

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1664

By: Montgomery

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; creating the
8 Oklahoma Corporate Activity Tax Act of 2017; defining
9 terms; limiting definitions; qualifying definitions;
10 requiring certain calculations; authorizing certain
11 status election; providing election procedure;
12 requiring certain filings; requiring certain
13 calculations; requiring certain exclusions from
14 calculations; requiring certain inclusions in
15 calculations; requiring certain notifications;
16 requiring certain registrations; tax levy for the
17 privilege of doing business in this state; stating
18 purpose of tax; identifying class of taxpayers
19 subject to tax; making tax additional to other taxes
20 and fees; making tax an annual tax; authorizing
21 methods for recovery of tax by taxpayer; requiring
22 certain apportionment to certain funds; establishing
23 tax rate calculation; providing annual date by which
24 tax must be paid; providing exclusion; providing for
quarter tax period options; authorizing certain
carryforward; providing methods for determining situs
of gross rents and royalties of various properties
and services; authorizing the promulgation of rules;
requiring certain registry of certain information
under certain conditions; authorizing certain fees;
limiting certain fee; providing for method of fee
collection; providing fee amount; authorizing the
abatement of certain fee; requiring fees be credited
to certain fund; authorizing cancellation of certain
registration; requiring quarterly filing under
certain conditions; providing deadlines;
authorization for alternative reporting schedule
under certain conditions; requiring quarterly tax
returns for certain tax filers; authorizing refund
applications under certain conditions; authorizing
certain calculation concerning minimum tax; providing

1 penalties and interest for noncompliance; requiring
2 certain filing and remittance be made electronically;
3 allowing for exemption to electronic filing under
4 certain conditions; requiring certain forms for
5 refund applications; providing deadline for refund
6 applications; providing for processing of refund
7 application; allowing for certain interest to be
8 paid; authorizing certain crediting against tax;
9 authorizing intercept of refund if tax payer owes
10 debt to the state; authorizing assessment; requiring
11 certain written notice; authorizing objection
12 hearing; requiring certain filings with court clerk;
13 providing for certain judgment; authorizing interest
14 on judgment; authorizing collection by the Attorney
15 General; authorizing petitions for reassessment;
16 providing limitations on assessment; providing
17 exceptions to limitation; authorizing certain audit;
18 limiting scope of audit; requiring immediate payment
19 of taxes under certain conditions; requiring certain
20 withholding under certain conditions; authorizing
21 certain legal action; authorizing certain revocations
22 of privileges; authorizing the prescription of
23 bookkeeping and filings requirements; authorizing
24 certain review of records under certain conditions;
requiring certain documents be provided in electronic
form; requiring confidentiality; requiring publishing
of certain lists of information; providing certain
penalty for filing a fraudulent claim; creating a
misdemeanor; creating the School District Tangible
Property Tax Replacement Fund; creating the Local
Government Tangible Property Tax Replacement Fund;
creating the Revenue Enhancement Fund; providing for
codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 7001 of Title 68, unless there
is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Oklahoma
2 Corporate Activity Tax Act of 2017".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7002 of Title 68, unless there
5 is created a duplication in numbering, reads as follows:

6 As used in the Oklahoma Corporate Activity Tax Act of 2017:

7 1. "Person" means, but is not limited to, individuals,
8 combinations of individuals of any form, receivers, assignees,
9 trustees in bankruptcy, firms, companies, joint-stock companies,
10 business trusts, estates, partnerships, limited liability
11 partnerships, limited liability companies, associations, joint
12 ventures, clubs, societies, for-profit corporations, S corporations,
13 qualified subchapter S subsidiaries, qualified subchapter S trusts,
14 trusts, entities that are disregarded for federal income tax
15 purposes and any other entities;

16 2. "Consolidated elected taxpayer" means a group of two or more
17 persons treated as a single taxpayer for purposes of this act as the
18 result of an election made under Section 23 of this act;

19 3. "Combined taxpayer" means a group of two or more persons
20 treated as a single taxpayer for purposes of this act under Section
21 4 of this act;

22 4. "Taxpayer" means any person, or any group of persons in the
23 case of a consolidated elected taxpayer or combined taxpayer treated
24

1 as one taxpayer, required to register or pay tax under this act.

