

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2744

By: Ford of the House

and

**Pemberton** of the Senate

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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

1 be issued or renewed until all outstanding returns are filed by  
2 applicant and tax delinquencies are satisfied.

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

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

21 E. A Sale for Resale permit is not assignable and shall be  
22 valid only for the person in whose name it is issued and for the  
23 transaction of business at the place designated therein. The Sale  
24 for Resale permit may be used in accordance with the requirements of

1 this section by the permit holder. The Sale for Resale permit shall  
2 be in addition to all other permits required by the laws of this  
3 state. Provided, if the location of the business is changed, the  
4 person shall notify the Tax Commission by providing any information  
5 the Tax Commission may require.

6 F. It shall be unlawful for any person designated as a Group  
7 One, Group Two, Group Three or Group Four vendor, pursuant to  
8 Section 1363 of Title 68 of the Oklahoma Statutes, to claim a sale  
9 for resale exemption within this state unless a Sale for Resale  
10 permit or permits shall have been issued to such person. Any person  
11 who claims a sale for resale exemption subject to the provisions of  
12 this section without a Sale for Resale permit or permits, or after a  
13 Sale for Resale permit has been suspended, upon conviction, shall be  
14 guilty of a misdemeanor punishable by a fine of not more than One  
15 Thousand Dollars (\$1,000.00). Any person convicted of a second or  
16 subsequent violation hereof shall be guilty of a felony and  
17 punishable by a fine of not more than Five Thousand Dollars  
18 (\$5,000.00) or by a term of imprisonment in the State Penitentiary  
19 for not more than two (2) years, or both such fine and imprisonment.

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

23 H. Whenever a holder of a Sale for Resale permit fails to  
24 comply with any provisions of this section, the Tax Commission,

1 after giving ten (10) days' notice in writing of the time and place  
2 of hearing to show cause why the permit should not be revoked, may  
3 revoke or suspend the Sale for Resale permit, the permit to be  
4 renewed upon removal of cause or causes of revocation or suspension.  
5 However, if a holder of a Sale for Resale permit becomes delinquent  
6 for a period of three (3) months or more in reporting, providing  
7 requested reports or paying of any tax due under this article, any  
8 duly authorized agent of the Tax Commission may cancel the Sale for  
9 Resale permit and it shall be returned or renewed only upon the  
10 filing of proper reports and payment of all taxes due under this  
11 section.

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

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

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

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

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

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

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

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10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
11 02/25/2021 - DO PASS, As Amended and Coauthored.

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