

1 2. Nineteen cents (\$0.19) per liter, and a proportionate rate
2 on fractions thereof, on each liter of wine;

3 3. Fifty-five cents (\$0.55) per liter, and a proportionate rate
4 on fractions thereof, on each liter of sparkling wine; and

5 4. Twelve Dollars and fifty cents (\$12.50) per barrel (thirty-
6 one (31) wine gallons) and a proportionate rate on portions thereof,
7 on each barrel of beer; provided, beer manufactured in this state
8 for export shall not be taxed.

9 B. The excise tax levied on alcoholic beverages except beer
10 under subsection A of this section shall be paid as follows:

11 1. Payment of the excise tax levied by this section with
12 respect to all alcoholic beverages, ~~other than beer,~~ shall be made
13 by the person ~~shipping the same into Oklahoma, or in the case of~~
14 ~~direct imports from foreign countries by the importer, or in the~~
15 ~~case of alcoholic beverages manufactured in Oklahoma by the first~~
16 ~~seller thereof~~ first possessing, selling, using or distributing
17 alcoholic beverages into this state, or in the case of direct sales
18 to the ultimate consumer, by the direct seller thereof; and

19 2. The due and payable excise tax levied by this section shall
20 be remitted electronically simultaneously with tax returns
21 electronically filed with the Oklahoma Tax Commission using
22 procedures prescribed by the Tax Commission. The tax returns shall
23 be made under oath by the person liable for the tax on forms
24 prescribed and provided by the Tax Commission and shall be

1 accompanied by payment of the taxes due and any additional sums due
2 as provided by this section. Invoices describing all alcoholic
3 beverages as described in this section which are shipped into this
4 state or which are first sold in this state shall be delivered to
5 the Tax Commission immediately following shipment of liquors into
6 the state or delivery to the first purchaser. Tax returns and
7 payment of excise tax and other sums due shall be electronically
8 filed with the Tax Commission no later than the twentieth day of the
9 month immediately succeeding the month of shipment, importation or
10 first sale of the alcoholic beverages as provided in paragraph 1 of
11 this subsection.

12 C. For the purpose of collecting and remitting the excise tax
13 imposed under this section, the person liable for such tax is hereby
14 declared to be the agent of the state for such purposes.

15 D. Nothing herein shall be construed to impose an additional
16 excise tax on alcoholic beverages held in inventory by wholesalers
17 and retailers upon which the excise tax was paid prior to the
18 effective date of any excise tax increase.

19 E. The retail sale of alcoholic beverages shall be subject to
20 the sales tax statutes enacted by the Legislature.

21 SECTION 2. AMENDATORY Section 116, Chapter 366, O.S.L.
22 2016 (37A O.S. Supp. 2018, Section 5-113), is amended to read as
23 follows:
24

1 Section 5-113. A. The Oklahoma Tax Commission, as provided by
2 the Uniform Tax Procedure Code, may issue a distributor permit or
3 wholesaler permit to any person who sells alcoholic beverages to a
4 wine and spirits wholesaler or beer distributor or to any person
5 having a wholesaler license.

6 B. Each wholesaler shall furnish a copy of the wholesaler
7 permit to manufacturers, importers, brokers and others who sell
8 alcoholic beverages prior to purchasing alcoholic beverages from a
9 holder of a distributor permit. Each manufacturer, importer, broker
10 and other who sells alcoholic beverages shall furnish a copy of the
11 distributor permit to the wine and spirits wholesaler or beer
12 distributor prior to selling alcoholic beverages to a wholesaler.

13 C. Holders of distributor permits or wholesaler permits shall
14 maintain an itemized and verified record for the preceding calendar
15 month of all sales or purchases of alcoholic beverages and shall
16 transmit the verified record to the Tax Commission on or before the
17 ~~tenth~~ twentieth day of each month, upon a form prescribed and
18 furnished by the Tax Commission. Permit holders shall maintain
19 records of sales and purchases of alcoholic beverages for three (3)
20 years.

