

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2355

By: Caldwell (Chad) of the House and David of the Senate

Title: Motor vehicle sales; definition; adjustment to exemption from sales tax on motor vehicle sales; excise tax on certain vehicles in lieu of sales and use taxes.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That Conferees are unable to agree.

Respectfully submitted,

SENATE CONFEREES: GCCA (must be signed out at a Senate GCCA meeting)

Bice _____

Brooks _____

Daniels _____

Dossett _____

Dugger _____

Floyd _____

Hall _____

Ikley-Freeman _____

Jech _____

Kidd _____

Matthews _____

Montgomery _____

Pemberton _____

Pugh _____

Rader _____

Rosino _____

Scott _____

Shaw _____

Simpson _____

Stanislowski _____

Thompson _____

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
BILL NO. 2355

By: Caldwell (Chad) of the
House

and

David of the Senate

8 [motor vehicles sales and registration - modifying
9 definition - adjusting amount upon which sales
tax is levied for motor vehicle sales - effective
10 date - emergency]

11
12 AMENDMENT NO. 1. Page 1, strike the enacting clause

13 AMENDMENT NO. 2. Pages 1 through 20, delete Section 1 and renumber
14 subsequent Sections

15 and when the title is restored, amend the title to
conform

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1 Passed the Senate the 25th day of April, 2019.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2019.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2355

By: Caldwell (Chad) of the
House

3 and

4 David of the Senate

5
6
7
8 [motor vehicles sales and registration - modifying
9 definition - adjusting amount upon which sales
10 tax is levied for motor vehicle sales - effective
11 date -

12 emergency]
13
14
15

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

17 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1352, as
18 amended by Section 2, Chapter 311, O.S.L. 2016 (68 O.S. Supp. 2018,
19 Section 1352), is amended to read as follows:

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

21 1. "Bundled transaction" means the retail sale of two or more
22 products, except real property and services to real property, where
23 the products are otherwise distinct and identifiable, and the
24 products are sold for one nonitemized price. A "bundled

1 transaction" does not include the sale of any products in which the
2 sales price varies, or is negotiable, based on the selection by the
3 purchaser of the products included in the transaction. As used in
4 this paragraph:

5 a. "distinct and identifiable products" does not include:

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

14 (2) a product provided free of charge with the
15 required purchase of another product. A product
16 is provided free of charge if the sales price of
17 the product purchased does not vary depending on
18 the inclusion of the product provided free of
19 charge, or

20 (3) items included in the definition of gross
21 receipts or sales price, pursuant to this
22 section,

23 b. "one nonitemized price" does not include a price that
24 is separately identified by product on binding sales

1 or other supporting sales-related documentation made
2 available to the customer in paper or electronic form
3 including, but not limited to an invoice, bill of
4 sale, receipt, contract, service agreement, lease
5 agreement, periodic notice of rates and services, rate
6 card, or price list.

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

- 9 (1) the retail sale of tangible personal property and
10 a service where the tangible personal property is
11 essential to the use of the service, and is
12 provided exclusively in connection with the
13 service, and the true object of the transaction
14 is the service,
- 15 (2) the retail sale of services where one service is
16 provided that is essential to the use or receipt
17 of a second service and the first service is
18 provided exclusively in connection with the
19 second service and the true object of the
20 transaction is the second service,
- 21 (3) a transaction that includes taxable products and
22 nontaxable products and the purchase price or
23 sales price of the taxable products is de
24 minimis. For purposes of this subdivision, "de

1 de minimis" means the seller's purchase price or
2 sales price of taxable products is ten percent
3 (10%) or less of the total purchase price or
4 sales price of the bundled products. Sellers
5 shall use either the purchase price or the sales
6 price of the products to determine if the taxable
7 products are de minimis. Sellers may not use a
8 combination of the purchase price and sales price
9 of the products to determine if the taxable
10 products are de minimis. Sellers shall use the
11 full term of a service contract to determine if
12 the taxable products are de minimis, or

13 (4) the retail sale of exempt tangible personal
14 property and taxable tangible personal property
15 where:

16 (a) the transaction includes food and food
17 ingredients, drugs, durable medical
18 equipment, mobility enhancing equipment,
19 over-the-counter drugs, prosthetic devices
20 or medical supplies, and

21 (b) the seller's purchase price or sales price
22 of the taxable tangible personal property is
23 fifty percent (50%) or less of the total
24 purchase price or sales price of the bundled

1 tangible personal property. Sellers may not
2 use a combination of the purchase price and
3 sales price of the tangible personal
4 property when making the fifty percent (50%)
5 determination for a transaction;