2 "Taxpayer" does not include excluded persons;

3 5. "Excluded person" means any of the following:

4 a. any person with not more than One Hundred Fifty
5 Thousand Dollars (\$150,000.00) of taxable gross
6 receipts during the calendar year. This subparagraph
7 shall not apply to a person that is a member of a
8 consolidated elected taxpayer,

9 b. a public utility that pays the excise tax imposed by
10 law based on one or more measurement periods that
11 include the entire tax period under this act, except
12 that a public utility that is a combined company is a
13 taxpayer with regard to the following gross receipts:

14 (1) taxable gross receipts directly attributed to a
15 public utility activity, but not directly
16 attributed to an activity that is subject to the
17 excise tax imposed by law,

18 (2) taxable gross receipts that cannot be directly
19 attributed to any activity, multiplied by a
20 fraction whose numerator is the taxable gross
21 receipts described in division (1) of this
22 subparagraph and whose denominator is the total
23 taxable gross receipts that can be directly
24 attributed to any activity, and

1 (3) except for any differences resulting from the use
2 of an accrual basis method of accounting for
3 purposes of determining gross receipts under this
4 act and the use of the cash basis method of
5 accounting for purposes of determining gross
6 receipts, the gross receipts directly attributed
7 to the activity of a natural gas company shall be
8 determined in a manner consistent with law,

9 c. a financial institution that paid a financial
10 institution tax imposed by law based on one (1) or
11 more taxable years that include the entire tax period
12 under this act,

13 d. a person directly or indirectly owned by one or more
14 financial institutions that paid a financial
15 institution tax imposed by law based on one (1) or
16 more taxable years that include the entire tax period
17 under this act.

18 For the purposes of this subparagraph, a person owns
19 another person under the following circumstances:

20 (1) in the case of corporations issuing capital
21 stock, one corporation owns another corporation
22 if it owns fifty percent (50%) or more of the
23 other corporation's capital stock with current
24 voting rights,

1 (2) in the case of a limited liability company, one
2 person owns the company if that person's
3 membership interest is fifty percent (50%) or
4 more of the combined membership interests of all
5 persons owning such interests in the company, and

6 (3) in the case of a partnership, trust or other
7 unincorporated business organization other than a
8 limited liability company, one person owns the
9 organization if, under the articles of
10 organization or other instrument governing the
11 affairs of the organization, that person has a
12 beneficial interest in the organization's
13 profits, surpluses, losses or distributions of
14 fifty percent (50%) or more of the combined
15 beneficial interests of all persons having such
16 an interest in the organization,

17 e. a domestic insurance company or foreign insurance
18 company that paid the insurance premium tax or an
19 unauthorized insurance company whose gross premiums
20 are subject to tax based on one or more measurement
21 periods that include the entire tax period,

22 f. a person that solely facilitates or services one or
23 more securitizations of phase-in-recovery property
24 pursuant to a final financing order. For purposes of

1 this subparagraph, "securitization" means transferring
2 one or more assets to one or more persons and then
3 issuing securities backed by the right to receive
4 payment from the asset or assets so transferred,

5 g. except as otherwise provided in this subparagraph, a
6 pre-income tax trust and any pass-through entity of
7 which such pre-income tax trust owns or controls,
8 directly, indirectly or constructively through related
9 interests, more than five percent (5%) of the
10 ownership or equity interests. If the pre-income tax
11 trust has made a qualifying pre-income tax trust
12 election, then the trust and the pass-through entities
13 of which it owns or controls, directly, indirectly or
14 constructively through related interests, more than
15 five percent (5%) of the ownership or equity
16 interests, shall not be excluded persons for purposes
17 of the tax imposed under Section 7 of this act, and

18 h. nonprofit organizations or the state and its agencies,
19 instrumentalities or political subdivisions;

20 6. Except as otherwise provided in subparagraphs b, c and d of
21 this paragraph, "gross receipts" means the total amount realized by
22 a person, without deduction for the cost of goods sold or other
23 expenses incurred, that contributes to the production of gross
24 income of the person, including the fair market value of any

1 property and any services received, and any debt transferred or
2 forgiven as consideration.