21 SECTION 3. AMENDATORY 68 O.S. 2011, Section 234, is
22 amended to read as follows:

23 Section 234. A. All taxes, interest and penalties imposed by
24 the provisions of Section 201 et seq. of this title, or any state

1 tax law, are hereby declared to constitute a lien in favor of the
2 state upon all franchises, property, and rights to property, whether
3 real or personal, then belonging to or thereafter acquired by the
4 person owing the tax, whether such property is employed by such
5 person in the prosecution of business, or is in the hands of an
6 assignee, trustee or receiver for the benefit of creditors, from the
7 date the taxes are due and payable under the provisions of the state
8 tax laws levying such taxes. The lien shall be in addition to any
9 lien accrued by the filing of a tax warrant or tax certificate as
10 provided by Sections 230 and 231 of this title. The lien shall be
11 prior, superior and paramount to all other liens, claims, or
12 encumbrances on the property of whatsoever kind or character, except
13 those of any bona fide mortgagee, pledgee, judgment creditor, or
14 purchaser, whose right shall have attached prior to the date of the
15 filing and indexing in the office of the county clerk in the county
16 in which the property is located, of the notice of the lien of the
17 state under a tax certificate as provided by Section 230 of this
18 title, or under a tax warrant as provided by Section 231 of this
19 title, and who have filed or recorded the mortgages and conveyances
20 in the office of the county clerk of the county in which the
21 property is located. Such taxes, penalties and interest shall at
22 all times, constitute a prior, superior and paramount claim as
23 against the claims of unsecured creditors. The lien of the state
24 shall continue until the amount of the tax and penalty due and

1 owing, and interest subsequently accruing thereon, is paid, or,
2 except as otherwise provided herein, upon the expiration of ten (10)
3 years after the date of the filing and indexing in the office of the
4 county clerk in the county in which the property is located, of the
5 notice of the lien of the state under a tax certificate as provided
6 by Section 230 of this title, or under a tax warrant as provided by
7 Section 231 of this title; provided, the Oklahoma Tax Commission
8 may, prior to the expiration of the ten-year period provided for
9 herein, refile the notice of the lien with the county clerk. A
10 notice so refiled shall continue the lien until payment of the tax,
11 penalty, interest and costs, or upon the expiration of ten (10)
12 years after the date upon which the notice was refiled. All active
13 liens evidenced by a notice of lien filed with a county clerk's
14 office prior to November 1, 1989, shall be released and extinguished
15 if the notice of lien is not refiled prior to November 1, 2001.

16 B. In any action affecting the title to real estate or the
17 ownership or right to possession of personal property, the State of
18 Oklahoma may be made a party defendant, for the purpose of
19 determining its lien upon the property involved therein only in
20 cases where notice of the lien of the state has been filed and
21 indexed as provided in Sections 230 and 231 of this title. In any
22 such action, service of summons upon the Oklahoma Tax Commission, by
23 serving any member thereof, shall be sufficient service and binding
24 upon the State of Oklahoma. In all such actions or suits, the

1 complaint or pleading shall include the name and address of the
2 taxpayer whose liability created the lien and the identifying number
3 evidencing the lien.

4 C. In any action affecting the ownership or right of possession
5 of intangible personal property, such as a settlement or court
6 judgement, the Tax Commission shall be given notice of such action
7 for the purpose of determining its lien upon the property involved
8 therein in cases where notice of the lien of the state has been
9 filed and indexed as provided in Sections 230 and 231 of this title.