6 2. "Business" means any activity engaged in or caused to be
7 engaged in by any person with the object of gain, benefit, or
8 advantage, either direct or indirect;

9 3. "Commission" or "Tax Commission" means the Oklahoma Tax
10 Commission;

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

14 5. "Computer software" means a set of coded instructions
15 designed to cause a "computer" or automatic data processing
16 equipment to perform a task;

17 6. "Consumer" or "user" means a person to whom a taxable sale
18 of tangible personal property is made or to whom a taxable service
19 is furnished. "Consumer" or "user" includes all contractors to whom
20 a taxable sale of materials, supplies, equipment, or other tangible
21 personal property is made or to whom a taxable service is furnished
22 to be used or consumed in the performance of any contract;

23 7. "Contractor" means any person who performs any improvement
24 upon real property and who, as a necessary and incidental part of

1 performing such improvement, incorporates tangible personal property
2 belonging to or purchased by the person into the real property being
3 improved;

4 8. "Drug" means a compound, substance or preparation, and any
5 component of a compound, substance or preparation:

6 a. recognized in the official United States
7 Pharmacopoeia, official Homeopathic Pharmacopoeia of
8 the United States, or official National Formulary, and
9 supplement to any of them,

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

12 c. intended to affect the structure or any function of
13 the body;

14 9. "Electronic" means relating to technology having electrical,
15 digital, magnetic, wireless, optical, electromagnetic, or similar
16 capabilities;

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

1 11. "Fair authority" means:

2 a. any county, municipality, school district, public
3 trust or any other political subdivision of this
4 state, or

5 b. any not-for-profit corporation acting pursuant to an
6 agency, operating or management agreement which has
7 been approved or authorized by the governing body of
8 any of the entities specified in subparagraph a of
9 this paragraph which conduct, operate or produce a
10 fair commonly understood to be a county, district or
11 state fair;

12 12. a. "Gross receipts", "gross proceeds" or "sales price"

13 means the total amount of consideration, including
14 cash, credit, property and services, for which
15 personal property or services are sold, leased or
16 rented, valued in money, whether received in money or
17 otherwise, without any deduction for the following:

18 (1) the seller's cost of the property sold,

19 (2) the cost of materials used, labor or service
20 cost,

21 (3) interest, losses, all costs of transportation to
22 the seller, all taxes imposed on the seller, and
23 any other expense of the seller,
24

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

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

7 ~~(6) credit for any trade-in.~~

8 b. Such term shall not include:

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

22 22. "Sale" means the transfer of either title or possession of
23 tangible personal property for a valuable consideration regardless
24 of the manner, method, instrumentality, or device by which the

1 transfer is accomplished in this state, or other transactions as
2 provided by this paragraph, including but not limited to:

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

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

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

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

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

1 highways of this state shall not constitute a sale
2 within the meaning of this paragraph;

3 23. "Sale for resale" means:

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

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

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

17 24. "Tangible personal property" means personal property that
18 can be seen, weighed, measured, felt, or touched or that is in any
19 other manner perceptible to the senses. "Tangible personal
20 property" includes electricity, water, gas, steam and prewritten
21 computer software. This definition shall be applicable only for
22 purposes of the Oklahoma Sales Tax Code;

23 25. "Taxpayer" means any person liable to pay a tax imposed by
24 the Oklahoma Sales Tax Code;

1 26. "Tax period" or "taxable period" means the calendar period
2 or the taxpayer's fiscal period for which a taxpayer has obtained a
3 permit from the Tax Commission to use a fiscal period in lieu of a
4 calendar period;

5 27. "Tax remitter" means any person required to collect,
6 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
7 tax remitter who fails, for any reason, to collect, report, or remit
8 the tax shall be considered a taxpayer for purposes of assessment,
9 collection, and enforcement of the tax imposed by the Oklahoma Sales
10 Tax Code; and

11 28. "Vendor" means:

- 12 a. any person making sales of tangible personal property
13 or services in this state, the gross receipts or gross
14 proceeds from which are taxed by the Oklahoma Sales
15 Tax Code,
16 b. any person maintaining a place of business in this
17 state and making sales of tangible personal property
18 or services, whether at the place of business or
19 elsewhere, to persons within this state, the gross
20 receipts or gross proceeds from which are taxed by the
21 Oklahoma Sales Tax Code,
22 c. any person who solicits business by employees,
23 independent contractors, agents, or other
24 representatives in this state, and thereby makes sales

1 to persons within this state of tangible personal
2 property or services, the gross receipts or gross
3 proceeds from which are taxed by the Oklahoma Sales
4 Tax Code, or

5 d. any person, pursuant to an agreement with the person
6 with an ownership interest in or title to tangible
7 personal property, who has been entrusted with the
8 possession of any such property and has the power to
9 designate who is to obtain title, to physically
10 transfer possession of, or otherwise make sales of the
11 property.