3 a. The following are examples of gross receipts:

4 (1) amounts realized from the sale, exchange or other
5 disposition of the taxpayer's property to or with
6 another,

7 (2) amounts realized from the taxpayer's performance
8 of services for another,

9 (3) amounts realized from another's use or possession
10 of the taxpayer's property or capital, and

11 (4) any combination of the foregoing amounts.

12 b. "Gross receipts" excludes the following amounts:

13 (1) interest income except interest on credit sales,

14 (2) dividends and distributions from corporations,
15 and distributive or proportionate shares of
16 receipts and income from a pass-through entity,

17 (3) receipts from the sale, exchange or other
18 disposition of an asset described in Section 1221
19 or 1231 of the Internal Revenue Code, without
20 regard to the length of time the person held the
21 asset. Notwithstanding Section 1221 of the
22 Internal Revenue Code, receipts from hedging
23 transactions also are excluded to the extent the
24 transactions are entered into primarily to

1 protect a financial position, such as managing
2 the risk of exposure to:

3 (a) foreign currency fluctuations that affect
4 assets, liabilities, profits, losses, equity
5 or investments in foreign operations,

6 (b) interest rate fluctuations, or

7 (c) commodity price fluctuations. As used in
8 this division, "hedging transaction" has the
9 same meaning as used in Section 1221 of the
10 Internal Revenue Code and also includes
11 transactions accorded hedge accounting
12 treatment under statement of Financial
13 Accounting Standards Number 133 of the
14 Financial Accounting Standards Board. For
15 the purposes of this division, the actual
16 transfer of title of real or tangible
17 personal property to another entity is not a
18 hedging transaction,

19 (4) proceeds received attributable to the repayment,
20 maturity or redemption of the principal of a
21 loan, bond, mutual fund, certificate of deposit
22 or marketable instrument,

- 1 (5) the principal amount received under a repurchase
2 agreement or on account of any transaction
3 properly characterized as a loan to the person,
4 (6) contributions received by a trust, plan or other
5 arrangement, any of which is described in Section
6 501A of the Internal Revenue Code, or to which
7 Title 26, Subtitle A, Chapter 1, Subchapter D of
8 the Internal Revenue Code applies,
9 (7) compensation, whether current or deferred, and
10 whether in cash or in kind, received or to be
11 received by an employee, former employee or the
12 employee's legal successor for services rendered
13 to or for an employer, including reimbursements
14 received by or for an individual for medical or
15 education expenses, health insurance premiums or
16 employee expenses, or on account of a dependent
17 care spending account, legal services plan, any
18 cafeteria plan described in Section 125 of the
19 Internal Revenue Code, or any similar employee
20 reimbursement,
21 (8) proceeds received from the issuance of the
22 taxpayer's own stock, options, warrants, puts, or
23 calls, or from the sale of the taxpayer's
24 treasury stock,

- 1 (9) proceeds received on the account of payments from
2 insurance policies, except those proceeds
3 received for the loss of business revenue,
4 (10) gifts or charitable contributions received;
5 membership dues received by trade, professional,
6 homeowners' or condominium associations; payments
7 received for educational courses, meetings, meals
8 or similar payments to a trade, professional or
9 other similar association; and fundraising
10 receipts received by any person when any excess
11 receipts are donated or used exclusively for
12 charitable purposes,
13 (11) damages received as the result of litigation in
14 excess of amounts that, if received without
15 litigation, would be gross receipts,
16 (12) property, money and other amounts received or
17 acquired by an agent on behalf of another in
18 excess of the agent's commission, fee or other
19 remuneration,
20 (13) tax refunds, other tax benefit recoveries, and
21 reimbursements for the tax imposed under this act
22 made by entities that are part of the same
23 combined taxpayer or consolidated elected
24 taxpayer group, and reimbursements made by

