrete produced in concrete mixer trucks. The amount on which the tax must be computed includes the charge for the concrete as well as any other service charges connected with such sale except separately stated transportation or drayage charges. [**See:** 68 O.S. §1359]
(d) Sales of redi-mixed concrete by a concrete company via a concrete mixing truck to a person who holds a sales tax permit for use in erecting an article of tangible personal property, such as a sign, where the person has claimed exemption from the sale of the concrete as a purchase for resale is exempt from sales tax when invoiced to the purchaser by the concrete company, since the purchaser will bill out the concrete to its customer and add sales tax on the charge which they bill.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-54. Consigned property

Sellers of property held on consignment are required to include the gross proceeds of sales of such property in sales tax returns filed under the Sales Tax Code.

710:65-19-55. Taxability of sales to contractors [REVOKED]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 29 Ok Reg 542, eff 5-11-12; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-56. Contractors and subcontractors [REVOKED]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1586, eff 6-11-05; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 26 Ok Reg 2354, eff 6-25-09; Amended at 29 Ok Reg 542, eff 5-11-12; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-57. Community action agencies and other non-profit corporations

Sales of tangible personal property to organizations which are community action agencies or nonprofit corporations including those that are federally funded are subject to state and local sales and use tax unless there is a specific exemption which applies.

710:65-19-58. Cotton gins [**REVOKED**]

[**Source:** Revoked at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-59. Store coupons [REVOKED]

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 22 Ok Reg 1587, eff 6-11-05; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-60. Made-to-order and custom sales

Where persons contract to manufacture, compound, process or fabricate their materials into articles of tangible personal property according to the special order of their customers, the total receipts from the sales of such articles are subject to tax. The seller may not deduct any of his costs, nor can he deduct any of his charges for labor or services, which are an item of the production or fabrication costs of the article, to arrive at the amount of gross receipts subject to tax. Articles commonly made to order are curtains, draperies, tents, awnings, clothing, and slipcovers. The person making sales of made-to-order and custom made articles may purchase the materials which become a component or ingredient of their products tax exempt pursuant to a valid sales tax permit. The equipment, tools and supplies directly used or consumed in the production of such articles and not becoming a part thereof are subject to tax.

710:65-19-61. Collections and collectibles

Sales of stamps and currency at face value are not taxable. Sales of stamps and currency which do not meet the exemption requirements of OAC 710:65-13-95 for consideration in excess of face value are taxable.

[**Source:** Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-62. Crates and crating companies

(a) Crates sold to end users are subject to sales tax. The entity who builds the crate for their customer should charge the appropriate tax on their sale of the crate to their customer. Crates created by a crating company, and used by the crating company to pack their customer's goods, are considered to have been sold to the customer, and the first use of the crates is at the time the crating company packs the crates with the customer's goods.

(b) Crating companies are not usually considered to be manufacturers. Generally, crating companies create crates to order, and in most instances package their customer's goods within the crates. The crating company should secure from the Tax Commission, a sales tax permit, and use this permit to purchase exempt from sales tax those items which become a part of the crates.

(c) Those crating companies which produce standard crates, and who operate in a manner consistent with other businesses who produce packaging material (such as cardboard boxes), are manufacturers of crates. Manufacturers of packaging material do not normally package their customer's goods. A manufacturer of crates should secure from the Tax Commission, a Manufacturer's Sales/Exemption Permit, which should be used by the crating company to purchase, exempt from Sales Tax, those items which become a part of the crate.

(d) Crates may be sold exempt from Sales Tax if the crate is transported outside of Oklahoma before being used to package goods. If the crate is used to package goods within Oklahoma, the sale of the crate is subject to Sales Tax, except as follows.

(e) Crates sold to a manufacturer of goods for use in packing, shipping or delivering tangible personal property for sale, may be sold exempt from sales tax if a valid claim of exemption is made by the manufacturer of goods. This exemption will not apply to crates which are not destroyed during product removal except crates specifically noted under 68 O.S., Section 1359(D) or (E). In addition, crates may be sold exempt from Sales Tax if the purchaser of the crates holds a Sales Tax Permit, is regularly engaged in the business of selling crates, and makes a valid claim for exemption on the basis of resale. (Note: Crates which are not destroyed during product removal, and which are purchased by a manufacturer of goods, may be sold exempt from Sales Tax if the purchaser holds a Sales Tax Permit, and claims a valid resale exemption. The manufacturer, purchaser, is required to charge his customer Sales Tax.)

[**Source:** Added at 13 Ok Reg 3139, eff 7-11-96; Amended at 17 Ok Reg 2677, eff 6-25-00]

PART 7. "D"

710:65-19-70. Delivery charges

(a) **Definition. "Delivery charges"** means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. **"Delivery charges"** does not include charges for the delivery of **"direct mail"** if the charges are separately-stated on an invoice or similar billing document given to the purchaser.

(b) **Separately-stated delivery charges.** In every case where a delivery charge represents the cost of transporting the items sold from the vendor to the consumer, and is separately-stated on the invoice or statement, such charges are not subject to sales tax.

(c) **Delivery charges included in price.** If delivery charges are included in the selling price of the tangible personal property sold, the charges are subject to sales tax.

(d) **Transportation costs of the seller.** Shipping, freight, or delivery charges paid by a seller in acquiring property for sale are considered costs of doing business to the seller and may not be deducted from the gross proceeds of the sale in computing tax liability, even though such costs may be passed on to his customers and regardless of whether they are separately-stated.

(e) **Demurrage.** Demurrage is a charge for detaining a ship, freight car, or truck beyond the time allowed for loading or unloading. This is considered a penalty and is not subject to sales tax.

[**Source:** Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04]

710:65-19-71. Dentists, dental laboratories, and dental supply houses

(a) **Dentists.** Dentists primarily render services and incidentally use tangible personal property in connection therewith. The gross receipts of dentists derived from these sources are not subject to the sales tax.

(b) **Dental supply houses.** Dental supply houses who sell tangible personal property such as platinum, gold, silver or cement for filling, artificial teeth or other such materials to a dentist for use in the performance of the dentist's services are making sales within the Sales and Use Tax Code and must collect, report and remit tax based on the gross receipts received from such sales. This is true whether the dental supply house sells material to a dentist whose services are rendered directly to a patient, or to a dental laboratory that uses the material in producing plates, bridge-work, artificial teeth or prosthetic devices on prescription of the dentist for the dentist to use in connection with rendering dental services. Dental supply houses likewise collect, report and remit tax on gross receipts from sales of dental chairs, motors, instruments, drilling machines or other such items for use by dentists or dental laboratories.

(c) **Dental laboratories.** Dental laboratories that purchase tangible personal property to produce plates, bridge-work, artificial teeth, prosthetic devices and the like must pay tax when the material is purchased and must not charge tax to the dentist when the finished product is transferred to the dentist.

(d) **Items purchased by dentists.** Items which are purchased by dentists, but which are used incidentally in the rendition of professional or laboratory services, are subject to sales or use tax and the dentist or professional must pay sales or use tax when the item is purchased. Examples of such taxable items are:

(1) Appointment Books
(2) Broaches
(3) Brushes, Tooth Cleaning
(4) Burs
(5) Cotton Rolls
(6) Discs, Sandpaper
(7) Examination Blanks
(8) Excavators
(9) Floss Silk

(10) Forceps
(11) Gauze
(12) Handpieces and Angles
(13) Instruments
(14) Mandrels
(15) Matrix Bands
(16) Mirrors
(17) Napkins
(18) Needles, All Types
(19) Paper Cups
(20) Pumice
(21) Scalers
(22) Scissors
(23) Sandpaper Strips
(24) Soap
(25) Towels
(26) Trays, Impression
(27) Aluminum Trays
(28) Plastic Trays
(29) Waste Receivers
(30) X-Ray Supplies

(e) The enumeration of the taxable items in subsection (d) is made by way of illustration and not limitation.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 20 Ok Reg 2175, eff 6-26-03]

710:65-19-72. Deposits, core charges and trade-ins

(a) A core deposit is the amount required by the seller to insure that the buyer of a rebuilt item will exchange or trade-in his old rebuildable item. No deduction from the gross proceeds of a sale is permitted for any credit allowed by the seller for the value of a core charge, deposit or a trade-in in exchange or part payment and the tax applies to the full selling price.

(b) The retail sale of used tangible personal property which has been acquired by the seller by purchase is taxable upon the full selling price. When an article acquired by the taxpayer by trade-in is subsequently resold, this sale also is taxable on the full selling price. If an article purchased or acquired in trade is salvaged or 'cannibalized' for parts, the sale or use of such parts is considered to be taxable. If the parts are used by the vendor to satisfy an extended warranty agreement, if there is no charge to the customer for the parts, the vendor shall report the cost of the parts on a withdrawal basis and pay sales tax on such cost.

(c) Examples of taxable transactions are as follows:

(1) John Doe needs to replace his battery. He drives to Lefty's Auto Supply and purchases a new battery. Lefty's Auto Supply charges thirty dollars ($30.00) for the battery and allows him five dollars ($5.00) exchange. Sales Tax is due on the full thirty dollars ($30.00).

(2) A piano is sold at retail for one thousand dollars ($1,000.00). The purchaser pays six hundred dollars ($600.00) in cash and is allowed a four hundred dollar ($400.00) trade-in. The selling price, upon which the sales tax must be collected and the amount to be reported as gross proceeds is one thousand dollars ($1,000.00). If the trade-in is later sold for five hundred dollars ($500.00), the sales tax must also be collected on the five hundred dollars ($500.00). [**See:** 68 O.S. § 1352]

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-19-73. Directories

Sales of business, telephone, city and other similar directories are taxable. When such directories are given without charge to users, the tax applies to the cost when sold to the donor.

710:65-19-74. Discounts [REVOKED]

[**Source:** Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2862, eff 6-25-06; Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-75. Donations

Persons conducting recreational events occasionally assert that the receipts are not taxable because they are donations and not charges for admission or an item of tangible personal property. To qualify as a donation, a payment must be totally voluntary and no restriction whatsoever may be placed on the entrance or receipt of tangible personal property of persons not making a donation. The facts surrounding the request for the donation must be obvious that admittance or receipt of property is not restricted to those making a donation. A set amount for the donation (through newspaper publicity or signs at the entrance), a turnstile or restrictive device that must be passed through, denial of tangible personal property or an attendant requesting a donation at the door shall be presumptive evidence that the charge is not a donation but that the payment is required. [**See:** IRS Revenue Rule 67-246]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-76. Drilling contractors [**REVOKED**]

[**Source:** Revoked at 29 Ok Reg 542, eff 5-11-12]

710:65-19-77. Dues and fees

(a) **General provisions.** Dues, fees, or any charge, payment, or contribution required as a condition precedent to membership in a club; or for access to the club establishment; or for access to or use of facilities, equipment, services, or privileges are subject to sales tax.

(b) **Definitions.** For purposes of this Section, **"dues"** and **"fees"** are used synonymously. **"Dues"** means, but is not limited to, payments made to support and maintain clubs, associations, or other membership organizations, or to acquire and retain membership therein. **"Dues"** includes free or complimentary dues or fees. In transactions where no monetary consideration is stated, **"dues"** means that value equivalent to the charge that would have otherwise been made.

(c) **Exemptions and exclusions.** Examples of transactions which are excluded from the application of this Section or are specifically exempt by statute are:

(1) Fees for instructional services at locations where no membership dues are charged, and there is no member/non-member difference in fees, are considered fees for the provision of nontaxable services.

(2) Dues paid to fraternal, religious, civic, charitable, or educational societies or organizations by regular members thereof, if:

(A) The organization operates under a lodge plan; and

(B) The organization does not operate for a profit which inures to the benefit of any individual member or members of the organization to the exclusion of other members.

(3) Dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects.

(4) Dues or fees paid to YMCAs or YWCAs or municipally-owned recreation centers for the use of facilities and programs. As used in this Section, **"recreation centers"** shall not mean zoological or botanical parks or golf courses.

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 23 Ok Reg 2862, eff 6-25-06]

PART 9. "E"

710:65-19-85. [RESERVED]

710:65-19-86. Electronic data processing services

(a) Sales of electronic data processing services to others are exempt from sales tax. For purposes of this Chapter, **"electronic data processing services"** means the processing of another's data, including all processing such as key punching, keystroke verification, rearranging, or sorting of previously documented data for the purpose of data entry or automatic processing, and changing the medium on which data is sorted, and also the providing of access to computer equipment for the purpose of processing data or examining or acquiring data stored in or accessible to such computer equipment.

(b) Because sales of electronic data processing services to others are not taxable services within the meaning of this Chapter, purchases such as card readers, computers, printers, etc. made for use in rendering electronic data processing services for others and purchases of related software and supplies are taxable, except for purchase for resale, which may be made exempt from sales and use tax with a valid sales tax permit.

710:65-19-87. Employee associations and organizations

Organizations of employees which sell tangible personal property of any kind to their members or others must procure a sales tax permit and collect, report and remit the tax on such sales.

710:65-19-88. Employer sales to employees

(a) When an employer sells tangible personal property to his employees, permits them to purchase through his organization or to buy from others on discounts available to him or in any other manner obtain goods through him, such sales are taxable. The employer shall include such sales amount in his gross receipts for his sales tax return for the current month and remit the tax.

(b) When an employer purchases tangible property for free distribution to employees, the tax applies to the sales price of such property given by him.

710:65-19-89. Exchange or return of merchandise

(a) **Returns of merchandise.** In the event merchandise purchased from a vendor, upon the sale of which tax has been charged, is returned to the vendor in exchange for another item the vendor may, provided he allows the customer the full purchase price of the item returned plus the tax thereon, either by credit or refund, record the net difference between the selling price of the item returned and the item delivered to the customer in the exchange as an addition to or deduction from gross sales, whichever is appropriate, on his report for the current month.

(1) If the price of the item delivered to the customer in the exchange is greater than the price of the item returned, the vendor must report the difference as an addition to gross sales and collect the appropriate amount of sales or use tax thereon.

(2) If the price of the item delivered to the customer in the exchange is less than the price of the item returned, the difference in price may be deducted from gross sales on his report for the current month provided full credit in the amount of the purchase price, including the tax, has been allowed the purchaser.

(b) **Restocking charge.** In the event a customer returns a taxable item for credit or refund and the seller charges the customer a restocking fee, the sales tax refunded to the customer is on the net amount of the refund after any charge for the restocking fee.

[**Source:** Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 25 Ok Reg 2070, eff 7-1-08]

PART 11. "F"

710:65-19-100. Deliveries on federal areas

(a) As used in this Section, the term **"federal area"** means any lands or premises held or acquired by or for the use of the United States or any department, establishment or agency of the United States. Any Federal area, or any part thereof, which is located within the exterior boundaries of the State of Oklahoma, is deemed to be a Federal area located within the State of Oklahoma for the purposes of this Section.

(b) Provided the tax would otherwise apply, persons engaged in the business of selling tangible personal property are required to collect, report and remit sales tax to the Commission notwithstanding the fact that the delivery of the personal property sold is made on a federal area. It is immaterial that the place of business of such persons may be located on the federal area.

710:65-19-101. [RESERVED]

710:65-19-102. Federal excise taxes

Federal excise taxes which are levied upon the manufacturer or retailer are not deductible from gross sales even though they are invoiced or added to the bill of the consumer/user as a separate item. The tax is part of the purchase price of merchandise sold by the retailer to the consumer, and the sales tax shall be computed upon the full selling price, which includes the federal excise tax.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-103. Finance charges

(a) **"Gross receipts"** or **"gross proceeds"**, as the case may be, does not include finance charges, carrying charges or interest charges on conditional sale contracts or other contracts providing for deferred payments of the purchase price, if the amount of such finance charges, carrying charges or interest is in addition to the usual or established cash selling price, and such amount:

(1) Is segregated on the invoice or bill of sale, or

(2) Is billed separately to the customer.

(b) Unless the conditions described in subsection (a) are met, such charges shall be deemed to be part of the gross proceeds or gross receipts for the purpose of computing the tax. [**See:** 68 O.S. §1352]

710:65-19-104. Finance companies and other lending agencies; repossessions

In case a retailer repossesses tangible personal property and subsequently resells such property to a purchaser for use or consumption, his gross receipts from such sale of the repossessed tangible personal property are subject to sales tax.

710:65-19-105. Sales by banks, savings and loan associations, credit unions and other financial institutions

(a) Financial institutions are primarily engaged in providing nontaxable services. Such services include charges to customers for cashier's checks, money orders, traveler's checks, checking accounts and the use of safe deposit boxes.

