

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2744

By: Ford

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8 COMMITTEE SUBSTITUTE

9 An Act relating to revenue and taxation; creating the  
10 Tax Exemption Fraud Prevention Act of 2021;  
11 authorizing Sale for Resale permits; establishing  
12 requirements for permit; authorizing Oklahoma Tax  
13 Commission to administer permits; setting penalties;  
14 permitting release of certain information;  
15 authorizing participation in online system; providing  
16 for noncodification; providing for codification; and  
17 providing an effective date.

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

19 SECTION 1. NEW LAW A new section of law not to be  
20 codified in the Oklahoma Statutes reads as follows:

21 This act shall be known and may be cited as the "Tax Exemption  
22 Fraud Prevention Act of 2021".

23 SECTION 2. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 1357A of Title 68, unless there  
is created a duplication in numbering, reads as follows:

1       A. In order to qualify for the sales for resale exemption  
2 authorized in paragraph 3 of Section 1357 of Title 68 of the  
3 Oklahoma Statutes, at the time of sale, the person to whom the sale  
4 is made, provided the purchaser is a resident of this state, shall  
5 be required to furnish the vendor a valid Sale for Resale permit for  
6 the exemption as required by this section. All vendors shall honor  
7 a valid Sale for Resale permit for sales tax exemption as authorized  
8 under this section and subject to verification procedures outlined  
9 in subsection I of this section, and sales to a person providing  
10 such proof shall be exempt from the tax levied by Section 1350 et  
11 seq. of Title 68 of the Oklahoma Statutes.

12       B. Every person holding a sales tax permit and desiring to make  
13 purchases for resale under paragraph 3 of Section 1357 of Title 68  
14 of the Oklahoma Statutes within this state who would be designated  
15 as a Group One, Group Two, Group Three or Group Four vendor,  
16 pursuant to Section 1363 of Title 68 of the Oklahoma Statutes, shall  
17 be required to secure an annual permit from the Oklahoma Tax  
18 Commission. Each such person shall file electronically in a manner  
19 prescribed by the Tax Commission an initial or renewal Sale for  
20 Resale permit application each year, setting forth such information  
21 as the Tax Commission may require. Sale for Resale permits will not  
22 be issued or renewed until all outstanding returns are filed by  
23 applicant and tax delinquencies are satisfied.

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1 C. Upon receipt of the application, the Tax Commission may  
2 issue a permit effective for one (1) year unless the applicant  
3 receives notification of the refusal of the Tax Commission to issue  
4 the permit. If the applicant receives a notice of refusal, the  
5 applicant may request a hearing to show cause why the Sale for  
6 Resale permit should be issued. Upon receipt of a request for a  
7 hearing, the Tax Commission shall set the matter for hearing and  
8 give ten (10) days' notice in writing of the time and place of the  
9 hearing. At the hearing, the applicant shall set forth the  
10 qualifications of the applicant for a permit and proof of compliance  
11 with all state tax laws.

12 D. A separate Sale for Resale permit for each business to be  
13 operated must be obtained from the Tax Commission. The Tax  
14 Commission shall grant and issue to each applicant a Sale for Resale  
15 permit for each business in this state, upon proper application  
16 therefor and verification thereof by the Tax Commission. A business  
17 with multiple locations in this state may operate under one Sale for  
18 Resale permit.

19 E. A Sale for Resale permit is not assignable and shall be  
20 valid only for the person in whose name it is issued and for the  
21 transaction of business at the place designated therein. The Sale  
22 for Resale permit may be used in accordance with the requirements of  
23 this section by the permit holder. The Sale for Resale permit shall  
24 be in addition to all other permits required by the laws of this

1 state. Provided, if the location of the business is changed, the  
2 person shall notify the Tax Commission by providing any information  
3 the Tax Commission may require.