12 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1355, as
13 last amended by Section 1, Chapter 356, O.S.L. 2017 (68 O.S. Supp.
14 2018, Section 1355), is amended to read as follows:

15 Section 1355. There are hereby specifically exempted from the
16 tax levied pursuant to the provisions of Section 1350 et seq. of
17 this title:

18 1. Sale of gasoline, motor fuel, methanol, "M-85" which is a
19 mixture of methanol and gasoline containing at least eighty-five
20 percent (85%) methanol, compressed natural gas, liquefied natural
21 gas, or liquefied petroleum gas on which the Motor Fuel Tax,
22 Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special
23 Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or
24 Section 701 et seq. of this title has been, or will be paid;

1 2. For the sale of motor vehicles or any optional equipment or
2 accessories attached to motor vehicles on which the Oklahoma Motor
3 Vehicle Excise Tax levied in Section 2101 et seq. of this title has
4 been, or will be paid, all but a portion of the levy provided under
5 Section 1354 of this title, equal to one and twenty-five-hundredths
6 percent (1.25%) of the gross receipts less the amount of credit for
7 any trade-in of such sales. Provided, the sale of motor vehicles
8 shall not be subject to any sales and use taxes levied by cities,
9 counties or other jurisdictions of the state;

10 3. Sale of crude petroleum or natural or casinghead gas and
11 other products subject to gross production tax pursuant to the
12 provisions of Section 1001 et seq. and Section 1101 et seq. of this
13 title. This exemption shall not apply when such products are sold
14 to a consumer or user for consumption or use, except when used for
15 injection into the earth for the purpose of promoting or
16 facilitating the production of oil or gas. This paragraph shall not
17 operate to increase or repeal the gross production tax levied by the
18 laws of this state;

19 4. Sale of aircraft on which the tax levied pursuant to the
20 provisions of Sections 6001 through 6007 of this title has been, or
21 will be paid or which are specifically exempt from such tax pursuant
22 to the provisions of Section 6003 of this title;

23 5. Sales from coin-operated devices on which the fee imposed by
24 Sections 1501 through 1512 of this title has been paid;

1 6. Leases of twelve (12) months or more of motor vehicles in
2 which the owners of the vehicles have paid the vehicle excise tax
3 levied by Section 2103 of this title;

4 7. Sales of charity game equipment on which a tax is levied
5 pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of
6 Title 3A of the Oklahoma Statutes, or which is sold to an
7 organization that is:

8 a. a veterans' organization exempt from taxation pursuant
9 to the provisions of paragraph (4), (7), (8), (10) or
10 (19) of subsection (c) of Section 501 of the United
11 States Internal Revenue Code of 1986, as amended, 26
12 U.S.C., Section 501(c) et seq.,

13 b. a group home for mentally disabled individuals exempt
14 from taxation pursuant to the provisions of paragraph
15 (3) of subsection (c) of Section 501 of the United
16 States Internal Revenue Code of 1986, as amended, 26
17 U.S.C., Section 501(c) et seq., or

18 c. a charitable healthcare organization which is exempt
19 from taxation pursuant to the provisions of paragraph
20 (3) of subsection (c) of Section 501 of the United
21 States Internal Revenue Code of 1986, as amended, 26
22 U.S.C., Section 501(c) et seq.;

23 8. Sales of cigarettes or tobacco products to:
24

- 1 a. a federally recognized Indian tribe or nation which
2 has entered into a compact with the State of Oklahoma
3 pursuant to the provisions of subsection C of Section
4 346 of this title or to a licensee of such a tribe or
5 nation, upon which the payment in lieu of taxes
6 required by the compact has been paid, or
7 b. a federally recognized Indian tribe or nation or to a
8 licensee of such a tribe or nation upon which the tax
9 levied pursuant to the provisions of Section 349.1 or
10 Section 426 of this title has been paid;

11 9. Leases of aircraft upon which the owners have paid the
12 aircraft excise tax levied by Section 6001 et seq. of this title or
13 which are specifically exempt from such tax pursuant to the
14 provisions of Section 6003 of this title;

15 10. The sale of low-speed or medium-speed electrical vehicles
16 on which the Oklahoma Motor Vehicle Excise Tax levied in Section
17 2101 et seq. of this title has been or will be paid; and

18 11. Effective January 1, 2005, sales of cigarettes on which the
19 tax levied in Section 301 et seq. of this title or tobacco products
20 on which the tax levied in Section 401 et seq. of this title has
21 been paid.