10 SECTION 4. AMENDATORY 68 O.S. 2011, Section 255, is
11 amended to read as follows:

12 Section 255. A. In order to facilitate and expedite the
13 collection of taxes more than ninety (90) days overdue from any
14 taxpayer, the Oklahoma Tax Commission may enter into a contract with
15 a debt collection agency doing business in the State of Oklahoma or
16 in any other state for the collection of such delinquent taxes in
17 addition to all other taxes accrued or accruing, including penalties
18 and interest thereon, from the taxpayer. The contract shall only
19 authorize the debt collection agency to collect tax liabilities
20 which are already established and the Tax Commission shall not refer
21 accounts to the debt collection agency unless the Tax Commission has
22 notified the taxpayer, by first class mail, of the liability and has
23 made additional efforts to collect the debt. Provided, if a sales
24 tax permit holder fails to file two or more sales tax returns, as

1 required under Section 1365 of this title, or a taxpayer required to
2 remit withholding taxes fails to file two or more withholding tax
3 returns, as required under Section 2385.3 of this title, the Tax
4 Commission may refer the accounts to the debt collection agency
5 prior to the establishment of the tax liability, but only after the
6 Commission has notified the taxpayer as required under this
7 subsection.

8 B. If an account has been referred to a debt collection agency,
9 the Tax Commission shall review all payments posted by the
10 collection agency prior to commencing any further collection
11 activity against the taxpayer. Further, the collection agency shall
12 review all payments posted by the Tax Commission prior to commencing
13 any collection activity. The Tax Commission or the collection
14 agency shall, within ten (10) business days, provide the taxpayer
15 with a written confirmation of all payments received and any balance
16 due. In addition, the contract shall not authorize the debt
17 collection agency to conduct audits or examine the books and records
18 of a taxpayer in any manner. The Tax Commission may also enter into
19 a contract with a person doing business in the State of Oklahoma or
20 in any other state for the purpose of identifying and locating the
21 assets of such delinquent taxpayer. Such contracts authorized by
22 this section shall be subject to the provisions of The Oklahoma
23 Central Purchasing Act.

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1 C. In addition to the authority provided in subsection A of
2 this section, the Tax Commission may enter into a contract for the
3 purpose of identifying nonresident businesses and individuals who
4 are required by law to file and pay Oklahoma state taxes and who are
5 presently unknown to the Tax Commission.

6 D. Prior to entering into such a contract with a debt
7 collection agency, the Tax Commission shall require that the debt
8 collection agency file a bond in the amount of One Hundred Thousand
9 Dollars (\$100,000.00). The bond shall be a bond from a surety
10 company chartered or authorized to do business in this state, cash
11 bond, certificates of deposits, certificates of savings or U.S.
12 Treasury bonds, as the Tax Commission may deem necessary to
13 guarantee compliance with the terms of the contract.

14 E. Each contract entered into by the Tax Commission with a debt
15 collection agency, pursuant to the provisions of this section, shall
16 specify that fees for services rendered, reimbursements or other
17 remuneration shall be based on the total amount of delinquent taxes,
18 including accrued penalties and interest, which is actually
19 collected. No costs shall be reimbursed unless authorized in the
20 contract. Each contract entered into between the Tax Commission and
21 a debt collection agency shall provide for the payment of fees for
22 such services, reimbursements or other remuneration not in excess of
23 thirty-five percent (35%) of the total amount of delinquent taxes,
24 penalty and interest actually collected. The debt collection agency

1 contract fee shall be added to the amount of the delinquent taxes,
2 accrued penalties and interest collected from the taxpayer. The
3 total amount of the delinquent tax, accrued penalties and interest,
4 and the debt collection agency contract fee shall be owed and
5 collected from the taxpayer.

6 F. Each contract entered into by the Tax Commission with a
7 person for the purpose of identifying and locating assets of
8 delinquent taxpayers shall specify the amount of money to be paid
9 for the performance of such services. No costs shall be reimbursed
10 unless authorized in the contract.