(b) A financial institution shall obtain a sales tax permit and regularly file sales and use tax returns if it regularly has taxable gross receipts. Taxable gross receipts include sales of the following:

(1) Coin savings banks.

(2) Commemorative medals unless made from a precious metal that is in such a state or condition that its value depends upon its precious metal content and not its form.

(3) Collectors' coins or currency sold above face value which do not meet the requirements for exemption pursuant to OAC 710:65-13-95.
(4) Repossessed assets.
(5) Meals and beverages in the institution's cafeteria.
(6) Charges for providing parking space for motor vehicles.

(c) Financial institutions who only occasionally make sales of tangible personal property need not obtain a sales tax permit but must collect, report and remit sales tax on all sales of tangible personal property.

[**Source:** Amended at 32 Ok Reg 1376, eff 8-27-15]

710:65-19-106. Sales to banks, savings and loan associations, credit unions and other financial institutions

(a) Sales to national banks, state chartered banks, federally chartered savings and loan associations, state chartered savings and loan associations, state chartered credit unions, and other privately-owned financial institutions are subject to sales and use tax.

(b) These institutions' purchases subject to sales or use tax include office furniture and equipment (such as desks, chairs, couches, writing tables and office machines), safe deposit boxes, drive-up and walk-up windows, night depository equipment, vault doors, remote TV auto teller systems and camera security equipment.

(c) This conclusion also applies to sales of building materials and fixtures to construction contractors for incorporation into real estate owned by banks and savings and loan associations even if such real estate is used for bank or savings and loan association purposes. For purposes of this subsection, the date of sale is considered to be the date of delivery to the purchaser.

(d) Any tangible personal property purchased by an institution to be given away or sold at cost or less than cost to a customer, whether or not based upon the amount of a deposit, is taxable at the time it is purchased. This property includes calendars, playing cards, plat books, maps and any other items transferred to customers to promote business. Checking account and savings account forms provided customers free of charge are also subject to the tax. When such items are sold by a financial institution at a price in excess of cost, the financial institution may purchase such property without paying sales tax by giving its vendor a valid sales tax permit. At the time the property is resold, to the financial institution's customer, sales tax should be collected, reported and remitted to the Commission by the financial institution.

(e) However, sales to Federal Reserve Banks, Federal Land Banks, and Federal Home Loan Banks, and federally chartered credit unions are exempt from sales and use tax pursuant to either the exemption for sales to the federal government, or because federal law preempts state taxation of certain institutions.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-107. Fixtures; "materials" defined for the purpose of developing and improving real property

(a) The term **"materials for the purpose of developing and improving real property"** as used in the Sales and Use Tax Codes, means all tangible personal property, including any device or appliance used by builders, contractors, or landowners in making improvements, additions, alterations or repairs to real property in such a way that such tangible personal property becomes identified with a part of realty.

(b) A device or appliance becomes a fixture and a part of the real property to which it is connected when it is built into or is attached to a structure in such a way that its removal would substantially damage or deface such structure.

(c) Where the removal of the device or appliance would not substantially damage or deface the structure to which it is connected the following factors shall be considered:

(1) Actual connection with or attachment to real property. To become a part of real property, the device or appliance must have some physical connections such as: by bolts, screws, nails, cement piping, or cable; by contact, where by reason of great weight or bulk, no additional attachment is required; by contact, where the device or appliance is necessary to make complete or usable something which is real property; by attachment to another device or appliance which has become a part of real property.

(2) Appropriateness to the use or purpose of the real property to which connected. The use or purpose of the device or appliance must become an element of the use or purpose of the real property to which it is connected.

(d) This Section is not intended to apply to cook stoves, refrigerators, dishwashers, washing machines, dryers, curtains, draperies, and portable heaters, acquired for the personal use of householders or tenants which may be removed without material damage to the buildings in which they are used. [**See:** 68 O.S. §1352]

710:65-19-108. Florists, telegraphic orders

When florists sell through a telegraphic delivery association, the following provisions will apply:

(1) Oklahoma florists are liable for sales tax on the total receipts resulting from orders taken by them for transmittal to a second florist who makes delivery either within or without Oklahoma. Any expense of making the sale is to be included in the measure of the tax regardless of whether or not such expense is billed as a separate item.

(2) Florists receiving such telegraphed or telephoned instructions from either within or without Oklahoma are not liable for tax with respect to receipts therefrom.

710:65-19-109. Food; vendors of meals

(a) Vendors engaged in the business of selling meals and prepared food to purchasers must collect, report and remit sales tax on their receipts from such sales. It is immaterial that no profit is realized from the operation of any such business if the vendor is engaged in business. It is also immaterial that the class of purchasers may be a limited one, such as the employees of a particular employer who operates a cafeteria or other dining facilities for the benefit of his employees.

(b) Meals provided to employees at no cost or at a reduced cost are subject to sales tax. The "**gross receipts**" or "**gross proceeds**" in the case of a meal sold to an employee at a reduced price is the amount received for that meal from the employee in the form of cash, check or credit card chit. Each person required to make a sales tax report shall include in the gross proceeds the sales value of all tangible personal property which has been purchased for resale and has been withdrawn from stock in trade for use or consumption. Meals provided to employees free of charge are withdrawals from inventory used or consumed by the employer and sales tax is due on the sales value. "**Sales value**" in the case of meals is the cost of materials withdrawn from inventory to provide such meals.

(c) Complimentary meals provided free of charge to customers are subject to sales tax. Each person required to make a sales tax report shall include in the gross proceeds the sales value of all tangible personal property which has been purchased for resale and has been withdrawn from stock in trade for use or consumption and shall pay tax on such sales value. Meals provided to customers free of charge are withdrawals from inventory used or consumed by the employer and sales tax is due on the sales value.

(d) Meals served free of any actual charge or cost to an employee or customer constitute a withdrawal from inventory of items purchased free of sales tax and such withdrawals are subject to sales tax. For purposes of calculating sales tax liability, the sales value of free or complimentary meals is presumed to be the greater of any consideration received, or the cost or price paid by the vendor/taxpayer for the food items included in the free or complimentary meal served, pursuant to *OAC* 710:65-1-2.

(e) When an establishment provides a second meal in place of the first meal which was discarded because it did not meet the customer's specification, only one sale has been made

and sales tax is levied only on the replacement meal. If, rather than discarding the first meal, the establishment serves the meal to another customer or employee, two sales have been made and sales tax is levied on both meals.
(f) Meals provided to customers at a reduced cost (i.e., discount or advertised special) are taxable. The "**gross receipts**" or "**gross proceeds**" in the case of a meal sold to a customer at a reduced price is the amount received for that meal from the customer in the form of cash, check or credit card chit less any amount designated by the customer as voluntary tip(s).
(g) In cases where two items are provided by a restaurant, club or similar establishment (i.e., buy one, get one free or two for one sale), the "**gross receipts**" or "**gross proceeds**" derived from the sale of two items for the price of one is the total amount of cash, received less any amount designated by the customer as voluntary tip(s).

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 29 Ok Reg 542, eff 5-11-12; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-19-110. Food; eating and drinking establishments
(a) The sale of meals, or prepared food, or non-alcoholic or alcoholic beverages is subject to sales tax, and any person or establishment making such sales will be considered a vendor and will be required to hold a valid sales tax permit. Such person or establishment will then be required to charge, collect, and remit the appropriate sales tax to the Commission based on the total gross receipts, or for the sale of alcoholic beverages, based on the total retail value, as set out in 37A O.S. §5-105.
(b) Fund raising meals or non-alcoholic beverages sold in excess of the regular selling price are subject to sales tax on the gross receipts. Fund raising sales of alcoholic beverages are subject to sales tax on the total retail value, as prescribed by 37A O.S. § 5-105.
(c) The vendor of meals or beverages cannot buy exempt any tangible personal property consumed in the operation of his business, including fixtures, linens or silverware. Paper napkins, paper cups, disposable utensils, disposable hot containers and other one-way carry-out materials may be purchased exempt as purchases for resale.
(d) Meals or non-alcoholic beverages provided to employees or customers at no cost, if no valuable consideration is received or indicated in vendor's records, are not subject to sales tax on gross receipts, but sales tax is due from the vendor, as a consumer user, on the **"sales value"** of the meal or the beverage as that term is defined in *OAC* 710:65-1-2.
(e) Sales tax is due on the total retail value of all alcoholic beverages, including alcoholic beverages provided to employees or customers at no cost or at a reduced cost, pursuant to 37A O.S. § 5-105.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-19-111. Food; tips and service charges
(a) If a customer tips the vendor's employee, and the amount is wholly at the discretion or judgment of the customer, the tip is not subject to the sales tax. This applies whether the customer gives the tip directly to the employee in cash or adds the tip to his bill (provided the vendor turns over the full amount of the tip to the employee who provided the service).
(b) If the vendor adds an amount or flat percentage to the meal price, and the amount is designated as a tip or gratuity, the additional amount is not a part of the sales price and is not subject to the tax if the amount or flat percentage is paid over in whole by the vendor to the employee who provided the service. If the vendor adds an amount or flat percentage designated as a service charge that is not paid over in whole to the employee who provided the service, it is to be included in the sales price and is sales taxable.
(c) For example, if Restaurant A automatically adds a 15% gratuity or service charge to the charge for the meal, and does not pay it to the employee who provided the service in whole, such

charge represents an increment to the sales price of the meal. Similarly, if Restaurant B automatically adds a 20% gratuity or service charge, unless the customer specifically specifies otherwise, such charge will be subject to the tax unless the customer exercises his option and specifies a different amount.

(d) If the vendor accumulates tips or gratuities or adds an amount or flat percentage as a service charge designated as a tip or gratuity that is paid over to the employee **as part or all of the minimum, hourly, or salary wage** of the employee, it is to be included in the sales price and is subject to sales tax.

[**Source:** Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 16 Ok Reg 2653, eff 6-25-99]

710:65-19-112. Food; cover charges and minimum charges

Cover charges are included in the taxable receipts of vendors operating restaurants, hotels and other places of business which come within the Code, even in cases where such cover charges are made exclusively for the privilege of occupying space within such eating place, and where the payment of a cover charge by a patron does not entitle such patron to use or consume any food or beverage or other tangible personal property. [**See:** 68 O.S. §1354]

710:65-19-113. Food; meals served by boarding houses

Food furnished by operators of boarding houses is not considered to be sold when the charge for such food is a lump sum covering meals for a week or for a month and when such food is not offered for sale to the general public. The supplier of foodstuff is required to collect the tax from the operator at the time of the sale to him. The boarding house operator is considered to be rendering a service rather than making sales of tangible personal property and is regarded as the consumer of the materials he purchases. This Section does not apply to meals furnished by schools and colleges.

710:65-19-114. Funeral homes

(a) Embalmers and persons providing funeral services are engaged in the business of selling both tangible personal property and funeral services. Examples of the former are caskets, other burial containers, flowers (other than those purchased with advance funds) and grave clothing. Examples of the latter are cremation, transportation by hearse and embalming. Tax is due only upon gross receipts from the sale of tangible personal property and taxable services, and not upon gross receipts from the sale of nontaxable services.

(b) If an embalmer or provider of funeral services separately itemizes charges in accordance with the rules of the Federal Trade Commission, for tangible personal property, taxable services and nontaxable services, sales tax is to be collected, reported and remitted on the gross receipts from the sale of tangible personal property and services including the following:

(1) Casket or other receptacle
(2) Burial container
(3) Clothing
(4) Marker
(5) Flowers
(6) Other tangible personal property
(7) Other taxable services

(c) If an embalmer or provider of funeral services offers package prices for various types of funerals, tax is to be collected, reported and remitted on the gross receipts from the sale of tangible personal property and taxable services included in the package. For purposes of determining the amount of gross receipts of tangible personal property and taxable services included in the package, the embalmer or provider of funeral services shall calculate tax based upon the prices listed by the embalmer or provider of funeral services on the Casket Price List, Outer Burial Container Price List, General Price List, or Statement of Funeral Goods and Services Selected prepared by the embalmer or provider of funeral services which he prepares in

conformity with the rules of the Federal Trade Commission that are in effect at the time the package is purchased. EXAMPLE: Package includes casket, outer burial container, hearse, family vehicle, embalming and other professional services at a cost of $3,000.00. The casket included in the package is listed by the embalmer or provider of funeral services on his Casket Price List at $1,500.00 and the outer burial container is listed on the Outer Burial Container Price List at $600.00. Sales tax must be collected, reported and remitted on gross receipts in the amount of $2,100.00 for this package.

(d) The embalmer or provider of funeral services is considered to be purchasing caskets, outer burial containers, and grave clothing for resale, and may purchase these items from suppliers without payment of tax. The embalmer or provider of funeral services should present the supplier with a sales tax permit as set out in these rules. An embalmer or provider of funeral services is considered to be the user or consumer of office furniture and equipment, funeral home furnishings, advertising calendars, booklets, embalming equipment, instruments, fluid and other chemicals used in embalming, cosmetics, and grave equipment, stretchers, baskets, and other items used in preparation of human remains or the provision of other nontaxable services. [**See:** 68 O.S. § 1354(A)(3)(b)]

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93]

710:65-19-115. Altering, repairing, and remodeling furs

(a) Persons utilizing fur in the altering, repairing, or remodeling of furs for others are vendors of the fur used in connection with such altering, repairing, or remodeling and shall collect, report and remit the tax at the time the fur is sold. The sales price of such fur shall be segregated on the bills or invoices to the customer from the charge for labor in connection with such altering, repairing, or remodeling. Failure to separate the sale of material from the charge for labor requires payment of the tax on the entire amount charged to customers.

(b) Persons altering, repairing, or remodeling furs are consumers of the thread, buttons, lining, and materials other than fur used in connection with such altering, repairing, or remodeling, unless a separate charge is made to customers for such thread, buttons, and lining, in which case the tax applies to such separate charge and the vendor must collect, report and remit tax on the amount charged.

(c) Sales of furs to persons altering, repairing, or remodeling furs and sales of thread, buttons, and lining for which a separate charge is made to their customers are sales for resale provided the purchaser has a valid sales tax permit. The tax applies, however, to the gross receipts from sales to persons altering, repairing, or remodeling furs, of thread, buttons, and lining, for which a separate charge is not made by such persons to their customers.

(d) Sales of sewing machines, pressing machines, and other tools, instruments, and materials sold to fur and garment repairers for use in their business are taxable.

710:65-19-116. Fireworks

Effective August 26, 2011, no exemption shall apply to the sale of fireworks other than for resale purposes and all retail fireworks locations must possess a current sales tax permit which is to be conspicuously posted and immediately available for examination. Fireworks retailers shall make application for a sales tax permit by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 40003 available online at www.tax.ok.gov.

[**Source:** Added at 29 Ok Reg 542, eff 5-11-12]

710:65-19-117. Firearm and gun safety devices

(a) **General provisions.** Effective November 1, 2025, sales of firearm safety devices and gun safety devices are exempt from sales tax.

(b) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) "***Firearm safety device***" *means a gun safe, gun case, gun lock box, trigger lock, barrel lock, or other device that is designed to be used to store a firearm and that is designed to be unlocked only by means of a key, combination, or other similar means.* [68 O.S. § 1357]

(2) "***Gun safety device***" means *any integral device to be equipped or installed on a firearm that permits a user to program the firearm to operate only for specified persons designated by the user through computerized locking devices or other means integral to and permanently part of the firearm.* [68 O.S. § 1357]

(c) **Examples of firearm safety devices and gun safety devices.** The following list of examples of items that qualify for this exemption is not intended to be an exhaustive list:

(1) Biometric gun safes with fingerprint scanners
(2) Combination or digital keypad gun safes
(3) Hard-shell pistol cases with key locks
(4) Rifle cases with combination locks
(5) Portable gun cases or lock boxes with biometric locks or digital keypads
(6) Cable trigger locks that thread through the trigger guard
(7) Clamshell trigger locks that cover the trigger area
(8) Combination trigger locks
(9) Keyed trigger locks
(10) Cable locks that run through the barrel and action
(11) Barrel plugs or inserts that block the barrel
(12) Chamber locks that prevent cartridge insertion
(13) Computerized safety systems that recognize authorized users through fingerprints or other biometric data
(14) Action locks that prevent the firearm from cycling
(15) Breech locks for break-action firearms
(16) Magazine locks that secure the ammunition feeding system

(d) **Exclusions.** The following list of examples of items that do not qualify for exemptions outlined in Subsection (a) is not intended to be an exhaustive list:

(1) Furniture with locking mechanisms
(2) Foot locker
(3) Tool chest, hope chest or other locked chests
(4) Tackle box
(5) Holsters
(6) Keepsake box, trinket box, or jewelry box
(7) Coin safe
(8) Trophy case
(9) Wardrobe or armoire
(10) Gun case, rack, or pouches that do not have internal/integral locking mechanisms
(11) Curio cabinet or display case
(12) Padlocks or other locks not designated to secure firearms

[**Source:** Added at 43 Ok Reg, Number 20, effective 7-11-26]

PART 13. "G"

710:65-19-125. Premiums and gifts [REVOKED]

[**Source:** Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-126. Gift certificates

The sale of gift certificates, premium stamps and similar documents, as well as their

redemption are not subject to tax. When the owner of a gift certificate redeems the gift certificate, etc., or a part thereof, for tangible personal property, sales tax is due on the total selling price of the tangible personal property. For example, if the owner of a gift certificate valued at $100 purchases a $25 item, tax must be computed on $25, must be collected, reported and remitted by the vendor.