1 entities that are not members of a combined
2 taxpayer or consolidated elected taxpayer group
3 that are required to be made for economic parity
4 among multiple owners of an entity whose tax
5 obligation under this act is required to be
6 reported and paid entirely by one owner, pursuant
7 to the requirements of Sections 3 and 4 of this
8 act,

9 (14) pension reversions,

10 (15) contributions to capital,

11 (16) sales or use taxes collected as a vendor or an
12 out-of-state seller on behalf of the taxing
13 jurisdiction from a consumer or other taxes the
14 taxpayer is required by law to collect directly
15 from a purchaser and remit to a local, state or
16 federal tax authority,

17 (17) in the case of receipts from the sale of
18 cigarettes or tobacco products by a wholesale
19 dealer, retail dealer, distributor, manufacturer
20 or seller, an amount equal to the federal and
21 state excise taxes paid by any person on or for
22 such cigarettes or tobacco products under
23 subtitle E of the Internal Revenue Code,
24

1 (18) in the case of receipts from the sale, transfer,
2 exchange or other disposition of motor fuel, an
3 amount equal to the value of the motor fuel,
4 including federal and state motor fuel excise
5 taxes and receipts from billing or invoicing of
6 the tax imposed to another person,

7 (19) in the case of receipts from the sale of beer or
8 intoxicating liquor by a person holding a permit,
9 an amount equal to federal and state excise taxes
10 paid by any person on or for such beer or
11 intoxicating liquor under subtitle E of the
12 Internal Revenue Code,

13 (20) receipts realized by a new motor vehicle dealer
14 or used motor vehicle dealer from the sale or
15 other transfer of a motor vehicle to another
16 motor vehicle dealer for the purpose of resale by
17 the transferee motor vehicle dealer, but only if
18 the sale or other transfer was based upon the
19 transferee's need to meet a specific customer's
20 preference for a motor vehicle,

21 (21) receipts from a financial institution described
22 in subparagraph c of paragraph 5 of this section
23 for services provided to the financial
24 institution in connection with the issuance,

1 processing, servicing and management of loans or
2 credit accounts, if such financial institution
3 and the recipient of such receipts have at least
4 fifty percent (50%) of their ownership interests
5 owned or controlled, directly or constructively
6 through related interests, by common owners,

7 (22) receipts realized from administering
8 antineoplastic drugs and other cancer
9 chemotherapy, biologicals, therapeutic agents and
10 supportive drugs in a physician's office to
11 patients with cancer,

12 (23) funds received or used by a mortgage broker that
13 is not a dealer in intangibles, other than fees
14 or other consideration, pursuant to a table-
15 funding mortgage loan or warehouse-lending
16 mortgage loan,

17 (24) property, money and other amounts received by a
18 professional employer organization from a client
19 employer in excess of the administrative fee
20 charged by the professional employer organization
21 to the client employer,

22 (25) in the case of amounts retained as commissions by
23 a permit holder, an amount equal to the amounts
24

1 collected by the Tax Commission as a tax and the
2 amounts specified to be used as purse money,

3 (26) qualifying distribution center receipts:

4 (a) for purposes of this division:

5 (i) "qualifying distribution center
6 receipts" means receipts of a supplier
7 from qualified property that is
8 delivered to a qualified distribution
9 center, multiplied by a quantity that
10 equals one minus the Oklahoma delivery
11 percentage. If the qualified
12 distribution center is a refining
13 facility, "supplier" includes all
14 dealers, brokers, processors, sellers,
15 vendors, cosigners and distributors of
16 qualified property,

