

1 ENGROSSED HOUSE
2 BILL NO. 2744

By: Ford and Waldron of the
House

3 and

4 Pemberton of the Senate
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6
7 An Act relating to revenue and taxation; creating the
8 Tax Exemption Fraud Prevention Act of 2021;
9 authorizing Sale for Resale permits; establishing
10 requirements for permit; authorizing Oklahoma Tax
11 Commission to administer permits; setting penalties;
12 permitting release of certain information;
13 authorizing participation in online system; providing
14 for noncodification; providing for codification; and
15 providing an effective date.

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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:

A. In order to qualify for the sales for resale exemption
authorized in paragraph 3 of Section 1357 of Title 68 of the
Oklahoma Statutes, at the time of sale, the person to whom the sale

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

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

21 C. Upon receipt of the application, the Tax Commission may
22 issue a permit effective for one (1) year unless the applicant
23 receives notification of the refusal of the Tax Commission to issue
24 the permit. If the applicant receives a notice of refusal, the

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

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

15 E. A Sale for Resale permit is not assignable and shall be
16 valid only for the person in whose name it is issued and for the
17 transaction of business at the place designated therein. The Sale
18 for Resale permit may be used in accordance with the requirements of
19 this section by the permit holder. The Sale for Resale permit shall
20 be in addition to all other permits required by the laws of this
21 state. Provided, if the location of the business is changed, the
22 person shall notify the Tax Commission by providing any information
23 the Tax Commission may require.

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

15 G. All Sale for Resale permits issued under the provisions of
16 this section shall expire at 11:59 p.m. on the next June 30
17 following the effective date of issuance.

18 H. Whenever a holder of a Sale for Resale permit fails to
19 comply with any provisions of this section, the Tax Commission,
20 after giving ten (10) days' notice in writing of the time and place
21 of hearing to show cause why the permit should not be revoked, may
22 revoke or suspend the Sale for Resale permit, the permit to be
23 renewed upon removal of cause or causes of revocation or suspension.
24 However, if a holder of a Sale for Resale permit becomes delinquent

1 for a period of three (3) months or more in reporting, providing
2 requested reports or paying of any tax due under this article, any
3 duly authorized agent of the Tax Commission may cancel the Sale for
4 Resale permit and it shall be returned or renewed only upon the
5 filing of proper reports and payment of all taxes due under this
6 section.

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

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

- 23 1. Permit number(s);
- 24 2. Name in which permit is issued;

- 1 3. Name of business operation if different from ownership
- 2 (DBA);
- 3 4. Mailing address;
- 4 5. Business address;
- 5 6. North American Industry Classification System (NAICS); and
- 6 7. Effective date of issuance or of cancellation of a permit.

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

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

18 K. Under the Streamlined Sales and Use Tax Administration Act
19 provided in Section 1354.14 et seq. of Title 68 of the Oklahoma
20 Statutes, the Tax Commission is authorized to participate in its
21 online sales and use tax registration system and shall not require
22 the payment of the registration fees or other charges provided in
23 this section from a vendor who registers within the online system if
24 the vendor has no legal requirement to register.

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

2 Passed the House of Representatives the 3rd day of March, 2021.

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5 Presiding Officer of the House
6 of Representatives

7 Passed the Senate the ___ day of _____, 2021.

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10 Presiding Officer of the Senate