710:65-19-127. Gift wrap [REVOKED]

[**Source:** Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-128. [RESERVED]

710:65-19-129. Gun clubs

Gun clubs are the consumers of the clay pigeons and blue rocks furnished to members and patrons in connection with trapshooting and similar sports, and should pay sales or use tax on these items when purchased, even if the charge for the service to members is measured by the number of clay pigeons or blue rocks used. [**See:** 68 O.S. §§1352, 1354]

PART 15. "H"

710:65-19-140. Hatcheries and incubators

(a) Sales by a person regularly engaged in the business of selling poultry or operating a hatchery, of chicks, turkey poults and starter pullets for consumption by the purchaser, are taxable.

(b) Such sales are exempt when made to a person regularly engaged in the commercial production of chickens, turkeys, and eggs, provided the purchaser certifies on the invoice to be retained by the vendor that the pullets will be used primarily for egg production. However, the seller is liable for the tax if the chicks, turkeys or eggs are consumed or used by the purchaser.

(c) The charge for the hatching of eggs for a person owning such eggs is not taxable.

(d) The sale of eggs, feeds, sprouters, medicines, insecticides, etc., for consumption or use by a person regularly engaged in the commercial production of poultry products for sale is not taxable. The sale of such items to persons keeping poultry mainly for their own consumption are taxable even though resales are made occasionally to dispose of temporary surpluses. [**See:** 68 O.S. §1358]

710:65-19-141. Herbicides not sold to farmers or custom applicators

Sales of herbicides are subject to tax. The term "**herbicide**" means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include pre-emergence herbicides, post-emergence herbicides, lay-by herbicides, pasteur herbicides, defoliant herbicides, and desiccant herbicides.

710:65-19-142. Hospitals, nursing homes, similar institutions and practitioners

(a) **General provisions.** Hospitals, nursing homes, similar institutions and practitioners primarily engaged in the business of rendering services, are generally considered to be the consumers or users of tangible personal property and services used in the operation of the institutions. Thus, with the exception of drugs, not to include over-the-counter drugs, and prosthetic devices, the gross proceeds derived from sales of tangible personal property and certain services to such institutions and practitioners are subject to tax. In-state vendors collect and remit sales tax on sales of such property to the institutions and practitioners, and use tax is due on out-of-state purchases. Healthcare institutions are not required to collect, report, and remit sales tax on gross receipts from meals, bandages, dressings, drugs, x-ray photographs or other tangible personal property when such items of tangible personal property are used in the rendering of their service, regardless of whether the items are billed separately.

(b) **Vendors selling to healthcare institutions.** Sellers of tangible personal property to institutions and practitioners are required to collect tax on sales of such property unless the hospital, nursing home, or similar institution is owned or operated by the federal government, the State of Oklahoma, a city, county, public trust, or a federally-recognized Indian Tribe, in which case the exemption described at *OAC* 710:65-13-130 will apply.
(c) **Exceptions to the requirement to pay sales tax on purchases.** Hospitals, nursing homes, similar institutions and practitioners engaged in the administration of drugs to their patients may purchase drugs, except for over-the-counter drugs, and prosthetic devices for use by individuals, exempt from sales tax as outlined in subsections (a) and (c) of 710:65-13-170.
(d) **Sales tax refund claims.**

(1) **Purchases made prior to July 1, 2022.** For purchases made prior to July 1, 2022, a refund may be claimed by hospitals, nursing homes, similar institutions and practitioners that dispense or provide medical appliances, medical devices or medical equipment to Medicare or Medicaid patients for the sales taxes previously paid by the institution or practitioner on such items. The documentation set out in (A) through (C) of this paragraph must be obtained as part of the claimant's records to substantiate the exemption claimed:

(A) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;

(B) A copy of the prescription or work order; and

(C) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

(2) **Purchases made on or after July 1, 2022**. For purchases made on or after July 1, 2022, refund claims for items exempted pursuant to the provisions of 710:65-13-173 will not be allowed unless the purchaser's direct payment permit issued pursuant to 710:65-9-10 was presented to the vendor at the time of sale and the tax was accrued by the direct pay permit holder. To substantiate the refund claim the documentation outlined in subsection (e) of this Section will be required.

(e) **Direct pay permits.** Health care providers such as hospitals, nursing homes, similar institutions and practitioners may qualify for a direct payment permit, valid for three (3) years, pursuant to the provisions of Section 710:65-9-10. To substantiate the sales tax exemption for certain medical appliances, medical devices and other medical equipment pursuant to 68 O.S. § 1357.6(A), a healthcare provider holding a direct pay permit must maintain, separate from confidential patient records the following information:

(1) Patient case number or account number;
(2) Type of insurance; and
(3) Item description or product number.

(f) **Provision of meals.** When hospitals furnish meals to nurses, attendants and patients as a part of the service rendered, the hospitals are deemed to be the users or consumers of the food and beverages used in the preparation of these meals and the sellers of these items to the hospital are required to collect tax on the sales of such property.
(g) **Cafeterias open to public.** When privately owned hospitals operate cafeterias that serve meals to the public, they will be allowed to purchase all foodstuffs used to operate the cafeteria exempt from tax for resale with a valid sales tax permit. The hospitals will then be required to collect the sales tax on sales to their customers and report and remit same to the Commission each month. The hospitals will also be required to pay sales tax on the cost of all foodstuffs withdrawn from stock, which are used to feed patients.
(h) **State, city and county hospitals.** State, city or county hospitals who operate cafeterias that serve meals to the public, or who charge their employees, are also required to collect the sales tax on sales to their customers and report and remit same to the Commission each month.

[**Source:** Amended at 9 Ok Reg 3033, eff 7-13-92; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 23 Ok Reg 2862, eff 6-25-06; Amended at 32 Ok Reg 1376, eff 8-27-15; Amended at 40 Ok Reg 1278, eff 8-11-23]

710:65-19-143. Hotels, motels, apartments, etc.
(a) The gross receipts from the furnishing of rooms, except meeting rooms, by a hotel, apartment-hotel, cottage camp, or lodging house open to the public is subject to sales tax without regard to the length of guest stay. Sales tax does not apply to rental agreements which are governed by the Oklahoma Residential Landlord and Tenant Act [41 O.S. §§101 et seq.].
(b) The revenue received from the forfeiture of a deposit is not revenue arising from the furnishing of a room and is therefore not subject to sales tax. However, revenue which is derived from a guaranteed room is subject to sales tax, even if the guest did not occupy the room.
(c) The gross proceeds received by hotels or other persons for local telephone calls are considered a part of the service of furnishing rooms and are, therefore, taxable. No deduction will be allowed for any expense in connection with such service such as switchboard rental, trunk line rental, etc.
(d) Supplies such as toilet tissue, soap, shoeshine cloths, clothes bags, matches, facial tissue, and other items available for guests' use are subject to sales or use tax at the time of purchase by the hotel or motel. Linens, furniture, pool equipment and supplies, and similar items are subject to sales or use tax at the time purchased by the hotel or motel.
(e) Sales tax is not due on food or drinks that are provided as a part of a packaged room rate by hotel or motel operators if the furnishing of the room is subject to tax under Section 1354 of Title 68 and if no separate charge is made for the food or drinks. Such food or drinks are considered to be sold at retail as part of the total charge for the room.
(f) With the exception of subsection (e) hotel or motel operators who are also vendors of meals are required to remit sales tax on the "sales value" of inventory withdrawn from stock that is used in providing complimentary meals to its customers. The proper sales tax basis to be used for sales of food and beverages for related services, and for various "complimentary" offerings, both in the context of rooms and of other services, is explained in more detail in OAC 710:65-1-2 and 710:65-19-109.
(g) A **"mini-bar"** means a closed container, either refrigerated or non-refrigerated, with access to the interior limited to a key, magnetic card, or similar device and controlled at all times by the holder of the license.
(h) A hotel beverage license shall authorize the holder to sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine and 12 ounce malt beverage containers which are distributed from a hotel room mini-bar. The total retail value of the sale of alcoholic beverages by the license-holder is subject to sales tax, pursuant to *OAC* 710:20-5-4.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 24 Ok Reg 2397, eff 6-25-07; Amended at 33 Ok Reg 1094, eff 8-25-16]

PART 17. "I"

710:65-19-155. Ice plants [REVOKED]

[**Source:** Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-156. Internet-related services and transactions
(a) **General provisions.** Charges for providing access to the Internet are not subject to Oklahoma's sales tax, since they do not clearly fall within the levy on telecommunications services. Sales of other services or tangible personal property made via the Internet are taxable in the same manner that they would be taxable if made via any other communication method.
(b) **Internet-related transactions to which the tax is not applicable.** The levy of sales tax does **not** apply to:
(1) Charges for access to the Internet, including dialup, DSL, and cable access services that

allow a customer to be routed to the net through a service-provider's server or router.

(2) Charges for designing, creating, or for the storage of information for a "website or home page" on a server, including charges for "set up", "technical fees", "scanning", or domain registration.

(3) Charges for data manipulation or "electronic data processing services", pursuant to *OAC* 710:65-19-86.

(4) Sales of advertising space through the Internet, inasmuch as it falls within the category "electronic media", as defined by *OAC* 710:65-13-1.

(5) *Sales of prewritten computer software that is delivered electronically. For purposes of this paragraph, "delivered electronically" means delivered to the purchaser by means other than tangible storage media.* [**See:** 68 O.S.§ 1357(32)]

(6) Sales of digital products delivered electronically including music, video, ringtones, and books.

(c) **Internet-related transactions to which the tax is applicable.** The transactions described in this subsection are subject to the levy of sales or use tax, without regard to the fact that the Internet was used to facilitate the sale:

(1) Sales of tangible personal property made via the Internet where the goods are sold to the purchaser in Oklahoma or are shipped into Oklahoma, as set out in *OAC* 710:65-15-1.

(2) Sales of prewritten computer software, where the software is not transferred from the seller to the purchaser electronically.

(3) The lease or purchase of dedicated lines or ports, routers, or other hardware or software by Internet access-providers, for use in providing services to their subscribers, is taxable to the service-provider. Note however, that the purchase of interstate private line service is exempt pursuant to *OAC* 710:65-19-330.

(d) **Establishment of a physical connection with Oklahoma.** The use of an on-line service or the establishment of a website, whether the server on which the website is maintained is located inside or outside Oklahoma, if the website owner has no other physical connection with Oklahoma, is **not** a sufficient, physical presence in Oklahoma, absent any other connection, to require the website owner to register as a business and to collect Oklahoma sales tax on sales of tangible personal property or services to consumers located in Oklahoma or on sales of goods sold for use in Oklahoma. The duty to collect and procedures to be used in reporting and remitting sales and use taxes which apply to vendors located or "maintaining a place of business" in Oklahoma are set out in *OAC* 710:65-15-1, 710:65-21-4(b) and in 68 O.S. §§ 1406 et seq. (Use Tax Code).

[**Source:** Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 18 Ok Reg 2823, eff 6-25-01; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 27 Ok Reg 2308, eff 7-11-10]

710:65-19-157. Insecticides and fungicides not sold to farmers or custom applicators

Sales of insecticides and fungicides are subject to tax. The term **"insecticides"** means any substance or mixture of substances which are used for the preventing, destroying, repelling, or mitigating of any insects. The term **"fungicides"** means any substance or mixture of substances which are used for preventing, destroying or mitigating any fungi.

710:65-19-158. Installation, alteration and special service charges [REVOKED]

[**Source:** Revoked at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-159. Installation charges

(a) Where the quoted or advertised price is a lump sum for both property and installation or where billing and other records do not show separate charges for property and for installation, the measure of the tax is the total gross receipts received by the seller.

(b) Where the seller has a standard retail sales price for his products and where the standard

sales price is used both when making across-the-counter sales and when selling and installing the property, he may make a separate and additional charge for making the installation which, when shown separately in his billings and on his books, will not be subject to the sales tax.

710:65-19-160. Installment and credit sales

It will be necessary for the vendor to collect from, or charge to the customer the entire amount of the tax as computed on the selling price in each case of an installment or credit sale, irrespective of the amount of the installment or down payment made by the purchaser consumer or whether any installment or down payment is made. Installment and credit sales together with the tax applicable thereto must be reported on the vendor's return covering the period in which the installment or credit sale occurred.

710:65-19-161. Insurance companies

Insurance companies subject to 36 O.S. §624 do not qualify as exempt purchasers for purposes of state, county, or municipal sales tax or state or municipal use tax and, therefore, should pay sales or use tax to the vendor when making a taxable purchase of tangible personal property or services.

PART 19. "J" [RESERVED]

PART 21. "K" [RESERVED]

PART 23. "L"

710:65-19-190. Labels, tags, and name plates

(a) Sales of labels, tags or name plates to persons using them in rendering services or for personal or business use or which do not accompany products sold, are purchases for consumption or use and are subject to taxation.

(b) Sales of labels or name plates to be affixed to tangible personal property which is taxable when sold at retail, or to the containers sold with such property, are not subject to tax if the labels or name plates are an inseparable part of the property sold and purchased by the buyer as a part of such property.

(c) Sales of labels to persons retaining title to containers to which the labels are affixed are not sales for resale but are sales for consumption and subject to tax.

710:65-19-191. Businesses engaged in the rental and/or laundering of linens, apparel, diapers, mats/rugs or other items

(a) **Linen and uniform rental and cleaning services.** Businesses which rent clean linens, apparel, diapers, rugs/mats or other items to consumers must obtain an Oklahoma sales tax permit and collect and remit state and any applicable local sales tax on the total charges billed to customers without any deduction for laundering, repairing, or cleaning services rendered in association with the rental of such items.

(1) **Exempt purchases.** Pursuant to its sales tax permit, property which is to be rented in addition to wrapping materials/garment bags in which such property is to be furnished to customers may be purchased exempt from sales tax. Likewise, items such as buttons and zippers used in the repair of rented apparel may also be purchased tax exempt.

(2) **Taxable purchases.** Materials, supplies, tools and equipment including soaps, detergents cleaning fluids, deodorants, bleaches, water, electricity, natural gas, washers, dryers, ironers, mangles and all other tangible personal property used and consumed to conduct their rental business are subject to sales tax when purchased.

(b) **Laundries and dry cleaners.** Amounts charged by establishments for the service of laundering or dry cleaning articles of clothing of their customers are not subject to sales tax.

Laundries and dry cleaners pay sales/use tax on all items i.e., laundry equipment, cleaning chemicals, garment bags, etc., purchased or rented for use and consumption in the provision of their nontaxable service.

[**Source:** Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-192. Lawyers

(a) Law books, supplies, furniture and equipment purchased by lawyers or law firms are subject to taxation. Charges for updates, pocket parts, and looseleaf services are also subject to taxation.

(b) Lawyers or law firms must collect, report, and remit sales tax on gross receipts from sales of tangible personal property and services taxable under the Sales Tax Code, including photocopying and FAX.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-193. Layaway fees

If a handling or service charge is made to the customer for the privilege of putting merchandise in layaway; that charge is subject to the sales tax.

[**Source:** Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-194. Lumber dealers [REVOKED]

[**Source:** Revoked at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-195. Sales of lottery tickets

Sales of lottery tickets are exempt from sales tax when the tickets are sold by a lottery retailer providing the retailer has been duly certified by the Oklahoma Lottery Commission in accordance with 3A O.S. Section 717.