17 (ii) "qualified property" means tangible
18 personal property delivered to a
19 qualified distribution center that is
20 shipped to that qualified distribution
21 center solely for further shipping by
22 the qualified distribution center to
23 another location in this state or
24 elsewhere or, in the case of gold,

1 silver, platinum or palladium delivered
2 to a refining facility solely for
3 refining to a grade and fineness
4 acceptable for delivery to a registered
5 commodities exchange. "Further
6 shipping" includes storing and
7 repackaging property into smaller or
8 larger bundles, so long as the property
9 is not subject to further manufacturing
10 or processing. "Refining" is limited
11 to extracting impurities from gold,
12 silver, platinum or palladium through
13 smelting or some other process at a
14 refining facility,

15 (iii) "qualified distribution center" means a
16 warehouse, a facility similar to a
17 warehouse, or a refining facility in
18 this state that, for the qualifying
19 year, is operated by a person that is
20 not part of a combined taxpayer group
21 and that has a qualifying certificate.
22 All warehouses or facilities similar to
23 warehouses that are operated by persons
24 in the same taxpayer group and that are

1 located within one (1) mile of each
2 other shall be treated as one qualified
3 distribution center. All refining
4 facilities that are operated by persons
5 in the same taxpayer group and that are
6 located in the same or adjacent
7 counties may be treated as one
8 qualified distribution center,

9 (iv) "qualifying year" means the calendar
10 year to which the qualifying
11 certificate applies,

12 (v) "qualifying period" means the period of
13 the first day of July of the second
14 year preceding the qualifying year
15 through the thirtieth day of June of
16 the year preceding the qualifying year,

17 (vi) "qualifying certificate" means the
18 certificate issued by the Tax
19 Commission after the operator of a
20 distribution center files an annual
21 application with the Tax Commission.
22 The application and annual fee shall be
23 filed and paid for each qualified
24 distribution center on or before the

1 first day of September before the
2 qualifying year or within forty-five
3 (45) days after the distribution center
4 opens, whichever is later.

5 The applicant must substantiate to the
6 Tax Commission's satisfaction that, for
7 the qualifying period, all persons
8 operating the distribution center have
9 more than fifty percent (50%) of the
10 cost of the qualified property shipped
11 to a location such that it would be
12 situated outside this state under the
13 provisions of paragraph 5 of Section 9
14 of this act. The applicant must also
15 substantiate that the distribution
16 center cumulatively had costs from its
17 suppliers equal to or exceeding Five
18 Hundred Million Dollars
19 (\$500,000,000.00) during the qualifying
20 period. For purposes of this clause,
21 "supplier" excludes any person that is
22 part of the consolidated elected
23 taxpayer group, if applicable, of the
24 operator of the qualified distribution

1 center. The Tax Commission may require
2 the applicant to have an independent
3 certified public accountant certify
4 that the calculation of the minimum
5 thresholds required for a qualified
6 distribution center by the operator of
7 a distribution center has been made in
8 accordance with generally accepted
9 accounting principles. The Tax
10 Commission shall issue or deny the
11 issuance of a certificate within sixty
12 (60) days after the receipt of the
13 application,

14 (vii) "Oklahoma delivery percentage" means
15 the proportion of the total property
16 delivered to a destination inside
17 Oklahoma from the qualified
18 distribution center during the
19 qualifying period compared with total
20 deliveries from such distribution
21 center everywhere during the qualifying
22 period,

23 (viii) "refining facility" means one or more
24 buildings located in a county in a

1 region of this state utilized for
2 refining or smelting gold, silver,
3 platinum or palladium to a grade and
4 fineness acceptable for delivery to a
5 registered commodities exchange,

6 (ix) "registered commodities exchange" means
7 a board of trade, such as New York
8 Mercantile Exchange, Inc. or Commodity
9 Exchange, Inc., designated as a
10 contract market by the Commodity
11 Futures Trading Commission under the
12 Commodity Exchange Act, 7 U.S.C. 1 et
13 seq., as amended, and

