

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1495 By: Treat and Newhouse of the
Senate
3
4 and
5 McCall of the House
6
7

8 [sales tax - certain tax rate upon the sale of
9 certain property - effective date]
10

11 AUTHOR: Add the following Senate Coauthor: Bergstrom

12 AMENDMENT NO. 1. Page 1, line 9, strike the enacting clause

13 Passed the House of Representatives the 28th day of April, 2022.
14

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16 _____
Presiding Officer of the House of
Representatives
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18 Passed the Senate the ____ day of _____, 2022.
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21 _____
Presiding Officer of the Senate
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ENGROSSED SENATE
BILL NO. 1495

By: Treat and Newhouse of the
Senate

and

McCall of the House

[sales tax - certain tax rate upon the sale of
certain property - effective date]

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

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

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

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

- a. antimicrobial agents,
- b. fluoride,
- c. carbonation,
- d. vitamins, minerals, and electrolytes,
- e. oxygen,
- f. preservatives, and

1 g. only those flavors, extracts, or essences derived from
2 spice or fruit;

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

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

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

20 (2) a product provided free of charge with the
21 required purchase of another product. A product
22 is provided free of charge if the sales price of
23 the product purchased does not vary depending on
24

1 the inclusion of the product provided free of
2 charge, or

3 (3) items included in the definition of gross
4 receipts or sales price, pursuant to this
5 section,

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

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

16 (1) the retail sale of tangible personal property and
17 a service where the tangible personal property is
18 essential to the use of the service, and is
19 provided exclusively in connection with the
20 service, and the true object of the transaction
21 is the service,

22 (2) the retail sale of services where one service is
23 provided that is essential to the use or receipt
24 of a second service and the first service is

1 provided exclusively in connection with the
2 second service and the true object of the
3 transaction is the second service,

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

20 (4) the retail sale of exempt tangible personal
21 property and taxable tangible personal property
22 where:

23 (a) the transaction includes food and food
24 ingredients, drugs, durable medical

1 equipment, mobility enhancing equipment,
2 over-the-counter drugs, prosthetic devices
3 or medical supplies, and

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

13 ~~2.~~ 3. "Business" means any activity engaged in or caused to be
14 engaged in by any person with the object of gain, benefit, or
15 advantage, either direct or indirect;

16 ~~3.~~ 4. "Candy" means a preparation of sugar, honey, or other
17 natural or artificial sweeteners in combination with chocolate,
18 fruits, nuts, or other ingredients or flavorings in the form of
19 bars, drops, or pieces. Candy shall not include any preparation
20 containing flour or require refrigeration;

21 5. "Commission" or "Tax Commission" means the Oklahoma Tax
22 Commission;

1 ~~4.~~ 6. "Computer" means an electronic device that accepts
2 information in digital or similar form and manipulates it for a
3 result based on a sequence of instructions;

4 ~~5.~~ 7. "Computer software" means a set of coded instructions
5 designed to cause a "computer" or automatic data processing
6 equipment to perform a task;

7 ~~6.~~ 8. "Consumer" or "user" means a person to whom a taxable
8 sale of tangible personal property is made or to whom a taxable
9 service is furnished. "Consumer" or "user" includes all contractors
10 to whom a taxable sale of materials, supplies, equipment, or other
11 tangible personal property is made or to whom a taxable service is
12 furnished to be used or consumed in the performance of any contract;

13 ~~7.~~ 9. "Contractor" means any person who performs any
14 improvement upon real property and who, as a necessary and
15 incidental part of performing such improvement, incorporates
16 tangible personal property belonging to or purchased by the person
17 into the real property being improved;

18 ~~8.~~ 10. "Dietary supplement" means any product, other than
19 tobacco, intended to supplement the diet that:

20 a. contains one or more of the following dietary
21 ingredients:

22 (1) a vitamin,

23 (2) a mineral,

24 (3) an herb or other botanical,

1 (4) an amino acid,

2 (5) a dietary substance for use by humans to
3 supplement the diet by increasing the total
4 dietary intake, or