[**Source:** Added at 23 Ok Reg 2863, eff 6-25-06]

PART 25. "M"

710:65-19-210. Vendors of machinery, tools, patterns, and similar items

(a) Vendors of machinery, tools, dies, jigs, production patterns, gauges and the like to users or consumers must collect, report and remit sales tax liability except as provided in the exemption for equipment used directly in manufacturing. This is true whether the vendor installs such tangible personal property for the purchaser or not.

(b) The fact that it is not a stock item and is only produced after an order is received, or is an alteration of a standard item, is not sufficient to exempt it from sales or use tax unless it is otherwise exempt. [**See:** 68 O.S. §§1354, 1359]

(c) Provided, however, from and after September 1, 1994, patterns used in the commercial production of metal castings shall be exempt from the levy of sales and use tax. [**See:** 68 O.S.Supp.1994, § 1359(11)]

(d) Patterns sold to a manufacturer to be used in a manufacturing operation may be purchased exempt, regardless of possession of the pattern.

[**Source:** Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-211. Sale or rental of microfilm, slides, videotape tape recordings, records, etc.

In general, the sale, rental or leasing of all tangible personal property, including microfilm,

slides, video tape, tape recordings, phonograph records, etc., are taxable. The provisions applicable to the imposition of the tax on rental or leasing transactions shall not be applicable to the rental or leasing of motion picture films, audio or video tape to a party or parties who charge admission for the viewing of such films, tapes, etc.

710:65-19-212. Milk and dairy processors

(a) The sale of all tangible personal property consumed or used directly in production of dairy products prior to shipment from the place of production is not taxable.

(b) Sales of tangible personal property consumed or used in the receiving, storage, transportation, or delivery of milk are taxable. Transportation of milk from the place where it is produced, as well as the receiving and storage of the milk at the processing plant, is taxable. Processing includes all necessary operations performed on the milk prior to shipment from the plant. Sales of tools and equipment used directly in the processing of milk or milk products, and lubricants and other materials consumed or used in the maintenance of that equipment, are not taxable. Sales of tangible personal property consumed or used in the construction, alteration, repair, or improvement of buildings and grounds are taxable.

(c) Sales of equipment used or consumed in the delivery of milk and milk products are taxable, including trucks, cases, crates, etc., and property used for the maintenance and operation of that equipment.

(d) Sales of milk bottles and milk cans to dairies for use in processing milk for sale at retail by others, together with washing machines for the same and cleaning compounds used in connection therewith by such processors, are not subject to tax. Sale of milk bottle crates or cases for transportation, receiving, storage, or delivery are subject to tax. Sales of milk cans to farmers for use in cooling milk prior to shipment to dairies are not taxable.

(e) Prior to August 29, 2024, dairy products sold by vendors to consumers for home preparation of meals are subject to sales tax. On or after August 29, 2024, dairy products sold by vendors to consumers for home preparation of meals are subject to the state sales and use tax rate of 0%. (See: 710:65-13-571).

710:65-19-213. Military; members of armed services stationed in Oklahoma subject to sales and use taxes

Members of the armed services of the United States stationed in Oklahoma have no immunity from sales taxes imposed upon sales of tangible personal property to them by Oklahoma vendors.

710:65-19-214. Multi-level sales

(a) Vendors operating a multi-level distribution system will collect tax on the gross receipts of the retail value of the products sold. This tax is to be passed through the multi-level distributors, who will not be required to hold an Oklahoma sales tax permit, to the consumers/users.

(b) For example, the vendor who sells to distributors, who in turn sell to consumers/users at home parties, is required to collect, report, and remit sales tax on the total amount of gross receipts received by the vendor's distributors from the sales of tangible personal property or taxable services. The distributors will collect the tax from the consumer.

(c) Shipping and handling charges associated with the shipment of multi-level sales merchandise to the distributor or the distributor's customers are not subject to sales tax, if separately stated.

(d) If the products are not sold by the distributor in the original form or packaging created by the multi-level vendor, but instead used as an ingredient in or component to a separate product, the distributor must collect sales tax on the total sales price of the final product to the consumer.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 20 Ok Reg 2175, eff 6-26-03;

Amended at 38 Ok Reg 1538, eff 9-1-21]

710:65-19-215. Vehicle sales tax

(a) **Applicability.** Vehicle sales occurring on or after July 1, 2017 which are subject to vehicle excise tax pursuant to Chapter 21 of Title 68 will also be subject to state sales/use tax at a rate of 1.25%. The referenced vehicle sales are not subject to the imposition of sales/use tax imposed by local taxing jurisdictions.

(b) **Exceptions to general applicability.** Sales tax is not collected at the time of initial titling or registration of purchased manufactured homes, boats, outboard motors, special mobilized machinery, low-speed/medium speed electrical vehicles.

(c) **Date due; penalty.** The sales/use tax and must be paid within thirty (30) days from the transfer of vehicle ownership in the same manner and at the same time as vehicle excise tax. After the thirtieth (30th) day, interest is to be collected in addition to the tax due, accruing until paid. After the forty-fifth (45th) day following purchase, a penalty amount is assessed. Sales tax, interest and penalty levy amounts are established by statute.

(d) **Taxable value**. Sales tax on the purchase of a motor vehicle shall be based on the actual consideration paid for the vehicle. If the transaction includes a trade-in, the taxable gross receipts shall be calculated on the difference between the actual sales price of the purchased vehicle and the value of the trade-in vehicle.

[**Source:** Added at 35 Ok Reg 2102, eff 9-14-18; Amended at 43 Ok Reg, Number 20, effective 7-11-26]

710:65-19-216. Medical marijuana

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Commission"** means the Oklahoma Tax Commission.

(2) **"Department"** means the Oklahoma State Department of Health.

(3) **"Dispensary"** means an entity that has been licensed as a dispensary by the Department pursuant to Title 63 of the Oklahoma Statutes.

(4) **"Grower"** or **"Commercial Grower"** means an entity that has been licensed as a commercial grower by the Department pursuant to Title 63 of the Oklahoma Statutes.

(5) **"Medical Marijuana"** means marijuana that is grown, processed, dispensed, tested, possessed, or used for a medical purpose.

(6) **"Medical Marijuana Product"** means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient, including but not limited to oils, tinctures, edibles, pills, topical forms, gels, creams, forms medically appropriate for administration by vaporization or a nebulizer, patches, tinctures, and liquids excluding live plant forms.

(7) **"Processor"** means an entity that has been licensed as a processor by the Department pursuant to Title 63 of the Oklahoma Statutes.

(b) **General permitting requirements**. In order to begin selling medical marijuana and medical marijuana products, a dispensary must either hold or obtain an Oklahoma sales tax permit from the Commission pursuant to OAC 710:65-9-1.

(c) **Sales of medical marijuana and marijuana products.** Gross receipts derived from sales of medical marijuana and medical marijuana products are subject to state and local sales tax.

(d) **Sales tax computation.** The 7% gross receipts tax is not part of the gross receipts for purposes of calculating the sales tax due, if the tax is shown separately from the price of the medical marijuana. Example:

(1) Medical Marijuana $ 100.00

(2) 7% Gross Receipts Tax $ 7.00

(3) State & Local Sales Tax [8.5%] $ 8.50 (use applicable tax rate for your location)

(4) Total $ 115.50

(e) **Agricultural sales tax exemption permit eligibility**. Provided all other requirements are met, persons possessing a commercial grower license issued by the Department are eligible for an agricultural sales tax exemption permit. The applicant grower must provide the commercial grower license number issued to the grower by the Department.

(f) **Manufacturer's sales tax exemption permit ineligibility.** The processing of marijuana is not commonly regarded as manufacturing; therefore, marijuana processors are not eligible for a manufacturer's sales tax exemption permit. However, processors are eligible for an Oklahoma sales tax permit which will allow them to purchase marijuana and other marijuana products exempt from sales tax to be resold to dispensaries.

[**Source:** Added at 36 Ok Reg 16, eff 9-11-18 (emergency); Amended at 36 Ok Reg 1235, eff 8-11-19]

PART 27. "N"

710:65-19-225. Nurserymen

Where a nurseryman or florist sells shrubbery, young trees and similar items to purchasers for use or consumption, and, as a part of the transaction, transplants such property in the land of the purchaser, the entire receipts from the transaction are subject to sales tax unless the transplanting fee is separately stated.

PART 29. "O"

710:65-19-240. Oil operator transfers; "material transfer" described; examples

(a) **"Material transfer" described.** The transfer of tangible personal property from one location to another is referred to as a material transfer.

(b) **Liability during drilling phase.** The operator is responsible for collecting and remitting tax on material transfers during the drilling phase. The operator and/or the producer is responsible for collecting and remitting tax once the well is drilled.

(c) **Determining taxability of a material transaction.** The taxability of the material transaction will depend on whether the ownership interest(s) after the transfer is the same as it was before, as illustrated:

(1) "A" is an oil operator and owns 100% of a producing well. He can transfer material from his warehouse to the well and back to his warehouse without incurring a tax liability because there was no change in the ownership of the tangible personal property.

(2) "A" is an oil operator and enters into a joint venture to drill a well called the Wilson No. 1. "A" is to be the operator with a 40% working interest, "B" has a 35% working interest, and "C" has a 25% working interest. "A" transfers 100 joints of drill pipe from his warehouse to the drilling site. This transfer is not taxable according to 68 O.S. 1360(B), since, after the sale, there is a joint interest in the property. If the Wilson No. 1 is a dry hole and the 100 joints of drill pipe are returned to "A's" warehouse, then sales tax would be due on "B's" and "C's" interest in the pipe since "A" is again the sole owner of the pipe and it was placed back into his inventory by the material transfer.

(d) **Material transfers involving separate legal entities.** Material transfers involving separate legal entities, i.e., corporations, partnerships, limited partnerships, and individuals are regarded as arm's length transactions for tax purposes regardless of common ownership, as illustrated:

(1) "A" is an oil operator and enters into a joint venture to drill a well called the Gerard No. 2. "A" is to be the operator with 40% interest, "B" has a 30% working interest, and "C" has a 30% working interest. "A" also enters a joint venture to drill a well called the Jones No. 3. "A" is the operator with a 30% working interest, "D" has a 28% working interest, and "E" has a 42% working interest. The Gerard No. 2 is a dry hole and 100 joints of pipe are transferred to the Jones No. 3 and the joint interest billing of "B" and "C" credited. Sales tax is due on the 30%

interest of "B" and 30% interest of "C".
(2) Corporation A sells tangible personal property to corporation B. Corporation A and corporation B are owned 100% by the same person. The sale is taxable.
(3) Limited Partnership A sells tangible personal property to corporation B. Corporation B is the General Partner of Limited Partnership A. The sale is taxable.
(4) Corporation A brings tangible personal property to its yard and credits Limited Partnership B for its value. Corporation A is a partner in Limited Partnership B. A has bought the goods from B and the transaction is 100% taxable.

[**Source:** Amended at 18 Ok Reg 2823, eff 6-25-01]

710:65-19-241. Fractionation tanks (frac tanks) [REVOKED]

[**Source:** Added at 21 Ok Reg 2581, eff 6-25-04; Revoked at 22 Ok Reg 1587, eff 6-11-05]

710:65-19-242. Sale of wells and pipelines

All tangible personal property included in the sale of an oil, gas, disposal, or water well or of any pipeline is taxable. This includes any tangible personal property either above or below the earth's surface. All tangible personal property in a gas processing plant not directly used in processing is taxable.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-243. Sales by the State of Oklahoma, state agencies, etc.

The State of Oklahoma, its agencies and instrumentalities, all counties, townships, and municipal corporations, their respective agencies and instrumentalities, and all other state governmental entities and subdivisions, including state colleges and universities, shall collect, report and remit sales tax on taxable sales of tangible personal property and services. For example, sales of city maps, sales of gifts and souvenirs, sales of food from city operated concessions at stadiums, ballparks, auditoriums, rental of equipment such as golf carts, charges made for entering or engaging in any activity such as tennis, baseball, basketball, when spectators are charged no admission, etc., are subject to tax.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

PART 31. "P"

710:65-19-255. Pawnbrokers

Pawnbrokers are engaged primarily in the business of lending money for the repayment of which they accept as security tangible personal property from the pawner or pledger. In cases where the pawner or pledger does not redeem the property pledged or pawned within the specified time and the property is forfeited and title rests in the pawnbroker, the gross proceeds realized by the pawnbroker from a subsequent sale of the articles are taxable.

710:65-19-256. Taxability of items purchased by permit holders

The following are examples of items purchased by permit holders categorized by the classification of business with the notation of T (taxable at the time of purchase) or NT (may be purchased exempt from tax):

(1) **Retail food stores.** Retail food stores (grocery and meat markets) should treat the following items as indicated:

(A) Adding Machine Tape T
(B) Bags and Sacks NT
(C) Bag Holders T

(D) Brooms - Use T
(E) Broom Holders & Display Racks T
(F) Butcher Paper - For Food Preparation NT
(G) Cashier Pads T
(H) Cellophane Bags NT
(I) Cellophane, Sheets or Roll NT
(J) Cellophane Cutters T
(K) Egg Cartons NT
(L) Food Pails and Tubs NT
(M) Greaseproof Paper NT
(N) Grocery Bags NT
(O) Gum Tape NT
(P) Gum Tape Dispensers T
(Q) Heat Sealing Equipment T
(R) Ice Cream Bags NT
(S) Trays NT
(T) Locker Paper NT
(U) Marking Pencils T
(V) Meat Boards T
(W) Meat Interleaver T
(X) Paper Cans NT
(Y) Paper Cutters T
(Z) Parchment NT
(AA) Patty Paper NT
(BB) Plastic Film NT
(CC) Pork Loin Wrap NT
(DD) Prepackaging Trays NT
(EE) Pressure Sensitive Tape NT
(FF) Price Markers T
(GG) Produce Bags NT
(HH) Roll Paper NT
(II) Sausage Boxes and Liners NT
(JJ) Signboard T
(KK) Skewers T (Nontaxable only if accompanies sale and cannot be reused.)
(LL) Steak Interleaver T
(MM) Sugar Bags NT
(NN) Sweeping Compounds T
(OO) It-Packs & Twistems NT
(PP) Twine NT
(QQ) Window Display Bags NT

(2) **Food and beverage servers.** Food and beverage servers (restaurants, drive-ins, cafeterias, concession stands, bars, lounges and night clubs) should treat the following items as indicated (Items are exempt, if they are nonreusable and accompany sale. If items can be reused then they would be taxable.):

(A) Adding Machine Tape T
(B) Aluminum Foil T (Nontaxable only if accompanies sale and cannot be reused.)
(C) Aluminum Plates NT
(D) Barbecue Bags NT
(E) Bibs (Paper) NT
(F) Burger Cups NT
(G) Burger Cup Holders T
(H) Butter Chips NT

(I) Chop Holders T
(J) Coasters (If not reusable) NT
(K) Cocktail Forks & Spoons (If not reusable) NT
(L) Coffee Stirrers (If not reusable) NT
(M) Crab Shells NT (Nontaxable only if accompanies sale and cannot be reused.)
(N) Cups and Lids NT
(O) Cup Dispensers T
(P) Doilies (If not reusable) NT
(Q) Eclair Cases NT
(R) Guest Checks T
(S) Hot Dog Trays NT
(T) Napkins (If not reusable) NT
(U) Napkin Dispensers T
(V) Paper Bags NT
(W) Paper Plates NT
(X) Paper Trays NT
(Y) Paper Linen Caps T
(Z) Patty Paper NT
(AA) Place Mats (If not reusable) NT
(BB) Printing Charge on Special Print Orders T
(CC) Sandwich Bags NT
(DD) Sandwich and Drink Trays NT
(EE) Skewers T
(FF) Souffle Cups NT
(GG) Steak Markers T
(HH) Straws NT
(II) Sundae Dishes NT (Nontaxable only if accompanies sale and cannot be reused.)
(JJ) Table Covers T
(KK) Table Wiping Towels T
(LL) Tableware, Plastic and Spoons NT
(MM) Tissue, 12 x 12 M.G. NT
(NN) Toilet Tissue T
(OO) Toothpicks and Frills NT
(PP) Towels T
(QQ) Tray Covers (If not reusable) NT
(RR) Waxed Paper NT (Nontaxable only if accompanies sale and cannot be reused.)
(SS) Wooden Salad Forks and Spoons T
(TT) Wooden Dishes T

(3) **Laundry and dry cleaning establishments.** Laundry and dry cleaning supplies should be treated as follows:

(A) Bridal Gown Boxes T
(B) Coat Retainers T
(C) Collar Supports T
(D) Garment Bags T
(E) Garment Roll Film T
(F) Garment Roll Film Dispenser Racks T
(G) Hanger Shields & Guards T
(H) Hangers T
(I) Laundry Boxes T
(J) Laundry and Launderette Bags T
(K) Laundry Shells T
(L) Paper Cutters T
(M) Shirt Bags T

(N) Shirt Bands T
(O) Shirt Boards T
(P) Shirt Boxes T
(Q) Shirt Packs T
(R) Shirt Shells T
(S) Storage Bags T
(T) Sweater Bags T
(U) Tape T
(V) Trouser Guards T
(W) Twine T
(X) Wrapping Paper T

(4) **Retail bakery and candy shops.** Retail bakery and candy shops should treat the following items as indicated:

(A) Adding Machine Tape T
(B) Aluminum Foil NT (Nontaxable only if accompanies sale and cannot be reused.)
(C) Aluminum Pie and Cake Plates NT (Nontaxable only if accompanies sale and cannot be reused.)
(D) Bakery Bags NT
(E) Bakery Boxes NT
(F) Bakery Tissue NT
(G) Baking Cups NT (Nontaxable only if accompanies sale and cannot be reused.)
(H) Bread Bags NT
(I) Cake Circles NT (Nontaxable only if accompanies sale and cannot be reused.)
(J) Candy Bags NT
(K) Candy Cups NT
(L) Cellophane NT
(M) Cellophane Bags NT
(N) Doilies NT (Nontaxable only if accompanies sale and cannot be reused.)
(O) Eclair Cups NT (Nontaxable only if accompanies sale and cannot be reused.)
(P) Food Pails and Tubs NT (Nontaxable only if accompanies sale and cannot be reused.)
(Q) Gift Wrap T
(R) Glassine Bags NT
(S) Grocery Bags NT
(T) Gum Tape NT (If used as part of package.)
(U) Gum Tape Dispensers T
(V) Heat Sealing Equipment T
(W) Jiffy Bags NT
(X) Marking Pencils T
(Y) Pan Liners NT (Nontaxable only if accompanies sale and cannot be reused.)
(Z) Paper Cans NT
(AA) Paper Caps T
(BB) Paper Cutters T
(CC) Paper Pie Plates NT (Nontaxable only if accompanies sale and cannot be reused.)
(DD) Parchment NT
(EE) Ribbon T
(FF) Sales Books T
(GG) Sandwich Bags NT
(HH) Sandwich Wrap NT
(II) Shredded Cellophane NT
(JJ) Signboard T
(KK) Sweeping Compound T
(LL) Toothpicks and Frills NT

(MM) Transparent Tape NT (If used as part of package.)
(NN) Twine NT (If used as part of package.)
(OO) Wax Paper NT
(PP) Window Bags NT
(QQ) Wrapping Paper T

(5) **Drug, variety and sundry stores.** Drug, variety and sundry stores (See also (2) of this subsection) should treat the following items as indicated:

(A) Adding Machine Tape T
(B) Gift Wrapping Paper T
(C) Grocery Bags NT
(D) Guest Checks T
(E) Gum Tape NT (If used as part of package.)
(F) Gum Tape Dispensers T
(G) Millinery Bags NT
(H) Notion Bags NT
(I) Paper Cutters T
(J) Prescription Bags NT
(K) Ribbon and Accessories T
(L) Sanitary Napkin Bags (resale) NT
(M) Shopping Bags NT
(N) Signboard T
(O) Twine NT (If used as part of package.)
(P) Wrapping Paper T

(6) **Florists and nurseries.** Florists and nurseries should treat the following items as indicated:

(A) Cellophane NT
(B) Cellophane Bags NT
(C) Cellophane Tape NT
(D) Florist Tissue NT
(E) Flower Boxes NT
(F) Flower Pots NT
(G) Gift Papers and Foil NT
(H) Gummed Tape NT
(I) Gummed Tape Dispensers T
(J) Paper Bags NT
(K) Polyethylene Rolls and Bags NT
(L) Polyethylene and Paper Cutters T
(M) Pressure Sensitive Tape NT (If used as part of package.)
(N) Ribbon and Accessories NT
(O) Shredded Cellophane NT
(P) It-Packs and Twistems NT (If used as part of package.)
(Q) Twine NT (If used as part of package.)
(R) Wrapping Paper NT
(S) Wrapping Tissue NT

(7) **Retail department stores and specialty stores.** Retail department stores and specialty stores (including book and stationery stores, gift shops, hardwares, etc.) should treat the following items as indicated:

(A) Curtained Rod Bags NT
(B) Garment Bags NT
(C) Garment Bag Boxes NT
(D) Gift Boxes T
(E) Gift Wrap T
(F) Grocery Bags NT

(G) Gum Tape NT (If used as part of package.)
(H) Gum Tape Dispensers T
(I) Lampshade Bags NT
(J) Marking Pencils T
(K) Millinery Bags NT
(L) Millinery Boxes NT
(M) Nail Bags NT
(N) Notion Bags NT
(O) Paper Cutters T
(P) Record Bags NT
(Q) Ribbon and Accessories T
(R) Sales Books T
(S) Shirt Bags NT
(T) Shoe Bags NT
(U) Shopping Bags NT
(V) Shredded Cellophane NT
(W) Shredded Tissue NT
(X) Signboard T
(Y) Transparent Tape NT (If used as part of package.)
(Z) Twine NT (If used as part of package.)
(AA) Wrapping Paper T
(BB) Wrapping Tissue T

(8) **Meat and poultry packers, food lockers and dairies.** Meat and poultry packers, food lockers and dairies should treat the following items as indicated:

(A) Butcher Paper NT
(B) Butter Tubs NT
(C) Butter Wraps NT
(D) Cellophane & Plastic Films NT
(E) Cellophane Tape NT
(F) Chic Packs NT
(G) Chic Trainer Trays NT
(H) Cone Bottles NT
(I) Creamer Caps NT
(J) Cups and Tubs NT
(K) Egg Cartons NT
(L) Freezer and Locker Paper NT
(M) Freezer Tape NT
(N) Grocery Bags NT
(O) Gum Tape NT
(P) Gum Tape Dispenser T
(Q) Ham Wraps NT
(R) Ice Cream Bags NT
(S) Ice Cream Cans and Cartons NT
(T) Ice Cream Pails NT
(U) Ice Cream Sticks NT
(V) It-Packs and Twistems NT
(W) Marking Pencils T
(X) Meat Boards T
(Y) Parchment NT
(Z) Poly Bags NT
(AA) Pork Loin Wrap NT
(BB) Poultry Bags NT

(CC) Sacks NT
(DD) Sausage Boxes and Liners NT
(EE) Twine T
(FF) Waxed Paper NT
(GG) Wrapping Paper T (If the sales are made to a food locker business, it must be determined if the products are used in rendering a service, or if they are in the actual retail meat business. If they are wrapping meat for customers to be stored in their individual lockers, this is a service and the items are taxable.)

(9) **Farms; assemblers of farm products.** Farms and assemblers of farm products should treat the following items as indicated:

(A) Box Liners NT
(B) Butter Tubs NT
(C) Car Liners T
(D) Cellophane NT
(E) Cellophane Bags NT
(F) Cellophane Tape NT
(G) Chic Pack NT
(H) Chic Trainer Trays NT
(I) Egg Cartons NT
(J) Flour and Meal Bags NT
(K) Fruit Baskets NT (Nontaxable only if accompanies sale.)
(L) Grocery Bags NT
(M) Gum Tape NT
(N) Gum Tape Dispensers T
(O) Marking Pencils T
(P) Poly Bags NT
(Q) Poly Sheets and Rolls NT
(R) Potato Bags NT
(S) Poultry Bags NT
(T) Prepackage Trays NT
(U) Shredded Paper and cellophane NT
(V) Tomato Cartons NT
(W) Twine NT (Nontaxable only if accompanies sale.)
(X) Window Bags NT
(Y) Wrapping Paper NT (Nontaxable only if accompanies sale.)
(Z) Wrapping Tissue NT (Nontaxable only if accompanies sale.)

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97]

710:65-19-257. Pest exterminators

Persons engaged in the business of exterminating insects, rodents and other pests primarily render services. They are not required to collect the tax from their customers on account of the services rendered. They are the ultimate users or consumers of the tangible personal property sold to them and used in connection with their service and are required to pay the tax imposed upon such sales of tangible personal property to their vendors.

710:65-19-258. Registered pharmacists and druggists

(a) When registered pharmacists or druggists sell **"over-the-counter"** drugs or other tangible personal property to purchasers they must collect, report and remit the sales tax on these sales, unless otherwise exempt.

(b) When registered pharmacists and druggists, who, themselves, are engaged in the practice of a licensed profession, sell medicines or drugs on the prescription of a licensed physician or other person qualified to issue prescriptions which are exempt from taxation, such registered

pharmacists and druggists are not required to collect and remit sales tax on their receipts from such transactions, including receipts from both labor and tangible personal property.

[**Source:** Amended at 21 Ok Reg 2581, eff 6-25-04]

710:65-19-259. Photocopying

The sale of photocopies and photostats represents the taxable sale of tangible personal property. "Quick printers" and persons operating photocopy or photostating machines primarily for the reproduction of copy furnished by customers are not manufacturers and are not entitled to exemption from the tax on machinery, tools, and supplies such as toner/fixative used in their businesses. Such persons may purchase exempt from the tax only those items, such as paper, that will become ingredients or component parts of the finished products they sell. [**See:** 68 O.S. § 1354(6)]

710:65-19-260. Commercial photographers and videographers

(a) **Sales subject to tax.** The gross receipts associated with the sale of photographs and videos delivered in a tangible format along with any services connected with such sales are subject to sales and use taxes, including, but not limited to, gross receipts from:

(1) Sitting fees.
(2) Taking, reproducing and selling photographs.
(3) Processing, developing, printing and enlarging film.
(4) Enlarging, retouching, tinting or coloring photographs.
(5) Processing exposed film into color transparencies, mounted or unmounted.
(6) Reproducing copies of documents, drawings, photographs, or prints by mechanical and chemical reproduction machines, blue printing and process camera equipment.

(b) **Nontaxable sales**. The gross receipts related to the sale of digital photographs and videos that are transmitted electronically are not subject to sales and use tax. Charges for services associated with these sales are considered to be nontaxable.

(c) **School photographs.** Sales of photographs to students are subject to tax, even though school personnel may participate by collecting payments from students.

(d) **Sales for resale.** Property sold by or to a photographer or photo processor for resale by the purchaser is not subject to sales or use tax at the time of such sale, but the gross receipts from the resale to the consumer or user are taxable.

(e) **Manufacturing.** The processing of photographic film by photographers is not considered manufacturing.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-261. Physicians and optometrists

(a) Physicians and optometrists are the consumers of the supplies, medicines, office furniture and fixtures, and special tools and equipment they use in the practice of their profession. Sales of supplies, etc., to them are subject to the sales tax.

(b) When physicians or surgeons sell items of tangible personal property such as medical bracelets, crutches, wheelchairs, first-aid kits, and the like, to purchasers apart from their rendering of service as physicians or surgeons, they collect, report and remit sales tax on the gross receipts from these sales.

(c) Physicians and optometrists are engaged in professions that primarily render service. To the extent to which they engage in such professions, they are not engaged in the business of selling tangible personal property to purchasers within the meaning of the Code. Consequently, they are not required to remit sales tax measured by their receipts from engaging in such professions, including receipts from both services and tangible personal property dispensed incidentally to

such service, such as eyeglasses or contact lenses. However, the physician or optometrist must pay sales or use tax when purchasing such tangible personal property.

[**Source:** Amended at 22 Ok Reg 1587, eff 6-11-05]

710:65-19-262. Picture-framers

(a) Picture-framers must collect, report and remit sales tax when they sell frames, even though they make such picture frames only upon receipt of orders thereof. This is true even though the picture-framer installs, in such frame, a picture belonging to his customer.

(b) A picture-framer need not collect, report and remit tax on his gross receipts from his service of installing a picture owned by a customer in a frame owned by that customer.

710:65-19-263. Plating

(a) Gross receipts from the sale of plating are not subject to sales tax if the sale is made to a person engaged in the business of manufacturing and the buyer delivers a Manufacturers/Sales Tax Exemption Permit (MSEP).

(b) The purchaser claiming the exemption, by presenting a valid certificate of exemption, must have the service performed directly upon tangible personal property which he is in the business of manufacturing or upon ingredients or component parts thereof, or he will be liable for the sales tax on the value of the plating.

710:65-19-264. Pole line construction

Materials used in the construction of pole lines for the transmission of electric power and telephone, telegraph, radio, and television signals are building materials. These materials are purchased subject to sales or use tax, whichever may apply, by the persons who erect the pole lines into place by attachment to real property. These materials include poles, lines, lightning arresters, circuit breakers, switch gear, all pole accessories and also include all the materials and equipment used in the construction of substations.

710:65-19-265. Printers

(a) **Sales of printed matter to consumers.** Gross receipts accruing from the sales of printed matter of all kinds are subject to the sales tax. Sales to consumers of printed matter such as catalogs, books, letterheads, bills, invoice forms, envelopes, folders, advertising circulars, T-shirts, caps, clothing and the like by printers or others engaged in selling printed matter are subject to the sales tax. A printer may not deduct from the selling price of such tangible personal property charges for the labor or service of performing the printing even though such labor or service charges may be billed to the customer separately from the charge for the stock. Such labor or service is embodied in and becomes a part of the tangible personal property sold. The service of printing on stock provided by the customer is also subject to sales tax.

(b) **Sales of services to non-manufacturers.** If sold to a non-manufacturer, the service of typesetting, color separation, design, art, and camera work invoiced by a printer to a customer is subject to sales tax, even if separately stated on the invoice.

(c) **Lease of equipment to non-manufacturers.** The lease of typesetting, printing, duplicating, and miscellaneous equipment to non-manufacturers or persons not regularly engaged in reselling the same is subject to sales tax.

(d) **Sales of printed U.S. Post Office cards and envelopes.** Where printers purchase from the United States Post Office stamped cards and envelopes and print thereon various legends for customers, the printers must collect, report and remit sales tax measured by their gross proceeds of sales of the printed cards or envelopes to their customers. Such cards and envelopes constitute tangible personal property and, unless the cards and envelopes are to be resold by such customers in the ordinary course of their business, the sales by the printers are subject to sales tax. Such printers will not be required to collect sales tax on the amount of the postage where stated separately in billing to customers.

(e) **Sales of services to another printer.** No sales tax liability arises from the service of printing or from the service of typesetting performed by the printer for another printer where there is no transfer of ownership of tangible personal property from the printer to his customer.
(f) **Sales of materials and services to be used in manufacturing.** Sales of materials, supplies and services to printers holding a current Sales/Manufacturers Permit, to be used in a manufacturing operation, are exempt from sales and use tax in the same manner as sales to other manufacturers. [**See:** 710:65-13-150.1]
(g) **Newspaper advertising supplements or circulars.** Newspaper advertising supplements or circulars inserted in newspapers usually fall in the following categories:

(1) A buyer enters into a contract with a printer for the printing of advertising circulars, catalogs, etc., and directs the printer to deliver the printed material to a newspaper or several newspapers, or directs that they be delivered to another location, sometimes the buyer's place of business. The buyer then enters into a second contract with the newspaper for distribution of the inserts. That portion of advertising supplements or inserts retained by the buyer for distribution to buyer's customers, that do not become part of newspapers manufactured for sale, will be subject to sales or use tax. Those advertising supplements or inserts that are delivered to the purchasers or newspaper companies to be inserted into and become part of the newspaper are not sales or use taxable to the buyer.

(2) Newspaper advertising supplements and inserts which are inserted into newspapers and sold as part and parcel of the newspaper are not subject to tax such as:

(A) Printed by the publishers of the newspaper and inserted into and sold as part and parcel of the newspaper published by such publishers; or

(B) Printed by another printer for the newspaper publisher and paid for by the newspaper publisher for insertion into and sold as part and parcel of the newspaper.