14 (x) "ineligible operator's supplier tax
15 liability" means an amount equal to the
16 tax liability of all suppliers of a
17 distribution center had the
18 distribution center not been issued a
19 qualifying certificate for the
20 qualifying year. Ineligible operator's
21 supplier tax liability shall not
22 include interest or penalties. The Tax
23 Commission shall determine an
24 ineligible operator's supplier tax

1 liability based on information that the
2 Tax Commission may request from the
3 operator of the distribution center.
4 An operator shall provide a list of all
5 suppliers of the distribution center
6 and the corresponding costs of
7 qualified property for the qualifying
8 year at issue within sixty (60) days of
9 a request by the Tax Commission under
10 this clause,

11 (b) (i) if the distribution center is new and
12 was not open for the entire qualifying
13 period, the operator of the
14 distribution center may request that
15 the Tax Commission grant a qualifying
16 certificate. If the certificate is
17 granted and it is later determined that
18 more than fifty percent (50%) of the
19 qualified property during that year was
20 not shipped to a location such that it
21 would be situated outside of this state
22 under the provisions of paragraph 5 of
23 Section 9 of this act or if it is later
24 determined that the person that

1 operates the distribution center had
2 average monthly costs from its
3 suppliers of less than Forty Million
4 Dollars (\$40,000,000.00) during that
5 year, then the operator of the
6 distribution center shall pay the
7 ineligible operator's supplier tax
8 liability. For purposes of this
9 clause, "supplier" excludes any person
10 that is part of the consolidated
11 elected taxpayer group, if applicable,
12 of the operator of the qualified
13 distribution center,

14 (ii) the Tax Commission may grant a
15 qualifying certificate to a
16 distribution center that does not
17 qualify as a qualified distribution
18 center for an entire qualifying period
19 if the operator of the distribution
20 center demonstrates that the business
21 operations of the distribution center
22 have changed or will change such that
23 the distribution center will qualify as
24 a qualified distribution center within

thirty-six (36) months after the date
the operator first applies for a
certificate. If at the end of that
thirty-six-month period the business
operations of the distribution center
have not changed such that the
distribution center qualifies as a
qualified distribution center, the
operator of the distribution center
shall pay the ineligible operator's
supplier tax liability for each year
that the distribution center received a
certificate but did not qualify as a
qualified distribution center. For
each year the distribution center
receives a certificate under this
clause, the distribution center shall
pay all applicable fees required under
this division and shall submit an
updated business plan showing the
progress the distribution center made
toward qualifying as a qualified
distribution center during the
preceding year, and

1 (iii) an operator may appeal a determination
2 under clause (i) or (ii) of this
3 subdivision that the ineligible
4 operator is liable for the operator's
5 supplier tax liability as a result of
6 not qualifying as a qualified
7 distribution center,

8 (c) when filing an application for a qualifying
9 certificate under clause (vi) of subdivision
10 (a) of this division, the operator of a
11 qualified distribution center also shall
12 provide documentation, as the Tax Commission
13 requires, for the Tax Commission to
14 ascertain the Oklahoma delivery percentage.
15 The Tax Commission, upon issuing the
16 qualifying certificate, also shall certify
17 the Oklahoma delivery percentage. The
18 operator of the qualified distribution
19 center may appeal the Tax Commission's
20 certification of the Oklahoma delivery
21 percentage in the same manner as an appeal
22 is taken from the denial of a qualifying
23 certificate under clause (vi) of subdivision
24 (a) of this division,