22 SECTION 3. AMENDATORY 68 O.S. 2011, Section 2103, as
23 amended by Section 4, Chapter 316, O.S.L. 2012 (68 O.S. Supp. 2018,
24 Section 2103), is amended to read as follows:

1 Section 2103. A. 1. Except as otherwise provided in Sections
2 2101 through 2108 of this title, there shall be levied an excise tax
3 upon the transfer of legal ownership of any vehicle registered in
4 this state and upon the use of any vehicle registered in this state
5 and upon the use of any vehicle registered for the first time in
6 this state. Except for persons that possess an agricultural
7 exemption pursuant to Section 1358.1 of this title, the excise tax
8 shall be levied upon transfers of legal ownership of all-terrain
9 vehicles and motorcycles used exclusively off roads and highways
10 which occur on or after July 1, 2005, and upon transfers of legal
11 ownership of utility vehicles used exclusively off roads and
12 highways which occur on or after July 1, 2008. The excise tax for
13 new and used all-terrain vehicles, utility vehicles and motorcycles
14 used exclusively off roads and highways shall be levied at four and
15 one-half percent (4 1/2%) of the actual sales price of each new and
16 used all-terrain vehicle and motorcycle used exclusively off roads
17 and highways before any discounts or credits are given for a trade-
18 in. Provided, the minimum excise tax assessment for such all-
19 terrain vehicles, utility vehicles and motorcycles used exclusively
20 off roads and highways shall be Five Dollars (\$5.00). The excise
21 tax for new vehicles shall be levied at three and one-fourth percent
22 (3 1/4%) of the value of each new vehicle. The excise tax for used
23 vehicles shall be as follows:

24

- 1 a. from October 1, 2000, until June 30, 2001, Twenty
2 Dollars (\$20.00) on the first One Thousand Dollars
3 (\$1,000.00) or less of value of such vehicle, and
4 three and one-fourth percent (3 1/4%) of the remaining
5 value of such vehicle,
- 6 b. for the year beginning July 1, 2001, and ending June
7 30, 2002, Twenty Dollars (\$20.00) on the first One
8 Thousand Two Hundred Fifty Dollars (\$1,250.00) or less
9 of value of such vehicle, and three and one-fourth
10 percent (3 1/4%) of the remaining value of such
11 vehicle, and
- 12 c. for the year beginning July 1, 2002, and all
13 subsequent years, Twenty Dollars (\$20.00) on the first
14 One Thousand Five Hundred Dollars (\$1,500.00) or less
15 of value of such vehicle, and three and one-fourth
16 percent (3 1/4%) of the remaining value of such
17 vehicle.

18 2. There shall be levied an excise tax of Ten Dollars (\$10.00)
19 for any:

- 20 a. truck or truck-tractor registered under the provisions
21 of subsection A of Section 1133 of Title 47 of the
22 Oklahoma Statutes, for a laden weight or combined
23 laden weight of fifty-five thousand (55,000) pounds or
24 more,

1 b. trailer or semitrailer registered under subsection C
2 of Section 1133 of Title 47 of the Oklahoma Statutes,
3 which is primarily designed to transport cargo over
4 the highways of this state and generally recognized as
5 such, and

6 c. frac tank, as defined by Section 54 of Title 17 of the
7 Oklahoma Statutes, and registered under subsection C
8 of Section 1133 of Title 47 of the Oklahoma Statutes.

9 Except for frac tanks, the excise tax levied pursuant to this
10 paragraph shall not apply to special mobilized machinery, trailers,
11 or semitrailers manufactured, modified or remanufactured for the
12 purpose of providing services other than transporting cargo over the
13 highways of this state. The excise tax levied pursuant to this
14 paragraph shall also not apply to pickup trucks, vans, or sport
15 utility vehicles.

16 3. The tax levied pursuant to this section shall be due at the
17 time of the transfer of legal ownership or first registration in
18 this state of such vehicle; provided, the tax shall not be due at
19 the time of the issuance of a certificate of title for an all-
20 terrain vehicle, utility vehicle or motorcycle used exclusively off
21 roads and highways which is not required to be registered but which
22 the owner chooses to register pursuant to the provisions of
23 subsection B of Section 1115.3 of Title 47 of the Oklahoma Statutes,
24 and shall be collected by the Oklahoma Tax Commission or Corporation