(h) **Special nexus provision.** No vendor, not otherwise required to collect and remit sales tax or use tax, shall be required to register and collect either tax simply because of having entered into an agreement with a commercial printer in this state to have printing or printing-related activities, or both, done in this state, even though the vendor:

(1) Owns tangible or intangible personal property located on the premises of the commercial printer in this state;

(2) Periodically has employees at the Oklahoma premises of the commercial printer; or,

(3) Has the printer engage in printing-related activities, including distribution of the printed material in this state. [See: 68 O.S. § 1376]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02]

710:65-19-266. Printers, materials used by [REVOKED]

[**Source:** Revoked at 19 Ok Reg 1859, eff 6-13-02]

710:65-19-267. Printing; graphic arts production

Graphic arts production means printing by one or more of the common processes or graphic arts production services. Persons engaged in graphic arts production are manufacturers and are eligible to obtain a Sales/Manufacturers Permit and to make purchases for use in a qualified manufacturing operation exempt from sales tax in the same manner as other manufacturers. [**See:** 710:65-13-150.1]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02]

710:65-19-268. Sales of parking privileges

(a) Sales of the service of storage or of parking privileges by auto hotels or parking lots are subject to sales tax.
(b) The sale of parking privileges for motor vehicles is taxable even if the person making the sale is primarily engaged in some other business or profession.
(c) Mandatory charges for valet parking are subject to sales tax regardless of whether the charge is made by an auto hotel, parking lot, or person who is primarily engaged in some other business or profession, such as a hotel, restaurant, or club.
(d) The charges for the storage of impounded motor vehicles, made by persons operating wrecking services are subject to sales tax. Charges separately stated from the storage charges are not subject to sales tax.
(e) Charges for parking privileges sold, leased or used by institutions of the Oklahoma System of Higher Education are not subject to sales tax.
(f) Charges for the storage of vehicles other than motor vehicles, such as aircraft or boats, are not subject to sales tax.

[**Source:** Added at 18 Ok Reg 2823, eff 6-25-01; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 34 Ok Reg 2089, eff 9-11-17]

PART 33. "Q" [RESERVED]

PART 35. "R"

710:65-19-290. Radio and television antennas and television satellite dishes

(a) Sales of radio and television antennas, television satellite dishes, and parts and attachments thereto are subject to tax.
(b) Where an antenna or satellite dish, along with parts and attachments therefor, is sold for a lump sum amount which includes both the antenna or satellite dish and the cost of erection or installation, such lump sum amount shall be used as the gross receipts for purposes of computing the tax. In instances where separate contracts are made for the sale of the antenna or satellite dish and other property and for the erection or installation, the tax should be computed on the sales price of the antenna or dish only, provided that the billing to the customer and the books of the seller clearly show the receipts from the sale and from erection and installation.
(c) Where dealers and suppliers make over-the-counter sales of antennas or satellite dishes and parts and attachments therefor to customers not for resale, such sales are subject to sales tax which is to be collected by the seller and remitted to the Commission.
(d) The dealers and suppliers who make the sales described above may purchase tax exempt the antennas or satellite dishes and parts and attachments therefor which are resold by them if they hold a valid sales tax permit.

710:65-19-291. Commercial railroads and railroad spikes

(a) Vendors who sell within Oklahoma, equipment, supplies or other tangible personal property to railroads are required to collect, report and remit sales tax on their gross receipts from such sales unless such sales are specifically exempt.
(b) Tangible personal property purchased by commercial railroads outside Oklahoma and brought into Oklahoma is specifically exempt from use tax.
(c) Railroad spikes, if manufactured in Oklahoma, and sold in this State for use on railroad tracks, turnouts, switches and sidings, are exempt from sales tax regardless of to whom the spikes are sold. Vendors should document that the purchaser will use the spikes for construction or repair.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-292. [RESERVED]

710:65-19-293. Religious organizations and institutions other than churches

Religious organizations and institutions, including men's clubs, sisterhoods, teen groups, day-care centers, pre-schools, schools, hospitals, etc., are not exempt from the payment of sales or use taxes when purchasing or using property subject to these taxes. Further, such organizations and institutions must comply with the provisions of the Sales Tax Code which require the collection of sales tax and the filing of sales tax returns when engaging in the business of selling tangible personal property or when engaging in the business of operating a place of amusement or entertainment. [**See:** 68 O.S. §1356]

710:65-19-294. Research and development [REVOKED]

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 21 Ok Reg 2581, eff 6-25-04; Revoked at 40 Ok Reg 1278, eff 8-11-23]

PART 37. "S"

710:65-19-305. Scrap metal facilities and junkyards

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Junkyard"** means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard and includes garbage dumps and sanitary fills. Junkyards do not qualify as manufacturers.

(2) "**Scrap metal"** means any copper material or aluminum material and any item listed in Section 11-93(C) of Title 2, offered for sale or resale or purchased by any person, firm or business.

(3) **"Scrap metal dealer"** means any person, firm or corporation being an owner, keeper or proprietor of a retail or wholesale business which buys, sells, salvages, processes or otherwise handles scrap metal materials regulated by the provisions of the Oklahoma Scrap Metal Dealers Act.

(4) **"Scrap metal processing facility"** means an establishment having facilities used primarily for processing iron, steel, or nonferrous metals and whose principal products, is such iron, steel or scrap for sale, for remelting purposes only. Scrap metal facilities qualify as a manufacturing operation for purposes of the sales/use tax exemption in 68 O.S. § 1359(1) and OAC 710:65-13-150.1.

(b) **General provisions.** Any person, firm or corporation desiring to become a scrap metal dealer is required to obtain a sales tax permit as provided by Section 1364 of Title 68 of the Oklahoma Statutes, from the Oklahoma Tax Commission, for each scrap metal yard owned or operated by such person, firm or corporation. Likewise, junkyards making sales of tangible personal property in the state are required to obtain a sales tax permit and collect, report and remit state and any applicable local sales tax on sales of tangible personal property occurring in the state. To register a new business and obtain a sales tax permit, access the Oklahoma Tax Commission's Online Business Registration System, a part of OkTAP (the Oklahoma Taxpayer Access Point) web portal at www.tax.ok.gov. [**See:** OAC 710:65-9-1]

[**Source:** Amended at 39 Ok Reg 2264, eff 9-11-22]

710:65-19-306. Secondhand stores

Secondhand store operators receiving secondhand merchandise for sale on behalf of some person must collect sales tax on all merchandise that they sell.

710:65-19-307. Vendors of seeds and fertilizer

(a) Sales of seeds or fertilizer to purchasers who use the seeds in raising lawn grass, vegetables, crops or other plants which they will either use or consume are subject to tax.

(b) Sales of seeds to purchasers who employ such seeds or fertilizer in raising vegetables, crops or other plants in agriculture production are exempt from tax.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94]

710:65-19-308. Installation or sale of septic tanks

(a) A person who, upon order of the owner of land or upon order of a building contractor or subcontractor, furnishes a septic tank for a building and delivers to by placing it in an excavation prepared by another, but does not connect the inlet of the tank to the building and the outlet to the leaching bed, is the vendor of the septic tank and is responsible for collection of the sales tax on the sale.

(b) The mere fact that several sections of the tank may be cemented together by the vendor in the excavation, at the time of delivery, does not result in the tank being incorporated into the structure or an improvement to real property at that time, since it is still unavailable for use until connections are completed.

710:65-19-309. Tangible personal property purchased by providers of nontaxable services

Equipment, materials and supplies purchased, leased or rented for use in providing nontaxable services are taxable to the person providing the service. The tax exempt status of the ultimate customer is not passed through to the person providing the services.

710:65-19-310. Shoe repairs

(a) A shoe repair shop renders a service and also sells tangible personal property. The gross receipts from a job which does not involve a sale of tangible personal property but merely represents the rendering of service is not subject to sales tax. In any transaction where tangible personal property is sold, sales tax applies to the full purchase price without any deduction for labor or service.

(b) If tangible personal property is sold and labor or service is furnished in a separate transaction, each transaction being separately stated on the bill, the tax applies to the gross receipts received from the sale of the tangible personal property and not the gross receipts received from the labor or service.

(c) Materials and supplies used by shoe repairmen in rendering services, but which are not resold as merchandise are subject to sales tax when purchased by the repairmen from the supply dealer.

710:65-19-311. Vendors of signs

Vendors who engage in selling signs must collect, report and remit sales tax notwithstanding the fact that the signs have use or value (other than salvage value) only to the purchaser. However, effective July 1, 1997, the servicing of advertising devices is not subject to sales tax. [**See:** 68 O.S. §§1354, 1361]

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-19-312. [RESERVED]

710:65-19-313. Toning salons and tanning salons

Operators of toning and tanning salons are required to pay sales or use tax on the acquisition of all materials and equipment to be used in their business. Total gross receipts derived from providing access to toning services and tanning services, including fees for services and memberships, are subject to the appropriate state and local sales tax pursuant to the sales tax

code. [**See:** 68 O.S. §1354]

710:65-19-314. Professional shoppers
(a) When a professional shopper purchases tangible personal property either in his own name or in the name of his client, such sales are taxable without deduction for any commission or other compensation of the shopper.
(b) However, if the professional shopper purchases items pursuant to a valid sales tax permit for purposes of reselling the items purchased to clients, the purchases by the professional shopper are exempt. The commission or other compensation paid to professional shoppers is not deductible from the selling price of such property when the items are resold.

710:65-19-315. Scaffolding
(a) Persons providing scaffolding to customers for their use are required to remit sales tax to the Commission upon the total price charged, without deduction for any services rendered in connection with the providing of the scaffolding.
(b) Charges for delivery of scaffolding, separately stated, are not subject to sales tax. [**See** OAC 710:65-19-70]
(c) Assembly, maintenance, disassembly, and other services rendered in connection with the providing of scaffolding do not constitute "rental with an operator". [**See** OAC 710:65-1-2]

[**Source:** Added at 35 Ok Reg 2102, eff 9-14-18]

710:65-19-316. Eyeglasses, contact lenses, and hearing aids
Sales of eyeglasses, contact lenses, and hearing aids are subject to sales tax unless their cost will be reimbursed by Medicare or Medicaid pursuant to the terms and conditions outlined in 710:65-13-173.

[**Source:** Added at 37 Ok Reg 2234, eff 9-11-20]

PART 39. " T "

710:65-19-325. Telegraph service [REVOKED]

[**Source:** Revoked at 10 Ok Reg 1111, eff 2-23-93 (emergency); Revoked at 10 Ok Reg 3847, eff 7-12-93]

710:65-19-326. Telephone companies, mobile telephone and telephone answering services [REVOKED]

[**Source:** Revoked at 10 Ok Reg 1111, eff 2-23-93 (emergency); Revoked at 10 Ok Reg 3847, eff 7-12-93]

710:65-19-327. Sales tickets, cash register receipt paper, invoice forms, etc.
Sales of sales tickets, cash register receipt paper, invoice and bill of lading forms, and other forms sold for use in receipting, billing, invoicing, or shipping are subject to sales tax at the time they are purchased.

710:65-19-328. Transportation for hire
(a) Sales tax is due on the gross receipts or gross proceeds of transportation for hire to persons by common carrier, including motor transportation companies, pullman car companies, limousines, shuttle services, and other means of transportation for hire. Sales tax is not due on the gross receipts of the sale of transportation by taxicabs.

(b) Transportation for hire is exempt from sales tax:
(1) if the transportation services are provided by a tourism service broker,
(2) if the transportation services are provided by funeral establishments for purposes of conducting a funeral, or
(3) if the transportation services are sales of intrastate charter and tour bus transportation. As used in this paragraph, "intrastate charter and tour bus transportation" means the transportation of persons from one location in this state to another location in this state in a motor vehicle which has been constructed in such a manner that it may lawfully carry more than eighteen persons, and which is ordinarily used or rented to carry persons for compensation. Provided, this exemption shall not apply to regularly scheduled bus transportation for the general public. [See: 68 O.S. § 1357(36)]
(c) Charges for local transportation are exempt where the fare does not exceed One Dollar ($1.00) or where the transportation is entirely within the corporate limits of a single municipality.
(d) Examples:
(1) A limousine picks up a passenger at a hotel in city A and transports the passenger to the airport which is also located in City A. The charge for the transportation is not subject to sales tax.
(2) A shuttle picks up a passenger in city B and transports the passenger to the airport in city A. The charge for the transportation is subject to sales tax at the state and local tax rate of city B where the service was first initiated.
(e) Transportation by horse-drawn carriages or similar conveyances are sales of transportation and are subject to this rule.

[**Source:** Reserved at 10 Ok Reg 1111, eff 2-23-93 (emergency); Added at 10 Ok Reg 3847, eff 7-12-93; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 23 Ok Reg 2863, eff 6-25-06; Amended at 35 Ok Reg 2102, eff 9-14-18]

710:65-19-329. Services relating to telecommunications
(a) **General provisions.** Charges for labor or repair services associated with the installation, connection, change or initiation of telecommunication services received by a customer are subject to sales tax, regardless of whether the charge is stated separately from charges for telecommunications services.
(b) **Maintenance contracts.** The sale of maintenance contracts for services subject to sales tax as described in this Section is subject to sales tax.
(c) **Applicability of rule.** The provisions of this Section apply generally to all providers of services relating to telecommunications and telecommunications equipment. In addition to requirements similar to those set out in this Section, taxation of telecommunications services rendered by telephone companies is further addressed in 710:65-19-330.

[**Source:** Reserved at 10 Ok Reg 1111, eff 2-23-93 (emergency); Reserved at 10 Ok Reg 3847, eff 7-12-93; Added at 12 Ok Reg 2635, eff 6-26-95; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 22 Ok Reg 1587, eff 6-11-05; Amended at 27 Ok Reg 2308, eff 7-11-10; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-330. Telecommunications services
(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:
(1) ***"Air-to-ground radiotelephone service"*** *means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.* [68 O.S.§ 1354.30(A)(1)]
(2) "**Ancillary services"** *means services that are associated with or incidental to the provision of telecommunication services, including but not limited to "detailed telecommunications*

billing", "directory assistance", "vertical service", and "voice mail service". [68 O.S. § 1354(A)(4)(d)]

(3) ***"Call-by-call basis"*** *means any method of charging for telecommunications services where the price is measured by individual calls.* [68 O.S. § 1354.30(A)(2)]

(4) ***"Communications channel"*** *means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.* [68 O.S. § 1354.30(A)(3)]

(5) ***"Customer"*** *means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service.* ***"Customer"*** *does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.* [68 O.S. § 1354.30(A)(4)]

(6) ***"Customer channel termination point"*** *means the location where the customer either inputs or receives the communications.* [68 O.S. § 1354.30(A)(5)]

(7) ***"End user"*** *means the person who utilizes the telecommunications service. In the case of an entity,* ***"end user"*** *means the individual who utilizes the service on behalf of the entity.* [68 O.S. § 1354.30(A)(6)]

(8) ***"Home service provider"*** *means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act.* [68 O.S. § 1354.30(A)(7)]

(9) **"International telecommunications services" defined. "International telecommunications services"** means all telecommunications services that either (1) originate in this state and terminate outside of the United States or (2) originate outside of the United States and terminate in this state, where, in either instance, a service address of the telecommunications service is in this state.

(10) **Interstate and International "800 service"** means a "telecommunications service" that allows a caller to dial a toll-free number without incurring a charge for the call typically marked under the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission,

(11) **Interstate and International "900 service"** means an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call into the subscriber's prerecorded announcement of live service typically marketed under the name "900" service and any subsequent numbers designated by the Federal Communications Commission. "900 service" does not include charges for collection services provided by the seller of the "telecommunications services" to the subscriber, or service or product sold by the subscriber to the subscriber's customer

(12) **"Interstate"** means a telecommunications service that originates in one state, territory or possession of the United States, and terminates in a different state, territory or possession of the United States.

(13) **"Intrastate"** means a telecommunications service that originates in one state, territory or possession of the United States, and terminates in the same state, territory or possession of the United States.

(14) **"Local exchange telecommunications services" defined. "Local exchange telecommunications services"** means the provision of each access line and each dial tone to a fixed location for sending and receiving service in the provider's local exchange network. Local exchange service includes, but is not limited to, all ordinary exchange and toll service, extra listings, joint-user service, customer access line charges, and auxiliary services (call waiting, call forwarding, etc.).