11 G. All such funds collected by a debt collection agency,
12 including the fees for collection services ~~as provided for in such~~
13 ~~contract~~, shall be remitted to the Tax Commission within ~~five (5)~~
14 ~~days~~ a reasonable period of time from the date of collection from a
15 taxpayer as provided for in the contract. The Tax Commission shall
16 pay from such remitted fees the amount of fees to which such debt
17 collecting agency is entitled for services performed pursuant to the
18 provisions of such contract. All assets of such delinquent
19 taxpayers which are identified and located shall be reported to the
20 Tax Commission within five (5) days from the date of identification
21 and location. Forms to be used for such remittances and reports
22 shall be prescribed by the Tax Commission.

23 H. A debt collection agency entering into a contract with the
24 Tax Commission or a person entering into a contract with the Tax

1 Commission for asset location purposes pursuant to this section
2 shall agree that it is receiving income from sources within this
3 state or doing business in this state for purposes of the Oklahoma
4 tax laws. Debt collection agency employees and/or their agents
5 shall not disclose confidential tax information except as authorized
6 by Section 205 of this title, subject to the penalties contained
7 therein.

8 SECTION 5. AMENDATORY 68 O.S. 2011, Section 1365, is
9 amended to read as follows:

10 Section 1365. When Tax Due - Reports - Records.

11 A. The tax levied hereunder shall be due and payable on the
12 first day of each month, except as herein provided, by any person
13 liable to remit or pay any tax due under Section 1350 et seq. of
14 this title. For the purpose of ascertaining the amount of the tax
15 payable, it shall be the duty of all tax remitters, on or before the
16 twentieth day of each month, to deliver to the Oklahoma Tax
17 Commission, upon forms prescribed and furnished by it, sales tax
18 reports signed under oath, showing the gross receipts or gross
19 proceeds arising from all sales taxable or nontaxable under Section
20 1350 et seq. of this title during the preceding calendar month.
21 Such reports shall show such further information as the Tax
22 Commission may require to enable it to compute correctly and collect
23 the tax herein levied. In addition to the information required on
24 reports, the Tax Commission may request and the taxpayer must

1 furnish any information deemed necessary for a correct computation
2 of the tax levied herein. Such tax remitter shall compute and remit
3 to the Tax Commission the required tax due for the preceding
4 calendar month, the remittance or remittances of the tax to
5 accompany the reports herein required. If not filed on or before
6 the twentieth day of such month, the tax shall be delinquent from
7 such date. Reports timely mailed shall be considered timely filed.
8 If a report is not timely filed, interest shall be charged from the
9 date the report should have been filed until the report is actually
10 filed.

11 B. Effective July 1, 2001, every person owing an average of One
12 Hundred Thousand Dollars (\$100,000.00) or more per month in total
13 sales taxes in the previous fiscal year shall remit the tax due and
14 shall participate in the Tax Commission's electronic funds transfer
15 and electronic data interchange program, according to the following
16 schedule:

17 1. For sales from the first day through the fifteenth day of
18 each month, the tax shall be due and payable on the twentieth day of
19 such month and remitted to the Tax Commission by electronic funds
20 transfer. A taxpayer will be considered to have complied with the
21 reporting requirements of this paragraph if, on or before the
22 twentieth day of such month, the taxpayer paid at least ninety
23 percent (90%) of the liability for that fifteen-day period or at
24 least fifty percent (50%) of the taxpayer's liability in the

1 immediate preceding calendar year for the same month as the month in
2 which the fifteen-day period occurs; and

3 2. For sales from the sixteenth day through the end of each
4 month, the tax shall be due and payable on the twentieth day of the
5 following month and remitted to the Tax Commission by electronic
6 funds transfer.

7 Every person required to remit the tax due pursuant to this
8 subsection shall file its monthly sales tax report in accordance
9 with the Tax Commission's electronic data interchange program on the
10 twentieth day of the month following the month the sales occurred.