4 F. It shall be unlawful for any person designated as a Group  
5 One, Group Two, Group Three or Group Four vendor, pursuant to  
6 Section 1363 of Title 68 of the Oklahoma Statutes, to claim a sale  
7 for resale exemption within this state unless a Sale for Resale  
8 permit or permits shall have been issued to such person. Any person  
9 who claims a sale for resale exemption subject to the provisions of  
10 this section without a Sale for Resale permit or permits, or after a  
11 Sale for Resale permit has been suspended, upon conviction, shall be  
12 guilty of a misdemeanor punishable by a fine of not more than One  
13 Thousand Dollars (\$1,000.00). Any person convicted of a second or  
14 subsequent violation hereof shall be guilty of a felony and  
15 punishable by a fine of not more than Five Thousand Dollars  
16 (\$5,000.00) or by a term of imprisonment in the State Penitentiary  
17 for not more than two (2) years, or both such fine and imprisonment.

18 G. All Sales for Resale permits issued under the provisions of  
19 this section shall expire at 11:59 p.m. on the next June 30th  
20 following the effective date of issuance.

21 H. Whenever a holder of a Sale for Resale permit fails to  
22 comply with any provisions of this section, the Tax Commission,  
23 after giving ten (10) days' notice in writing of the time and place  
24 of hearing to show cause why the permit should not be revoked, may

1 revoke or suspend the Sale for Resale permit, the permit to be  
2 renewed upon removal of cause or causes of revocation or suspension.  
3 However, if a holder of a Sale for Resale permit becomes delinquent  
4 for a period of three (3) months or more in reporting, providing  
5 requested reports or paying of any tax due under this article, any  
6 duly authorized agent of the Tax Commission may cancel the Sale for  
7 Resale permit and it shall be returned or renewed only upon the  
8 filing of proper reports and payment of all taxes due under this  
9 section.

10 I. When the Tax Commission develops and adopts a system for  
11 exchanging information with sellers regarding Sale for Resale permit  
12 numbers of purchasers who are seeking to make purchases for resale,  
13 sellers shall use the system to verify the validity of the Sale for  
14 Resale permit number. The Tax Commission shall provide such  
15 sellers, free of charge, verification of whether those Sale for  
16 Resale permit numbers are valid. The Tax Commission shall also  
17 provide the seller a transaction code authorizing the seller to sell  
18 items purchased for resale to purchasers who hold a valid Sale for  
19 Resale permit. The failure by the seller to verify the purchaser's  
20 permit number shall create a presumption that the sale is not a sale  
21 for resale.

22 J. Notwithstanding the provisions of Section 205 of Title 68 of  
23 the Oklahoma Statutes, the Tax Commission is authorized to release  
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1 the following information contained in the Master Sales and Use Tax  
2 File to vendors:

- 3 1. Permit number(s);
- 4 2. Name in which permit is issued;
- 5 3. Name of business operation if different from ownership  
6 (DBA);
- 7 4. Mailing address;
- 8 5. Business address;
- 9 6. North American Industry Classification System (NAICS); and
- 10 7. Effective date of issuance or of cancellation of a permit.

11 Release of such information shall be limited to tax remitters  
12 for the express purpose of determining the validity of Sale for  
13 Resale permits presented as evidence of purchasers' sales tax resale  
14 status under the Oklahoma Sales Tax Code.

15 The provisions of this subsection shall be strictly interpreted  
16 and shall not be construed as permitting the disclosure of any other  
17 information contained in the records and files of the Tax Commission  
18 relating to sales tax or to any other taxes. No liability  
19 whatsoever, civil or criminal, shall attach to any member of the Tax  
20 Commission or any employee thereof for any error or omission in the  
21 disclosure of information pursuant to this subsection.

22 K. Under the Streamlined Sales and Use Tax Administration Act  
23 provided in Section 1354.14 et seq. of Title 68 of the Oklahoma  
24 Statutes, the Tax Commission is authorized to participate in its

1 online sales and use tax registration system and shall not require  
2 the payment of the registration fees or other charges provided in  
3 this section from a vendor who registers within the online system if  
4 the vendor has no legal requirement to register.

5 SECTION 3. This act shall become effective July 1, 2022.

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