(15) ***"Mobile telecommunications service"*** *means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act.* [68 O.S. § 1354.30(A)(8)]

(16) ***"Paging service"*** means a "telecommunications service" that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

(17) ***"Place of primary use"*** *means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services,* ***"place of primary use"*** *must be within the licensed service area of the home service provider*. [68 O.S. § 1354.30(A)(9)]

(18) ***"Post-paid calling service"*** *means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service*. [68 O.S. § 1354.30(A)(10)]

(19) ***"Prepaid calling service"*** *means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount*. [68 O.S. § 1354.30(A)(11)]

(20) ***"Private communication service"*** *means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels*. [68 O.S. § 1354.30(A)(13)]

(21) "***Prepaid wireless calling services"*** *means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other nontelecommunicaton services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount*. [68 O.S. 1354.30(A)(12)]

(22) ***"Service address"*** *means:*

(A) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in subparagraph (A) of this paragraph is not known, ***"service address"*** *means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and,*

(C) If the locations in subparagraphs (A) and (B) of this paragraph are not known, ***"service address"*** *means the location of the customer's place of primary use*. [68 O.S. § 1354.30(A)(14)]

(23) **"Value-added non-voice services"** means a service in which computer applications are used, other than for purposes of transmission conveyance or routing, to act on the form, content, code or protocol of the information or data.

(b) **Sales tax levied on the sale of telecommunications services, ancillary services and telecommunications nonrecurring charges.** Sales tax is levied on the sale of telecommunications services regardless of the vendor of said service as follows:

(1) Intrastate, interstate and international telecommunications services sourced to this state in accordance with Section 710:65-18-5.

(2) Ancillary services.

(3) Telecommunications nonrecurring charges, which means an amount billed for the installation, connection, charge or initiation of telecommunication services received by a customer.

(c) **Transactions to which the tax is applicable.** Telecommunications services include:

(1) The electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(2) The transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance or routing as voice-over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added.

(d) **Transactions to which the tax is not applicable.** Telecommunications services do not include:

(1) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser's primary purpose for the underlying transaction is the processed data or information.

(2) The installation or maintenance of wiring or equipment on a customer's premises.

(3) Tangible personal property.

(4) Advertising, including but not limited to directory advertising.

(5) Billing and collection services provided to third parties.

(6) Regulatory assessments and charges, including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High Cost Fund Internet access services.

(7) If charges for taxable telecommunications services are aggregated with and not separately stated from charges for nontaxable services or products, the nontaxable charges will be subject to taxation unless the provider can reasonably identify charges not subject to the tax, charge or fee from the provider's books and records kept in the regular course of business; Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S. C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3.

(8) Ancillary services.

(9) Digital products delivered electronically, including but not limited to, software, music video, reading materials or ring tones.

(e) **Transactions exempted from the telecommunications levy.** The following transactions are exempt from the telecommunications levy:

(1) Interstate and International "800 service".

(2) Interstate and International "900 service".

(3) Interstate and International "private communications service".

(4) Value-added non-voice services in which computer applications are used, other than for purposes of transmission, conveyance or routing, to act on the form, content, code or protocol of the information or data.

(5) Interstate and International telecommunication service which is:

(A) Rendered by a company for private use within its organization or

(B) Used, allocated, or distributed by a company to its affiliated group.

(6) Regulatory assessments and charges, including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High Cost Fund.

(7) Telecommunications nonrecurring charges, including but not limited to the installation, connection, change or initiation of telecommunications services which are not associated with a retail consumer sale.

(f) **Coin-operated telephone taxable.** Gross receipts from a coin-operated telephone are subject to sales tax.
(g) **Purchases of tangible personal property by persons providing telecommunications services.** Except as otherwise set out in this paragraph, persons engaged in the business of providing telecommunications services are the consumers of tangible personal property used in providing those services. Sales of such tangible personal property to persons providing telecommunications services are taxable. However, sales of wireless telecommunications equipment to a wireless telecommunications vendor, who subsequently transfers the equipment to a customer for no charge or for a discounted charge, in connection with the customer's purchase of new or continued wireless telecommunications service, are exempt. 68 O.S. § 1357(26)
(h) **Access charges billed to customer.** Access charges billed to consumers of telecommunications services are taxable.
(i) Sales of telecommunications services shall be sourced as set out in Section 710:65-18-5.
(j) If charges for taxable telecommunications services are aggregated with and not separately stated from charges for nontaxable services or products, the nontaxable charges will be subject to taxation unless the provider can reasonably identify charges not subject to the tax, charge or fee from the provider's books and records kept in the regular course of business.

[**Source:** Added at 10 Ok Reg 1111, eff 2-23-93 (emergency); Added at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 19 Ok Reg 1859, eff 6-13-02; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2863, eff 6-25-06; Amended at 25 Ok Reg 2070, eff 7-1-08; Amended at 28 Ok Reg 1844, eff 6-25-11]

710:65-19-331. Prepaid telephone calling cards, telephone authorization numbers, and recharges
(a) **General provisions.** A prepaid telephone calling card is an article of tangible personal property, which entitles the holder of the card to a predetermined amount of telecommunications services. The holder of a calling card can generally initiate calls from any location in the United States. The cards may be sold by retail vendors, such as convenience stores, which are not, otherwise, providers of telecommunications services and may be purchased exempt for resale by vendors who hold valid sales tax permits.
(b) **Point of sale.** The sale of a prepaid telephone calling card, prepaid telephone authorization number, or the recharge of a prepaid calling card or authorization number is subject to sales tax at the point of sale by the retail vendor, as determined by *OAC* 710-65-18-3.
(c) **Vending machines.** Vending machines which are used to vend prepaid telephone calling cards require a Coin-operated Vending Device decal. As a result, the entire gross proceeds from the sale of the cards through vending machines are exempt from sales tax pursuant to 68 O.S. §1503(B).

[Source: Added at 15 Ok Reg 2827, eff 6-25-98, Amended at Ok Reg 1588, eff 6-11-05]

PART 41. "U"

710:65-19-340. Upholsterers and furniture repairers
(a) A furniture repairer or upholsterer primarily renders services and is considered the consumer of items like fabric, glue, tacks, nails, paints, varnishes, etc. Sales to him of such items are taxable.
(b) Sales of machinery, tools, etc., to furniture repairers and upholsterers for use in their business are taxable.

710:65-19-341. Natural or artificial gas and electric utility services

(a) **General provisions.** Generally, the sale of utilities or public services, including natural or artificial gas and electricity, are subject to sales tax. [**See:** 68 O.S. § 1354(A)(2)]
(b) **Exemptions and exclusions.** Natural or artificial gas and electricity sold exclusively for residential use are exempt from the Oklahoma sales tax, but remain subject to any applicable municipal and county sales taxes in effect at the time of the sale. [**See:** 68 O.S. § 1357(8) and *OAC* 710:65-13-120]
(c) **Point of sale for gas and electricity.** For purposes of any applicable municipal and county sales taxes, the point of sale for gas and electric utility services is determined to be the location of the meter by which the purchaser's usage is measured.
(d) **Minimum service charges.** When a fixed monthly charge is billed to a customer by a natural gas or electric utility and there is no consumption, this charge is not subject to sales tax. If any amount of gas or electricity is consumed, the minimum charge is subject to sales tax.
(e) **Other charges.** Charges which are separately stated and are unrelated to the amount of gas or electricity used such as fees for meter reading, installation, initiation, disconnection, or restoration of service, as well as charges for returned checks or for late payment, are not subject to sales tax.

[**Source:** Added at 14 Ok Reg 2711, eff 6-26-97; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 22 Ok Reg 1588, eff 6-11-05]

PART 43. "V"

710:65-19-350. Veterinarians

(a) **General provisions.** Persons engaged in the practice of rendering veterinary services are consumer/users of all tangible personal property used in their veterinary practices. Items of tangible personal property to be used or sold for the prevention, diagnosis, or treatment of animals are subject to sales tax upon their purchase by the veterinarian rendering the services.
(b) **When a sales tax permit is needed.** Veterinarians who hold inventories and market products to the public outside the client/patient relationship are engaged in selling tangible personal property and must obtain a sales tax permit to allow the purchase of inventory exempt from sales tax.
(c) **Withdrawals from inventory.** If a veterinarian with a sales tax permit, withdraws items from inventory which were purchased for resale and consumes the items in the practice of veterinary medicine, the veterinarian must remit sales tax on the "sales value" of the items, as defined in *OAC* 710:65-1-2, unless the veterinarian can document that the items were applied on a contract or custom basis pursuant to an agreement with the holder of an agricultural exemption permit. [68 O.S. § 1358(4)]
(d) **Examples of taxable products.** Examples of items upon which sales tax must be collected and remitted if not dispensed for the prevention, diagnosis or treatment of animals may include:

(1) beds
(2) books
(3) clothing
(4) decorative collars
(5) combs
(6) grooming products
(7) halters
(8) leashes
(9) lint brush
(10) livestock equipment
(11) riding equipment
(12) ropes
(13) snack products
(14) toys

(15) food

(e) **Transactions in which the veterinarian is acting as a vendor.** A person, who is not a client, walks into the clinic and buys an item displayed or available in the clinic. The person is charged sales tax on the product because it is not being dispensed by the veterinarian for use in treating an animal. There is no patient/client relationship.

(f) **Transactions in which the veterinarian is acting as a consumer/user.** Where a course of prevention, diagnosis, or treatment is reflected in patient records kept by the veterinarian, the dispensing of tangible personal property used in the prevention, diagnosis, or treatment of an animal is not subject to sales tax. For example, if the veterinarian examines a client's animal and prescribes a specific type of preventive, the client is not charged sales tax on the treatment product. Moreover, if the client comes back to the clinic in a few weeks to get a prescription refill, and does not bring the animal to see the veterinarian, the client may, nevertheless, purchase the prescribed product without incurring sales tax on the purchase. Notation in the patient record must be made, however, to reflect the subsequent purchase.

(g) **Dispensing of products and services to agricultural exemption permit-holders.** Veterinarians may **dispense or administer**, tax exempt, products for the prevention, diagnosis, or treatment of animals, on a contract or custom basis, pursuant to an agreement with the holder of an agricultural exemption permit:

(1) **Veterinarians holding a sales tax permit.** If a veterinarian holds a sales tax permit, sales tax exempt purchases may be made of items to be used on a contract or custom basis, with documentation that the client has an agricultural exemption permit. For example, the veterinarian may purchase antibiotics, using his sales tax permit and not pay tax. The veterinarian may then dispense or administer the antibiotics to the client who has an agricultural exemption permit, and the use of the antibiotic is not subject to sales tax. If the veterinarian purchases antibiotic tax exempt, using his sales tax permit, but subsequently dispenses or administers the antibiotic to a client without an agricultural exemption permit, the veterinarian must remit sales tax on the "sales value" of the product.

(2) **Veterinarians without a sales tax permit.** If a veterinarian does not hold a sales tax permit, all products purchased are subject to sales tax upon their purchase. However, if the veterinarian holds an agricultural exemption permit, purchases may be made free from sales tax only of items to be dispensed or administered on a contract or custom basis to another agricultural exemption permit-holder.

[**Source:** Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 29 Ok Reg 542, eff 5-11-12]

710:65-19-351. Volunteer fire companies [REVOKED]

[**Source:** Revoked at 22 Ok Reg 1588, eff 6-11-05]

PART 45. "W"

710:65-19-365. Extended warranty

(a) Charges for parts used to make extended warranty repairs are subject to sales tax on a withdrawal basis to the company providing the warranty service, if there is no charge to the customer for the parts. If an article purchased or acquired in trade is salvaged or 'cannibalized' for parts by the company providing the warranty service, the sale or use of such parts is subject to sales tax. In the case of the use of 'cannibalized' parts by a company providing warranty service, if there is no charge to the customer for the parts, such use is taxable as a withdrawal to the company providing the parts. Sales tax must be imposed if the customer is charged for the parts.

(b) If the agreement specifies the vendor will supply maintenance only and parts will be billed separately, the buyer will pay sales tax on the parts only. Labor charges, separately stated, are not subject to sales tax. If the charges to the customer include parts and labor, and the labor is not

separately stated, the charges for labor will be considered part of gross receipts and will be taxable.
(c) If the price paid for the equipment includes an extended maintenance agreement or warranty, the buyer pays sales tax on the entire purchase price including the maintenance agreement. If the extended maintenance agreement is not included in the sales price and the buyer has an option of purchasing the agreement, the maintenance agreement is not considered to be a part of taxable gross proceeds.

[**Source:** Amended at 10 Ok Reg 3847, eff 7-12-93; Amended at 11 Ok Reg 3521, eff 6-26-94; Amended at 11 Ok Reg 4695, eff 8-15-94 (emergency); Amended at 12 Ok Reg 2635, eff 6-26-95; Amended at 13 Ok Reg 3139, eff 7-11-96; Amended at 36 Ok Reg 1235, eff 8-11-19]

710:65-19-366. Watch and jewelry repair shops
(a) Watch and jewelry repairmen render services in repairing, cleaning or servicing articles which belong to other persons. They also sometimes engage in the business of selling tangible personal property for use or consumption, such as watches, clocks, watch cases, watch parts, etc.
(b) Materials and supplies used by watch and jewelry repairmen in rendering services but which are not resold as merchandise are subject to sales tax when purchased by the repairman from the supply dealer.

710:65-19-367. Water conditioning and water softeners
(a) Water conditioning companies (including all soft water companies) are vendors with respect to all tangible personal property sold, leased, or rented by them and must collect the sales tax on all such property unless the purchaser or user is entitled to claim exemption from the sales tax and furnished an exemption certification.
(b) For purposes of collection of the tax, the term **"water conditioner"** means all automatic softeners, softener tanks, exchange tanks, purifiers, chlorinators, or any other device or equipment, together with the minerals contained therein used to condition, purify, or soften water.
(c) Rented or leased water conditioners, including those leased with an option for purchase, or those otherwise furnished for a monthly or other periodic charge, are subject to the sales tax on the amount charged. Such conditioners sold shall be subject to sales tax on the full selling price.
(d) Purchasers by a water conditioning or softening company of water conditioners, tanks, and other equipment to be sold or rented are not subject to tax.
(e) Purchases of all other equipment supplies, and materials not for resale, including salt or any other cleaning agent used to rejuvenate water tanks or the minerals therein, are subject to sales or use tax.
(f) When a customer is billed separately for materials used to alter or change plumbing to accommodate conditioning equipment, the sales tax shall be collected, reported and remitted on the gross receipts from such materials.

710:65-19-368. Wheel balancing [REVOKED]

[**Source:** Amended at 17 Ok Reg 2677, eff 6-25-00; Revoked at 18 Ok Reg 2823, eff 6-25-01]

710:65-19-369. Wholesalers and jobbers
The gross proceeds derived from sales of goods, wares, and merchandise by wholesalers and jobbers for resale to persons having a valid sales tax permit who are regularly engaged in reselling the articles purchased are exempt from sales tax. The sales tax applies to all sales made by a wholesaler or jobber to a consumer/user, even though the wholesaler or jobber may be selling to him in wholesale quantities and at a wholesale price.

710:65-19-370. Storm windows, combination windows, etc.

(a) In the case of lump sum contracts where the vendor actually fabricates the windows - that is, buys the metal, screen, glass, etc., and makes the whole window to measure and installs same - the vendor is to be treated as a contractor and should pay the tax to suppliers as a consumer.
(b) Where the vendor does not actually fabricate the window, but merely measures each window and sends these measurements to a factory to be manufactured, the vendor is considered as selling and installing a complete unit of standard equipment and should charge sales or use tax on the full selling piece. If the full retail selling price is segregated from the charge for installation on the sales invoice, the tax applies only to the selling price of the property.
(c) Where the vendor sells the type of ready-made window which is not measure to fit but is merely attached to the outside wall, the vendor should charge sales or use tax on the total selling price.
(d) This rule applies to vendors only. Contractors should see specific rules dealing with contractors.

710:65-19-371. Manufacturer's original product warranty
(a) **Definitions. "Manufacturer's original product warranty"** means those warranties which are provided as a condition of all sales of a product and which constitute an indistinguishable part of the product sold. For purposes of this section, a **"Manufacturer's original product warranty"**, is included within the basis for determining sales tax, without regard for whether the charges for the warranty and for the product are separately stated.
(b) **Sale of a product covered by a manufacturer's warranty.** The entire gross proceeds of a product covered by a manufacturer's original product warranty is subject to sales tax, including any separately-stated charges for the manufacturer's original product warranty, if the sale is not otherwise exempt.
(c) **Parts used by the manufacturer.** Parts used by the manufacturer to perform original manufacturers warranty repair or replacement, are not taxable to the manufacturer. If the parts are included in the terms of the original warranty, and are not sold/billed to the customer, sales tax will not be due upon use by the manufacturer to effect repair or replacement. Parts billed/sold to the customer are subject to sales tax.
(d) **Work done by dealers.** If the manufacturer has agreements with dealers or the representatives to perform original manufacturers' warranty repairs, the parts used to perform the repairs, if not sold/billed to the customer, are considered to be sold to the manufacturer for re-sale or manufacturing.