1 (d) (i) in the case where the distribution
2 center is new and not open for the
3 entire qualifying period, the operator
4 shall make a good-faith estimate of an
5 Oklahoma delivery percentage for use by
6 suppliers in their reports of taxable
7 gross receipts for the remainder of the
8 qualifying period. The operator of the
9 facility shall disclose to the
10 suppliers that such Oklahoma delivery
11 percentage is an estimate and is
12 subject to recalculation. By the due
13 date of the next application for a
14 qualifying certificate, the operator
15 shall determine the actual Oklahoma
16 delivery percentage for the estimated
17 qualifying period and proceed as
18 provided in subdivision (c) of this
19 division with respect to the
20 calculation and recalculation of the
21 Oklahoma delivery percentage. The
22 supplier is required to file, within
23 sixty (60) days after receiving notice
24 from the operator of the qualified

1 distribution center, amended reports
2 for the impacted calendar quarter or
3 quarters or calendar year, whichever
4 the case may be. Any additional tax
5 liability or tax overpayment shall be
6 subject to interest but shall not be
7 subject to the imposition of any
8 penalty so long as the amended returns
9 are timely filed,

10 (ii) the operator of a distribution center
11 that receives a qualifying certificate
12 under clause (ii) of subdivision (b) of
13 this division shall make a good-faith
14 estimate of the Oklahoma delivery
15 percentage that the operator estimates
16 will apply to the distribution center
17 at the end of the thirty-six-month
18 period after the operator first applied
19 for a qualifying certificate under
20 clause (ii) of subdivision (b) of this
21 division. The result of the estimate
22 shall be multiplied by a factor of one
23 and seventy-five one-hundredths (1.75).
24 The product of that calculation shall

1 be the Oklahoma delivery percentage
2 used by suppliers in their reports of
3 taxable gross receipts for each
4 qualifying year that the distribution
5 center receives a qualifying
6 certificate under clause (ii) of
7 subdivision (b) of this division,
8 except that if the product is less than
9 five percent (5%) the Oklahoma delivery
10 percentage used shall be five percent
11 (5%) and that if the product exceeds
12 forty-nine percent (49%) the Oklahoma
13 delivery percentage used shall be
14 forty-nine percent (49%),

15 (e) qualifying certificates and Oklahoma
16 delivery percentages issued by the Tax
17 Commission shall be open to public
18 inspection and shall be timely published by
19 the Tax Commission. A supplier relying in
20 good faith on a certificate issued under
21 this division shall not be subject to tax on
22 the qualifying distribution center receipts
23 under this division. An operator receiving
24 a qualifying certificate is liable for the

1 ineligible operator's supplier tax liability
2 for each year the operator received a
3 certificate but did not qualify as a
4 qualified distribution center,

5 (f) the annual fee for a qualifying certificate
6 shall be One Hundred Thousand Dollars
7 (\$100,000.00) for each qualified
8 distribution center. If a qualifying
9 certificate is not issued, the annual fee is
10 subject to refund after the exhaustion of
11 all appeals provided for in clause (vi) of
12 subdivision (a) of this division. The first
13 One Hundred Thousand Dollars (\$100,000.00)
14 of the annual application fees collected
15 each calendar year shall be credited to the
16 Revenue Enhancement Fund,

17 (g) the Tax Commission may require that adequate
18 security be posted by the operator of the
19 distribution center on appeal when the Tax
20 Commission disagrees that the applicant has
21 met the minimum thresholds for a qualified
22 distribution center as set forth in this
23 division,
24

1 (27) receipts of an employer from payroll deductions
2 relating to the reimbursement of the employer for
3 advancing monies to an unrelated third party on
4 an employee's behalf,
5 (28) cash discounts allowed and taken,
6 (29) returns and allowances,
7 (30) bad debts from receipts on the basis of which the
8 tax imposed by this act was paid in a prior
9 quarterly tax payment period. For the purpose of
10 this division, "bad debts" means any debts that
11 have become worthless or uncollectible between
12 the preceding and current quarterly tax payment
13 periods, have been uncollected for at least six
14 (6) months, and that may be claimed as a
15 deduction under Section 166 of the Internal
16 Revenue Code and the regulations adopted under
17 that section, or that could be claimed as such if
18 the taxpayer kept its accounts on the accrual
19 basis. "Bad debts" does not include repossessed
20 property, uncollectible amounts on property that
21 remains in the possession of the taxpayer until
22 the full purchase price is paid, or expenses in
23 attempting to collect any account receivable or
24 for any portion of the debt recovered,