5 (6) a concentrate, metabolite, constituent, extract,
6 or combination of any ingredient described in
7 this division,

8 b. is intended for ingestion in tablet, capsule, powder,
9 softgel, gelcap, or liquid form, or if not intended
10 for ingestion in such a form, is not represented as
11 conventional food and is not represented for use as a
12 sole item of a meal or of the diet, and

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

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

18 a. recognized in the official United States
19 Pharmacopoeia, official Homeopathic Pharmacopoeia of
20 the United States, or official National Formulary, and
21 supplement to any of them,

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

24

1 c. intended to affect the structure or any function of
2 the body;

3 ~~9.~~ 12. "Electronic" means relating to technology having
4 electrical, digital, magnetic, wireless, optical, electromagnetic,
5 or similar capabilities;

6 ~~10.~~ 13. "Established place of business" means the location at
7 which any person regularly engages in, conducts, or operates a
8 business in a continuous manner for any length of time, that is open
9 to the public during the hours customary to such business, in which
10 a stock of merchandise for resale is maintained, and which is not
11 exempted by law from attachment, execution, or other species of
12 forced sale barring any satisfaction of any delinquent tax liability
13 accrued under the Oklahoma Sales Tax Code;

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

15 a. any county, municipality, school district, public
16 trust or any other political subdivision of this
17 state, or

18 b. any not-for-profit corporation acting pursuant to an
19 agency, operating or management agreement which has
20 been approved or authorized by the governing body of
21 any of the entities specified in subparagraph a of
22 this paragraph which conduct, operate or produce a
23 fair commonly understood to be a county, district or
24 state fair;

1 ~~12.~~ 15. "Food and food ingredients" mean substances, whether in
2 liquid, concentrated, solid, frozen, dried, or dehydrated form, that
3 are sold for ingestion or chewing by humans and are consumed for
4 their taste or nutritional value. Food and food ingredients shall
5 include bottled water, candy, and soft drinks. Food and food
6 ingredients shall not include alcoholic beverages, dietary
7 supplements, prepared food, and tobacco;

8 16. a. "Gross receipts", "gross proceeds" or "sales price"

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

- 14 (1) the seller's cost of the property sold,
15 (2) the cost of materials used, labor or service
16 cost,
17 (3) interest, losses, all costs of transportation to
18 the seller, all taxes imposed on the seller, and
19 any other expense of the seller,
20 (4) charges by the seller for any services necessary
21 to complete the sale, other than delivery and
22 installation charges,

- 1 (5) delivery charges and installation charges, unless
2 separately stated on the invoice, billing or
3 similar document given to the purchaser, and
4 (6) credit for any trade-in.

5 b. Such term shall not include:

- 6 (1) discounts, including cash, term, or coupons that
7 are not reimbursed by a third party that are
8 allowed by a seller and taken by a purchaser on a
9 sale,
10 (2) interest, financing, and carrying charges from
11 credit extended on the sale of personal property
12 or services, if the amount is separately stated
13 on the invoice, bill of sale or similar document
14 given to the purchaser, and
15 (3) any taxes legally imposed directly on the
16 consumer that are separately stated on the
17 invoice, bill of sale or similar document given
18 to the purchaser.

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

- 21 (1) the seller actually receives consideration from a
22 party other than the purchaser and the
23 consideration is directly related to a price
24 reduction or discount on the sale,

- 1 (2) the seller has an obligation to pass the price
2 reduction or discount through to the purchaser,
3 (3) the amount of the consideration attributable to
4 the sale is fixed and determinable by the seller
5 at the time of the sale of the item to the
6 purchaser, and
7 (4) one of the following criteria is met:
8 (a) the purchaser presents a coupon, certificate
9 or other documentation to the seller to
10 claim a price reduction or discount where
11 the coupon, certificate or documentation is
12 authorized, distributed or granted by a
13 third party with the understanding that the
14 third party will reimburse any seller to
15 whom the coupon, certificate or
16 documentation is presented,
17 (b) the purchaser identifies himself or herself
18 to the seller as a member of a group or
19 organization entitled to a price reduction
20 or discount; provided, a "preferred
21 customer" card that is available to any
22 patron does not constitute membership in
23 such a group, or
24