[**Source:** Added at 11 Ok Reg 3521, eff 6-26-94; Amended at 14 Ok Reg 2711, eff 6-26-97]

PART 47. "X"

710:65-19-380. X-ray laboratories
Producers of x-ray film for the purpose of diagnosis are the consumers of materials and supplies used in the production thereof. Thus, the tax applies to the sale of such materials and supplies to laboratories producing x-ray film for the purpose of diagnosis. Whether the laboratory is a "lay laboratory" or is operated by a physician, surgeon, dentist, or hospital is immaterial.

PART 49. "Y" [RESERVED]

PART 51. "Z" [RESERVED]

SUBCHAPTER 21. USE TAX

710:65-21-1. Purpose
The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the

administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to 68 O.S. §§1401 et seq. of the Oklahoma Statutes (Use Tax Code).

710:65-21-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Manufacturing operation" *means the designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site.* ***"Manufacturing operation"*** *does not include administration, sales, distribution, transportation, site construction, or site maintenance.* [68 O.S.§ 1352]

"Person" means any individual, partnership, association, or corporation.

"Purchase price" has the same meaning as **"gross receipts"**, as set out in 710:65-1-9.

"Sale" means the transfer of either title or possession of tangible personal property for a valuable consideration. The term **"sale"** includes the exchange, barter, lease, or rental or tangible personal property.

"Use tax" means an excise tax charged on the sale of tangible personal property purchased from outside Oklahoma and brought into the state for consumption or use. [**See:** 68 O.S. § 1401]

[**Source:** Amended at 14 Ok Reg 2711, eff 6-26-97; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 42 Ok Reg, Number 20, effective 7-15-25]

710:65-21-3. Use tax

All purchases of tangible personal property which are purchased in a manner such that, pursuant to *OAC* 710:65-15-1, sales tax is not due, but which are stored, used or otherwise consumed in Oklahoma are subject to the use tax. The use tax must be remitted directly to the Commission by the vendor, if the vendor is either "maintaining a place of business in this state", as defined by *OAC* 710:65-1-8, and has knowledge that the goods are being sold for use in this state; or if the vendor is not "maintaining a place of business in this state", but has voluntarily agreed to collect Oklahoma Use Tax. In the event that the vendor is not "maintaining a place of business in this state" and has not voluntarily agreed to collect the use tax, the Oklahoma purchaser must accrue, report, and remit the use tax.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-21-4. Use tax on out-of-state purchases

(a) Tangible personal property bought outside this State either by an Oklahoma user or consumer or out-of-state user or consumer in such a way that the vendor need not collect sales tax in that State, and brought into this State for storage, use, or other consumption is subject to the use tax. Use tax must be reported and paid by the purchaser on forms prescribed by and available from the Commission.

(b) If the purchaser buys such tangible personal property from an out-of-state vendor who is authorized or required by the Use Tax Code to collect, report and remit use tax, the purchaser should pay the use tax to such vendor. Vendors who are required to collect use tax are those who maintain places of business both within and without Oklahoma. [**See:** 68 O.S. §§1402, 1405-1406]

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98]

710:65-21-5. Voluntary registration by certain out-of-state retailers or vendors

The Commission, in its discretion, upon application, may authorize the collection of the Use

Tax by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible personal property for use in this state. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect use tax upon all tangible personal property sold to his knowledge for use within this State, in the same manner and subject to the same requirements, as a retailer maintaining a place of business within this State. [**See:** 68 O.S. §1407]

710:65-21-5.1. Filing requirements for certain vendors registered under the Streamlined Sales and Use Tax Agreement

A seller that is registered under the Streamlined Sales and Use Tax Agreement which has indicated at the time of registration that it anticipates making no sales which would be sourced to Oklahoma under the Agreement is exempt from the filing of a return. A seller shall lose such exemption upon making any taxable sales into this state and shall file a return in the month following such sale.

[**Source:** Added at 30 Ok Reg 2089, eff 7-25-13]

710:65-21-6. Retailers required to obtain a use tax permit

Every vendor who is "maintaining a place of business" as defined in *OAC* 710:65-1-8, both inside Oklahoma and outside Oklahoma, must obtain a use tax permit. The permit, which is free of charge, is issued upon receipt of a Business Registration form. As a part of the form, the vendor must list the names and addresses of all the vendor's agents operating in the state, along with the location of any and all other warehouses in which goods are stored, offices, and other places of business in the state, or the location of any tangible personal property or real property owned, which is located in Oklahoma.

[**Source:** Added at 15 Ok Reg 2827, eff 6-25-98]

710:65-21-7. Reports, payments, and penalties

(a) **General provisions.** Payment of use tax is due on the first of each month for purchases made the preceding month. Every person, whether responsible to report and remit the tax as a vendor, or as a purchaser, must file for each month for which a liability exists. If not reported and not paid on the 20th day of the month following the month in which the goods were sold for use in Oklahoma, or in which the goods were purchased for use in Oklahoma, the tax and report shall be delinquent and interest and penalty will be assessed as allowed by statute. Reports are to be made on forms which can be obtained from the Commission.

(b) **Semimonthly electronic reporting.** *Persons owing an average of Two Thousand Five Hundred Dollars ($2,500.00) or more, per month, in total use taxes for the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:*

(1) For sales from the first (1st) day through the fifteenth (15th) day of each month, the tax shall be due and payable on the twentieth (20th) day of the month, and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth (20th) day of each month, the taxpayer paid at least ninety (90) percent of the liability for that fifteen-day period, or at least fifty (50) percent of the liability incurred during the immediate preceding calendar year for the same month; and

(2) For sales from the sixteenth (16th) day through the end of each month, the tax shall be due and payable on the twentieth (20th) day of the following month, and remitted to the Tax Commission by electronic funds transfer.

(c) **Electronic reporting; due dates; delinquency dates.** *Persons required to remit the tax due pursuant to subsection (b) shall file a monthly use tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth (20th) day of the month*

following that in which the tax is levied. Taxes not paid on or before the due dates specified in subsection (b) shall be delinquent from such dates. [68 O.S. § 1405(D)]

(d) **Payment.** Remittances covering the use tax liability reported shall accompany the use tax return. Use taxes will be considered delinquent and interest as provided by law will be charged if payment is not received or postmarked by the date the return is due.

(e) **Interest.** Interest at the rate provided by law will be imposed on all liability not paid at the time when required to be paid. Said interest will be imposed and collected on the delinquent tax at the statutory rate from the date the tax is delinquent until paid.

(f) **Audit; refund/credit for overpayment; assessment inclusive of interest due.** When, in the course of an audit, it is found that the tax being audited was overpaid for any period included in the audit, and the taxpayer has not filed a verified claim for refund of the overpayment, the overpayment may be allowed as a credit against the total liability established during the audit. The overpayment shall be applied to the liability as of the date of the overpayment. Whenever an assessment is made for any delinquent tax, the amount of interest due thereon at the time the assessment is made shall be included in the assessment.

(g) **Liability for tax, penalty, interest; interest computation.** Any taxpayer responsible for the payment of any tax levied by any state tax law shall be liable for payment of interest at the rate set by statute on any amount of tax not paid before it becomes delinquent. Interest shall be computed for each day of delinquency from the date the tax becomes delinquent until it is paid.

(h) **Penalty for failure to file and remit.** A vendor who fails to file a return and remit the full amount of the tax within fifteen (15) days after the tax is due shall be subject to a penalty of ten (10) percent of the amount of tax due.

(i) **Penalty for failure or refusal to file after demand.** In the case of failure or refusal to file within ten (10) days after written demand has been served upon the taxpayer by the Commission, a penalty of twenty-five (25) percent may be assessed and collected.

(j) **Penalty for fraud.** If any portion of the deficiency is due to fraud with intent to evade tax, a penalty of fifty (50) percent shall be added, collected, and paid.

(k) **Waiver of penalty; interest.** At the discretion of the Commission, the interest or penalty assessed, or both, may be waived provided the taxpayer can demonstrate that the failure to pay the tax when due is satisfactorily explained, or that the failure resulted from a mistake by the taxpayer of either law or fact, or that the taxpayer is unable to pay the interest or penalty due to insolvency. Requests for waiver or remission must be made in writing and must include all pertinent facts to support the request. [**See:** 68 O.S. §§ 217, 1365, 1405]

[**Source:** Added at 15 Ok Reg 2827, eff 6-25-98; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 23 Ok Reg 2865, eff 6-25-06; Amended at 35 Ok Reg 2102, eff 9-14-18]

710:65-21-8. Out-of-state retailers or vendors not registered in Oklahoma

(a) **Definitions.** For the purposes of this Section:

(1) "**De minimis online auction website"** means any online auction website that facilitates total gross sales in Oklahoma in the prior year of less than $100,000.00 and reasonably expects Oklahoma sales in the current year will be less than $100,000.00.

(2) "**De minimis retailer"** means any non-collecting retailer that made total gross sales in Oklahoma in the prior year of less than $100,000.00 and reasonably expects Oklahoma sales in the current year will be less than $100,000.00.

(3) "**Non-collecting retailer"** means a retailer, not currently registered to collect and remit Oklahoma sales and use tax, who makes sales of tangible personal property from a place of business outside of Oklahoma to be shipped to Oklahoma for use and who is not required to collect Oklahoma sales or use taxes.

(4) "**Oklahoma purchaser**" means a purchaser that requests goods be shipped to Oklahoma.

(5) "**Online auction website**" means a collection of web pages on the Internet that allows persons to display tangible personal property for sale which is purchased through a

competitive process where participants place bids with the highest bidder purchasing the item when the bidding period ends.

(b) **Requirements for notice.** Effective October 1, 2010, every non-collecting retailer must give notice that Oklahoma use tax is due on nonexempt purchases of tangible personal property and should be paid by the Oklahoma purchaser.

(1) **Notice contents.** The notice must be readily visible and contain the information set forth as follows:

(A) The non-collecting retailer is not required, and does not collect Oklahoma sales or use tax;

(B) The purchase is subject to Oklahoma use tax unless it is specifically exempt from taxation;

(C) The purchase is not exempt merely because it is made over the Internet, by catalog, or by other remote means;

(D) The State of Oklahoma requires Oklahoma purchasers to report all purchases that were not taxed and pay tax on those purchases. The tax may be reported and paid on the Oklahoma individual income tax return [Form 511] or by filing a consumer use tax return; and

(E) The referenced forms and corresponding instructions are available on the Oklahoma Tax Commission website, www.tax.ok.gov.

(2) **Website and/or catalog notice**. Notice on a website shall occur on a page necessary to facilitate the applicable transaction. It shall be sufficient if the non-collecting retailer provides a prominent linking notice that reads as follows: "See important Oklahoma sales tax information regarding the tax you may owe directly to the State of Oklahoma", if such linking notice directs the purchaser to the principal notice required by this Section. Notice in a catalog shall be part of the order form. It shall be sufficient if the non-collecting retailer provides a prominent reference to a supplemental page that reads as follows: "See important Oklahoma sales tax information regarding the tax you may owe directly to the State of Oklahoma on page __", if such page includes the principal notice required by this Section.

(3) **Invoice notice.** For internet purchases, the invoice notice must occur on the electronic order confirmation. It shall be sufficient if the non-collecting retailer provides a prominent linking notice that reads as follows: "See important Oklahoma sales tax information regarding the tax you may owe directly to the State of Oklahoma", if such linking notice directs the purchaser to the principal notice required by this Section. If the non-collecting retailer does not issue an electronic order confirmation, the complete notice must be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement. For catalog purchases, the complete notice must be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

(4) **Exceptions**.

(A) For internet purchases, notice on the check-out page fulfills both the website and invoice notice requirements simultaneously. It shall be sufficient if the non-collecting retailer provides a prominent linking notice that reads as follows: "See important Oklahoma sales tax information regarding the tax you may owe directly to the State of Oklahoma", if such linking notice directs the purchaser to the principal notice required by this Section.

(B) If a retailer is required to provide a similar notice for another state in addition to Oklahoma, the retailer may provide a consolidated notice so long as such notice includes the information contained in (b) of this Section, specifically references Oklahoma and meets the placement requirements of this Section.

(c) **Prohibition from advertising no tax due.** A non-collecting retailer may not state or display or imply that no tax is due on any Oklahoma purchase unless such display is accompanied by the notice required by (b) of this Section each time the display appears.

(1) For example, a summary of the transaction including a line designated "sales tax" and

showing the amount of sales tax as "zero" or "0.00" would constitute a "display" implying that no tax is due on the purchase. Such a display must be accompanied by the notice required by (b) of this Section every time it appears.

(2) Notwithstanding the limitation in this subsection, if a non-collecting retailer knows that a purchase is exempt from Oklahoma tax pursuant to Oklahoma law, the non-collecting retailer may display or indicate that no sales tax is due even if such display is not accompanied by the notice required by (b) of this Section.

(d) **Invoice notification exception for online auction websites.** With the exception of notification on invoices, the provisions of this Section shall apply to online auction websites as defined in (a) of this Section.

(e) **De minimis exception.** A de minimis retailer and a de minimis online auction website, as defined in (a) of this Section, shall be exempt from the notice requirements in (b) of this Section.

(f) **Annual purchase statement.** In addition to the requirements outlined in (b) of this Section, every non-collecting retailer must provide, by February 1 of each year, a statement to each customer to whom tangible personal property was delivered in this state a statement of the total sales made to the customer during the preceding calendar year.

(1) **Statement contents.** The statement must contain language substantially similar to the following: *You may owe Oklahoma use tax on purchases you made from us during the previous tax year. The amount of tax you may owe is based on the total sales price of [insert total sales price] that must be reported and paid when you file your Oklahoma income tax return unless you have already paid the tax*.

(2) **Confidential information prohibited.** The statement must not contain any information that would indicate, imply or identify the class, type, description or name of the products purchased.

(3) **Statement distribution.** The statement may be provided by first-class mail, email or other electronic communication.

[**Source:** Added at 28 Ok Reg 961, eff 6-1-11; Amended at 34 Ok Reg 2089, eff 9-11-17]

710:65-21-9. [RESERVED]

710:65-21-10. [RESERVED]

710:65-21-11. [RESERVED]

710:65-21-12. [RESERVED]

710:65-21-13. [RESERVED]

710:65-21-14. [RESERVED]

710:65-21-15. [RESERVED]

710:65-21-16. [RESERVED]

710:65-21-17. [RESERVED]

710:65-21-18. [RESERVED]

710:65-21-19. [RESERVED]

710:65-21-20. Use tax exemptions

The following are specifically exempt from use tax: [**See:** 68 O.S. §§ 1404 and 1411]

(1) Tangible personal property brought into this state by a non-resident for his or her personal use visiting or with the intent to become a resident.

(2) Tangible personal property that is purchased for resale.

(3) Tangible personal property on which sales/use tax has been paid that is equal to or greater than the rate charged by Oklahoma. If the rate charged by another state is less than the rate charged by Oklahoma, the difference in the rate is to be multiplied by the purchase price of the tangible personal property to give the amount of tax due for that purchase. In the same manner, a credit against any municipal or county use tax paid may be taken if a municipal or county sales or use tax, respectively, has been paid to an out-of-state municipality or county.

(4) Those items specifically exempted by the Oklahoma Sales Tax Code. [**See:** 68 O.S. §§ 1350 et seq.]

(5) Tangible personal property used in or by commercial airlines and railroads.

(6) Livestock purchased for feeding or breeding purposes and later resold.

(7) For municipal and county uses tax purposes only, the municipal or county rate does not apply to goods which are brought into the city or county temporarily for the purpose of fabrication, repair, testing, alteration, maintenance or other service.

(8) The use of rail transportation cars to haul coal to coal-fired electric generating plants located in Oklahoma.

(9) Tangible personal property purchased for use by manufacturers in manufacturing operations located in Oklahoma.

(10) Municipal and county use taxes do not apply to property purchased in Oklahoma.

[**Source:** Amended at 15 Ok Reg 2827, eff 6-25-98; Amended at 16 Ok Reg 2653, eff 6-25-99; Amended at 17 Ok Reg 2677, eff 6-25-00; Amended at 21 Ok Reg 2581, eff 6-25-04; Amended at 24 Ok Reg 2397, eff 6-25-07]