11 Taxes not paid on or before the due dates specified in this
12 subsection shall be delinquent from such dates.

13 C. Effective March 1, 2002, every person owing an average of
14 Twenty-five Thousand Dollars (\$25,000.00) or more per month in total
15 sales taxes in the previous fiscal year shall remit the tax due and
16 shall participate in the Tax Commission's electronic funds transfer
17 and electronic data interchange program, according to the following
18 schedule:

19 1. For sales from the first day through the fifteenth day of
20 each month, the tax shall be due and payable on the twentieth day of
21 such month and remitted to the Tax Commission by electronic funds
22 transfer. A taxpayer will be considered to have complied with the
23 reporting requirements of this paragraph if, on or before the
24 twentieth day of such month, the taxpayer paid at least ninety

1 percent (90%) of the liability for that fifteen-day period or at
2 least fifty percent (50%) of the taxpayer's liability in the
3 immediate preceding calendar year for the same month as the month in
4 which the fifteen-day period occurs; and

5 2. For sales from the sixteenth day through the end of each
6 month, the tax shall be due and payable on the twentieth day of the
7 following month and remitted to the Tax Commission by electronic
8 funds transfer.

9 Every person required to remit the tax due pursuant to this
10 subsection shall file its monthly sales tax report in accordance
11 with the Tax Commission's electronic data interchange program on the
12 twentieth day of the month following the month the sales occurred.
13 Provided, persons primarily engaged in selling lumber and other
14 building materials, including cement and concrete, except for home
15 centers classified under Industry No. 444110 of the North American
16 Industrial Classification System (NAICS) Manual, shall remit and
17 report as required in subsection A of this section, with the
18 exception of taxes due on sales made during the periods of June 1
19 through June 15, 2002, which shall be remitted and reported on June
20 20, 2002, and June 1 through June 15, 2003, which shall be remitted
21 and reported on June 20, 2003.

22 Taxes not paid on or before the due dates specified in this
23 subsection shall be delinquent from such dates.

24

1 D. Effective October 1, 2003, every person owing ~~an average of~~
2 Two Thousand Five Hundred Dollars (\$2,500.00) or more per month in
3 total sales taxes in the ~~previous fiscal year~~ immediately preceding
4 twelve-month period shall remit the tax due and shall participate in
5 the Tax Commission's electronic funds transfer and electronic data
6 interchange program, according to the following schedule:

7 1. For sales from the first day through the fifteenth day of
8 each month, the tax shall be due and payable on the twentieth day of
9 such month and remitted to the Tax Commission by electronic funds
10 transfer. A taxpayer will be considered to have complied with the
11 reporting requirements of this paragraph if, on or before the
12 twentieth day of such month, the taxpayer paid at least ninety
13 percent (90%) of the liability for that fifteen-day period or at
14 least fifty percent (50%) of the taxpayer's liability in the
15 immediate preceding calendar year for the same month as the month in
16 which the fifteen-day period occurs; and

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

21 Every person required to remit the tax due pursuant to this
22 subsection shall file its monthly sales tax report in accordance
23 with the Tax Commission's electronic data interchange program on the
24 twentieth day of the month following the month the sales occurred.

1 Provided, persons primarily engaged in selling lumber and other
2 building materials, including cement and concrete, except for home
3 centers classified under Industry No. 444110 of the North American
4 Industrial Classification System (NAICS) Manual, shall remit and
5 report as required in subsection A of this section.

6 Taxes not paid on or before the due dates specified in this
7 subsection shall be delinquent from such dates.

8 E. In lieu of monthly reports, tax remitters or taxpayers who
9 are classified as Group Three vendors in Section 1350 et seq. of
10 this title or tax remitters or taxpayers whose total amount of tax
11 liability for any one month does not exceed Fifty Dollars (\$50.00)
12 may file semiannual reports and remit taxes due thereunder to the
13 Tax Commission on or before the twentieth day of January and July of
14 each year for the preceding six-month period. If not paid on or
15 before the twentieth day of such month, the tax shall be delinquent.