1 Commission, as applicable, or an appointed motor license agent, at
2 the time of the issuance of a certificate of title for any such
3 vehicle. In the event an excise tax is collected on the transfer of
4 legal ownership or use of the vehicle during any calendar year, then
5 an additional excise tax must be collected upon all subsequent
6 transfers of legal ownership. In computing the motor vehicle excise
7 tax, the amount collected shall be rounded to the nearest dollar.
8 The excise tax levied by this section shall be delinquent from and
9 after the thirtieth day after the legal ownership or possession of
10 any vehicle is obtained. Any person failing or refusing to pay the
11 tax as herein provided on or before date of delinquency shall pay in
12 addition to the tax a penalty of One Dollar (\$1.00) per day for each
13 day of delinquency, but such penalty shall in no event exceed the
14 amount of the tax. Of each dollar penalty collected pursuant to
15 this subsection:

- 16 a. twenty-five cents (\$0.25) shall be apportioned as
17 provided in Section 1104 of this title~~†~~,†
- 18 b. twenty-five cents (\$0.25) shall be retained by the
19 motor license agent~~†~~,† and
- 20 c. fifty cents (\$0.50) shall be deposited in the General
21 Revenue Fund for the fiscal year beginning on July 1,
22 2011, and for all subsequent fiscal years, shall be
23 deposited in the State Highway Construction and
24 Maintenance Fund.

1 B. The excise tax levied in subsection A of this section
2 assessed on all commercial vehicles registered pursuant to Section
3 1120 of Title 47 of the Oklahoma Statutes, trucks and truck-tractors
4 registered under subsection A of Section 1133 of Title 47 of the
5 Oklahoma Statutes for a laden weight or combined laden weight of
6 fifty-five thousand (55,000) pounds or more, trailers and
7 semitrailers registered under subsection C of Section 1133 of Title
8 47 of the Oklahoma Statutes to transport cargo over the highways of
9 this state and frac tanks registered under subsection C of Section
10 1133 of Title 47 of the Oklahoma Statutes shall be in lieu of all
11 sales and use taxes levied pursuant to the Sales Tax Code or the Use
12 Tax Code. The transfer of legal ownership of any motor vehicle as
13 used in this section and the Sales Tax Code and the Use Tax Code
14 shall include the lease, lease purchase or lease finance agreement
15 involving any truck in excess of eight thousand (8,000) pounds
16 combined laden weight or any truck-tractor provided the vehicle is
17 registered in Oklahoma pursuant to Section 1120 of Title 47 of the
18 Oklahoma Statutes or any frac tank, trailer, semitrailer or open
19 commercial vehicle registered pursuant to Section 1133 of Title 47
20 of the Oklahoma Statutes. The excise tax levied pursuant to this
21 section shall not be subsequently collected at the end of the lease
22 period if the lessee acquires complete legal title of the vehicle.

23 C. The provisions of this section shall not apply to transfers
24 made without consideration between:

1 1. Husband and wife;

2 2. Parent and child; or

3 3. An individual and an express trust which that individual or
4 the spouse, child or parent of that individual has a right to
5 revoke.

6 D. 1. There shall be a credit allowed with respect to the
7 excise tax paid for a new vehicle which is a replacement for:

8 a. a new original vehicle which is stolen from the
9 purchaser/registrant within ninety (90) days of the
10 date of purchase of the original vehicle as certified
11 by a police report or other documentation as required
12 by the Tax Commission, or

13 b. a defective new original vehicle returned by the
14 purchaser/registrant to the seller within six (6)
15 months of the date of purchase of the defective new
16 original vehicle as certified by the manufacturer.

17 2. The credit allowed pursuant to paragraph 1 of this
18 subsection shall be in the amount of the excise tax which was paid
19 for the new original vehicle and shall be applied to the excise tax
20 due on the replacement vehicle. In no event shall the credit be
21 refunded.

22 E. Despite any other definitions of the terms "new vehicle" and
23 "used vehicle", to the contrary, contained in any other law, the
24 term "new vehicle" as used in this section shall also include any

1 vehicle of the latest manufactured model which is owned or acquired
2 by a licensed used motor vehicle dealer which has not previously
3 been registered in this state and upon which the motor vehicle
4 excise tax as set forth in this section has not been paid. However,
5 upon the sale or transfer by a licensed used motor vehicle dealer
6 located in this state of any such vehicle which is the latest
7 manufactured model, the vehicle shall be considered a used vehicle
8 for purposes of determining excise tax.

9 F. The provisions of this section shall not apply to state
10 government entities.

11 SECTION 4. This act shall become effective July 1, 2019.

12 SECTION 5. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 Passed the House of Representatives the 11th day of March, 2019.

17
18 _____
19 Presiding Officer of the House
20 of Representatives

21 Passed the Senate the ____ day of _____, 2019.

22
23 _____
24 Presiding Officer of the Senate

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