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

7 ~~13.~~ 17. a. "Maintaining a place of business in this state"
8 means and shall be presumed to include:

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

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

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

- 1 (a) sells a similar line of products as the
2 vendor and does so under the same or a
3 similar business name,
4 (b) uses trademarks, service marks or trade
5 names in this state that are the same
6 or substantially similar to those used
7 by the vendor,
8 (c) delivers, installs, assembles or
9 performs maintenance services for the
10 vendor,
11 (d) facilitates the vendor's delivery of
12 property to customers in the state by
13 allowing the vendor's customers to pick
14 up property sold by the vendor at an
15 office, distribution facility,
16 warehouse, storage place or similar
17 place of business maintained by the
18 person in this state, or
19 (e) conducts any other activities in this state
20 that are significantly associated with the
21 vendor's ability to establish and maintain a
22 market in this state for the vendor's sale.

23 b. The presumptions in divisions (1) and (2) of
24 subparagraph a of this paragraph may be rebutted by

1 demonstrating that the person's activities in this
2 state are not significantly associated with the
3 vendor's ability to establish and maintain a market in
4 this state for the vendor's sales.

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

18 ~~14.~~ 18. "Manufacturing" means and includes the activity of
19 converting or conditioning tangible personal property by changing
20 the form, composition, or quality of character of some existing
21 material or materials, including natural resources, by procedures
22 commonly regarded by the average person as manufacturing,
23 compounding, processing or assembling, into a material or materials
24 with a different form or use. "Manufacturing" does not include

1 extractive industrial activities such as mining, quarrying, logging,
2 and drilling for oil, gas and water, nor oil and gas field
3 processes, such as natural pressure reduction, mechanical
4 separation, heating, cooling, dehydration and compression;

5 ~~15.~~ 19. "Manufacturing operation" means the designing,
6 manufacturing, compounding, processing, assembling, warehousing, or
7 preparing of articles for sale as tangible personal property. A
8 manufacturing operation begins at the point where the materials
9 enter the manufacturing site and ends at the point where a finished
10 product leaves the manufacturing site. "Manufacturing operation"
11 does not include administration, sales, distribution,
12 transportation, site construction, or site maintenance. Extractive
13 activities and field processes shall not be deemed to be a part of a
14 manufacturing operation even when performed by a person otherwise
15 engaged in manufacturing;

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

20 ~~17.~~ 21. "Over-the-counter drug" means a drug that contains a
21 label that identifies the product as a drug as required by 21
22 C.F.R., Section 201.66. The over-the-counter-drug label includes:

23 a. a "Drug Facts" panel, or
24

1 b. a statement of the "active ingredient(s)" with a list
2 of those ingredients contained in the compound,
3 substance or preparation;

4 ~~18.~~ 22. "Person" means any individual, company, partnership,
5 joint venture, joint agreement, association, mutual or otherwise,
6 limited liability company, corporation, estate, trust, business
7 trust, receiver or trustee appointed by any state or federal court
8 or otherwise, syndicate, this state, any county, city, municipality,
9 school district, any other political subdivision of the state, or
10 any group or combination acting as a unit, in the plural or singular
11 number;

12 ~~19.~~ 23. "Prescription" means an order, formula or recipe issued
13 in any form of oral, written, electronic, or other means of
14 transmission by a duly licensed "practitioner" as defined in Section
15 1357.6 of this title;

16 ~~20.~~ 24. a. "Prepared food" means:

17 (1) food sold in a heated state or heated by the
18 seller,

19 (2) two or more food ingredients mixed or combined by
20 the seller for sale as a single item, or

21 (3) food sold with eating utensils provided by the
22 seller including plates, knives, forks, spoons,
23 glasses, cups, napkins, or straws, but does not

1 include a container or packaging used to
2 transport the food, and

3 b. prepared food shall not include:

4 (1) food sold by a seller whose primary NAICS
5 classification is manufacturing in sector 311,
6 except subsector 3118,

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

9 (3) bakery items including bread rolls, buns,
10 biscuits, bagels, croissants, pastries, donuts,
11 Danish, cakes, tortes, pies, tarts, muffins,
12 bars, cookies, and tortillas, and

13 (4) food sold that ordinarily requires additional
14 cooking, not including just reheating, by the
15 consumer prior to consumption;

16 25. "Prewritten computer software" means "computer software"
17 including prewritten upgrades, which is not designed and developed
18 by the author or other creator to the specifications of a specific
19 purchaser. The combining of two or more prewritten computer
20 software programs or prewritten portions thereof does not cause the
21 combination to be other than prewritten computer software.
22 Prewritten software includes software designed and developed by the
23 author or other creator to the specifications of a specific
24 purchaser when it is sold to a person other than the purchaser.

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

12 ~~21.~~ 26. "Repairman" means any person who performs any repair
13 service upon tangible personal property of the consumer, whether or
14 not the repairman, as a necessary and incidental part of performing
15 the service, incorporates tangible personal property belonging to or
16 purchased by the repairman into the tangible personal property being
17 repaired;

18 ~~22.~~ 27. "Sale" means the transfer of either title or possession
19 of tangible personal property for a valuable consideration
20 regardless of the manner, method, instrumentality, or device by
21 which the transfer is accomplished in this state, or other
22 transactions as provided by this paragraph, including, but not
23 limited to:

24

- 1 a. the exchange, barter, lease, or rental of tangible
2 personal property resulting in the transfer of the
3 title to or possession of the property,
- 4 b. the disposition for consumption or use in any business
5 or by any person of all goods, wares, merchandise, or
6 property which has been purchased for resale,
7 manufacturing, or further processing,
- 8 c. the sale, gift, exchange, or other disposition of
9 admission, dues, or fees to clubs, places of
10 amusement, or recreational or athletic events or for
11 the privilege of having access to or the use of
12 amusement, recreational, athletic or entertainment
13 facilities,
- 14 d. the furnishing or rendering of services taxable under
15 the Oklahoma Sales Tax Code, and
- 16 e. any use of motor fuel or diesel fuel by a supplier, as
17 defined in Section 500.3 of this title, upon which
18 sales tax has not previously been paid, for purposes
19 other than to propel motor vehicles over the public
20 highways of this state. Motor fuel or diesel fuel
21 purchased outside the state and used for purposes
22 other than to propel motor vehicles over the public
23 highways of this state shall not constitute a sale
24 within the meaning of this paragraph;

1 ~~23.~~ 28. "Sale for resale" means:

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

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

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

15 ~~24.~~ 29. "Soft drinks" means non-alcoholic beverages that
16 contain natural or artificial sweeteners, but does not include
17 beverages that contain milk or milk products, soy, rice, or similar
18 milk substitutes, or greater than fifty percent (50%) of vegetable
19 or fruit juice by volume;

20 30. "Tangible personal property" means personal property that
21 can be seen, weighed, measured, felt, or touched or that is in any
22 other manner perceptible to the senses. "Tangible personal
23 property" includes electricity, water, gas, steam and prewritten
24

1 computer software. This definition shall be applicable only for
2 purposes of the Oklahoma Sales Tax Code;

3 ~~25.~~ 31. "Taxpayer" means any person liable to pay a tax imposed
4 by the Oklahoma Sales Tax Code;

5 ~~26.~~ 32. "Tax period" or "taxable period" means the calendar
6 period or the taxpayer's fiscal period for which a taxpayer has
7 obtained a permit from the Tax Commission to use a fiscal period in
8 lieu of a calendar period;

9 ~~27.~~ 33. "Tax remitter" means any person required to collect,
10 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
11 tax remitter who fails, for any reason, to collect, report, or remit
12 the tax shall be considered a taxpayer for purposes of assessment,
13 collection, and enforcement of the tax imposed by the Oklahoma Sales
14 Tax Code; and

15 ~~28.~~ 34. "Vendor" means:

16 a. any person making sales of tangible personal property
17 or services in this state, the gross receipts or gross
18 proceeds from which are taxed by the Oklahoma Sales
19 Tax Code,

20 b. any person maintaining a place of business in this
21 state and making sales of tangible personal property
22 or services, whether at the place of business or
23 elsewhere, to persons within this state, the gross
24

1 receipts or gross proceeds from which are taxed by the
2 Oklahoma Sales Tax Code,

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

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

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

19 Section 1354. A. There is hereby levied upon all sales, not
20 otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of
21 four and one-half percent (4.5%) of the gross receipts or gross
22 proceeds of each sale of the following:

23 1. Tangible personal property, except newspapers, and
24 periodicals. Provided, a tax of zero percent (0%) shall be levied

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

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

15 3. Transportation for hire to persons by common carriers,
16 including railroads both steam and electric, motor transportation
17 companies, pullman car companies, airlines, and other means of
18 transportation for hire, excluding:

19 a. transportation services provided by a tourism service
20 broker which are incidental to the rendition of
21 tourism brokerage services by such broker to a
22 customer regardless of whether or not such
23 transportation services are actually owned and
24 operated by the tourism service broker. For purposes

1 of this subsection, "tourism service broker" means any
2 person, firm, association, or corporation or any
3 employee of such person, firm, association, or
4 corporation which, for a fee, commission or other
5 valuable consideration, arranges or offers to arrange
6 trips, tours, or other vacation or recreational travel
7 plans for a customer, and

- 8 b. transportation services provided by a funeral
9 establishment to family members and other persons for
10 purposes of conducting a funeral in this state;

11 4. Intrastate, interstate and international telecommunications
12 services sourced to this state in accordance with Section 1354.30 of
13 this title and ancillary services. Provided:

- 14 a. the term "telecommunications services" shall mean the
15 electronic transmission, conveyance, or routing of
16 voice, data, audio, video, or any other information or
17 signals to a point, or between or among points. The
18 term "telecommunications services" includes such
19 transmission, conveyance, or routing in which computer
20 processing applications are used to act on the form,
21 code, or protocol of the content for purposes of
22 transmission, conveyance, or routing without regard to
23 whether such service is referred to as voice-over
24 Internet protocol services or is classified by the

1 Federal Communications Commission as enhanced or value
2 added. "Telecommunications services" do not include:

- 3 (1) data processing and information services that
4 allow data to be generated, acquired, stored,
5 processed, or retrieved and delivered by an
6 electronic transmission to a purchaser where such
7 purchaser's primary purpose for the underlying
8 transaction is the processed data or information,
- 9 (2) installation or maintenance of wiring or
10 equipment on a customer's premises,
- 11 (3) tangible personal property,
- 12 (4) advertising, including, but not limited to,
13 directory advertising,
- 14 (5) billing and collection services provided to third
15 parties,
- 16 (6) Internet access services,
- 17 (7) radio and television audio and video programming
18 services, regardless of the medium, including the
19 furnishing of transmission, conveyance, and
20 routing of such services by the programming
21 service provider. Radio and television audio and
22 video programming services shall include, but not
23 be limited to, cable service as defined in 47
24 U.S.C. 522(6) and audio and video programming

1 services delivered by commercial mobile radio
2 service providers, as defined in 47 C.F.R. 20.3,
3 (8) ancillary services, or
4 (9) digital products delivered electronically,
5 including, but not limited to, software, music,
6 video, reading materials, or ring tones,

7 b. the term "interstate" means a "telecommunications
8 service" that originates in one United States state,
9 or a United States territory or possession, and
10 terminates in a different United States state or a
11 United States territory or possession,

12 c. the term "intrastate" means a telecommunications
13 service that originates in one United States state or
14 a United States territory or possession, and
15 terminates in the same United States state or a United
16 States territory or possession,

17 d. the term "ancillary services" means services that are
18 associated with or incidental to the provision of
19 telecommunications services, including, but not
20 limited to, "detailed telecommunications billing",
21 "directory assistance", "vertical service", and "voice
22 mail services",