16 F. It shall be the duty of every tax remitter required to make
17 a sales tax report and pay any tax under Section 1350 et seq. of
18 this title to keep and preserve suitable records of the gross daily
19 sales together with invoices of purchases and sales, bills of
20 lading, bills of sale and other pertinent records and documents
21 which may be necessary to determine the amount of tax due hereunder
22 and such other records of goods, wares and merchandise, and other
23 subjects of taxation under Section 1350 et seq. of this title as
24 will substantiate and prove the accuracy of such returns. It shall

1 also be the duty of every person who makes sales for resale to keep
2 records of such sales which shall be subject to examination by the
3 Tax Commission or any authorized employee thereof while engaged in
4 checking or auditing the records of any person required to make a
5 report under the terms of Section 1350 et seq. of this title. All
6 such records shall remain in Oklahoma and be preserved for a period
7 of three (3) years, unless the Tax Commission, in writing, has
8 authorized their destruction or disposal at an earlier date, and
9 shall be open to examination at any time by the Tax Commission or by
10 any of its duly authorized agents. The burden of proving that a
11 sale was not a taxable sale shall be upon the person who made the
12 sale.

13 G. The purchaser must provide the vendor with the purchaser's
14 sales tax permit number, the direct payment permit number or a copy
15 of the direct payment permit if the sale is made within Oklahoma.
16 In addition to furnishing the sales tax permit number to the vendor,
17 the purchaser must certify in writing to the vendor that the
18 purchaser is engaged in the business of reselling the articles
19 purchased. Failure to so certify, or to falsely certify with the
20 knowledge that the items purchased are not for resale, shall be
21 sufficient grounds upon which the Tax Commission may cause the
22 purchaser's sales tax permit to be canceled. Certification may be
23 made on the bill, invoice or sales slip retained by the vendor or by
24

1 furnishing a certification letter to the seller which contains the
2 following:

3 1. The name and address of the purchaser;

4 2. The sales tax permit number of the permit issued to the
5 purchaser;

6 3. A statement that the purchaser is engaged in the business of
7 reselling the articles purchased, if applicable;

8 4. A statement that the articles purchased are purchased for
9 resale, if applicable; and

10 5. The signature of the purchaser or a person authorized to
11 legally bind the purchaser.

12 H. If a sales tax permit holder purchases goods, wares and
13 merchandise from a vendor on a regular basis, then the permit holder
14 may furnish the certification letter described in subsection G of
15 this section to the vendor and the vendor may subsequently make
16 sales of tangible personal property to the permit holder without
17 requiring a certification letter or certification statement for each
18 subsequent sale. The permit holder must notify the seller of all
19 purchases which are not for resale and remit the applicable amount
20 of tax thereon. If the permit holder fails to notify the vendor of
21 purchases not intended for resale, then sufficient grounds shall
22 exist for the Tax Commission to cancel the sales tax permit of the
23 permit holder who so failed to notify the vendor.

24

1 I. In lieu of filing reports as required in subsection A of
2 this section, tax remitters or taxpayers who agree to participate in
3 the Tax Commission's electronic funds transfer and electronic data
4 interchange programs may file according to the following schedule:

5 1. For sales from the first day through the fifteenth day of
6 each month, the tax shall be due and payable on the twentieth day of
7 such month and remitted to the Tax Commission by electronic funds
8 transfer. A taxpayer will be considered to have complied with the
9 reporting requirements of this paragraph if, on or before the
10 twentieth day of such month, the taxpayer paid at least ninety
11 percent (90%) of the liability for that fifteen-day period or at
12 least fifty percent (50%) of the taxpayer's liability in the
13 immediate preceding calendar year for the same month as the month in
14 which the fifteen-day period occurs; and

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

19 Every person required to remit the tax due pursuant to this
20 subsection shall file its monthly sales tax report in accordance
21 with the Tax Commission's electronic data interchange program on the
22 twentieth day of the month following the month the sales occurred.

23 Taxes not paid on or before the due dates specified in this
24 subsection shall be delinquent from such dates.

SECTION 6. This act shall become effective November 1, 2019.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
04/11/2019 - DO PASS, As Amended.