1 e. in the case of a bundled transaction that includes
2 telecommunication service, ancillary service, Internet
3 access, or audio or video programming service:

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

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

15 f. a sale of prepaid calling service or prepaid wireless
16 calling service shall be taxable at the time of sale
17 to the customer;

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

21 6. Printing or printed matter of all types, kinds, or character
22 and, except for services of printing, copying or photocopying
23 performed by a privately owned scientific and educational library
24 sustained by monthly or annual dues paid by members sharing the use

1 of such services with students interested in the study of geology,
2 petroleum engineering or related subjects, any service of printing
3 or overprinting, including the copying of information by mimeograph,
4 multigraph, or by otherwise duplicating written or printed matter in
5 any manner, or the production of microfiche containing information
6 from magnetic tapes or other media furnished by customers;

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

9 8. Service of furnishing storage or parking privileges by auto
10 hotels or parking lots;

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

15 10. Foods, confections, and all drinks sold or dispensed by
16 hotels, restaurants, or other dispensers, and sold for immediate
17 consumption upon the premises or delivered or carried away from the
18 premises for consumption elsewhere, except for food and food
19 ingredients as defined in Section 1352 of this title;

20 11. Advertising of all kinds, types, and characters, including
21 any and all devices used for advertising purposes except those
22 specifically exempt pursuant to the provisions of Section 1357 of
23 this title;

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

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

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

22 15. Charges made for the privilege of using items for
23 amusement, sports, entertainment, or recreational activity, such as
24 trampolines or golf carts;

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

4 17. The gross receipts from sales from any vending machine
5 without any deduction for rental to locate the vending machine on
6 the premises of a person who is not the owner or any other
7 deductions therefrom;

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

20 19. Flowers, plants, shrubs, trees, and other floral items,
21 whether or not produced by the vendor, sold by persons engaged in
22 florist or nursery business in this state, including all orders
23 taken by an Oklahoma business for delivery in another state. All
24

1 orders taken outside this state for delivery within this state shall
2 not be subject to the taxes levied in this section;

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

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

17 21. Any taxable services and tangible personal property
18 including materials, supplies, and equipment sold to contractors for
19 the purpose of developing and improving real estate even though ~~said~~
20 the real estate is intended for resale as real property, hereby
21 declared to be sales to consumers or users, and however, taxable
22 materials, supplies, and equipment sold to contractors as provided
23 by this subsection which are purchased as a result of and subsequent
24 to the date of a contract entered into either prior to the effective

1 date of any law increasing the rate of sales tax imposed by this
2 article, or entered into prior to the effective date of an ordinance
3 or other measure increasing the sales tax levy of a political
4 subdivision shall be subject to the rate of sales tax applicable, as
5 of the date such contract was entered into, to sales of such
6 materials, supplies and equipment if such purchases are required in
7 order to complete the contract. Such rate shall be applicable to
8 purchases made pursuant to the contract or any change order under
9 the contract until the contract or any change order has been
10 completed, accepted and the contractor has been discharged from any
11 further obligation under the contract or change order or until two
12 (2) years from the date on which the contract was entered into,
13 whichever occurs first. The increased sales tax rate shall be
14 applicable to all such purchases at the time of sale and the
15 contractor shall file a claim for refund before the expiration of
16 three (3) years after the date of contract completion or five (5)
17 years after the contract was entered into, whichever occurs earlier.
18 However, the Oklahoma Tax Commission shall prescribe rules and
19 regulations and shall provide procedures for the refund to a
20 contractor of sales taxes collected on purchases eligible for the
21 lower sales tax rate authorized by this subsection;

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

1 23. Canoes and paddleboats as defined in Section 4002 of Title
2 63 of the Oklahoma Statutes.

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

8 SECTION 3. This act shall become effective November 1, 2022.

9 Passed the Senate the 23rd day of March, 2022.

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Presiding Officer of the Senate

13 Passed the House of Representatives the ____ day of _____,
14 2022.

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Presiding Officer of the House
of Representatives

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