1 (31) any amount realized from the sale of an account
2 receivable to the extent the receipts from the
3 underlying transaction giving rise to the account
4 receivable were included in the gross receipts of
5 the taxpayer,

6 (32) any receipts directly attributed to a transfer
7 agreement or to the enterprise transferred,

8 (33) (a) as used in this division:

9 (i) "qualified uranium receipts" means
10 receipts from the sale, exchange,
11 lease, loan, production, processing or
12 other disposition of uranium within a
13 uranium enrichment zone certified by
14 the Tax Commission under subdivision
15 (b) of this division. "Qualified
16 uranium receipts" does not include any
17 receipts with a situs in this state
18 outside a uranium enrichment zone
19 certified by the Tax Commission under
20 subdivision (b) of this division, and

21 (ii) "uranium enrichment zone" means all
22 real property that is part of a uranium
23 enrichment facility licensed by the
24 United States Nuclear Regulatory

1 Commission and that was or is owned or
2 controlled by the United States

3 Department of Energy or its successor,

4 (b) any person that owns, leases or operates
5 real or tangible personal property
6 constituting or located within a uranium
7 enrichment zone may apply to the Tax
8 Commission to have the uranium enrichment
9 zone certified for the purpose of excluding
10 qualified uranium receipts under this
11 division. The application shall include
12 such information that the Tax Commission
13 prescribes. Within sixty (60) days after
14 receiving the application, the Tax
15 Commission shall certify the zone for that
16 purpose if the Tax Commission determines
17 that the property qualifies as a uranium
18 enrichment zone as defined in this division
19 or, if the Tax Commission determines that
20 the property does not qualify, the Tax
21 Commission shall deny the application or
22 request additional information from the
23 applicant. If the Tax Commission denies an
24 application, the Tax Commission shall state

1 the reasons for the denial. The applicant
2 may appeal the denial of an application to
3 the board of tax appeals. If the applicant
4 files a timely appeal, the Tax Commission
5 shall conditionally certify the applicant's
6 property. The conditional certification
7 shall expire when all of the applicant's
8 appeals are exhausted. Until final
9 resolution of the appeal, the applicant
10 shall retain the applicant's records,
11 notwithstanding any time limit on the
12 preservation of records,

13 (34) in the case of amounts collected by a licensed
14 casino operator from casino gaming, amounts in
15 excess of the casino operator's gross casino
16 revenue,

17 (35) receipts realized from the sale of agricultural
18 commodities by an agricultural commodity handler
19 that is licensed by the director of agriculture
20 to handle agricultural commodities in this state,

21 (36) qualifying integrated supply chain receipts.

22 As used in this division:

23 (a) "qualifying integrated supply chain
24 receipts" means receipts of a qualified

1 integrated supply chain vendor from the sale
2 of qualified property delivered to, or
3 integrated supply chain services provided
4 to, another qualified integrated supply
5 chain vendor or to a retailer that is a
6 member of the integrated supply chain.

7 "Qualifying integrated supply chain
8 receipts" does not include receipts of a
9 person that is not a qualified integrated
10 supply chain vendor from the sale of raw
11 materials to a member of an integrated
12 supply chain, or receipts of a member of an
13 integrated supply chain from the sale of
14 qualified property or integrated supply
15 chain services to a person that is not a
16 member of the integrated supply chain,

17 (b) "qualified property" means any of the
18 following:

19 (i) component parts used to hold, contain,
20 package or dispense qualified products,
21 excluding equipment,

22 (ii) work-in-process inventory that will
23 become, comprise or form a component
24 part of a qualified product capable of

1 being sold at retail, excluding
2 equipment, machinery, furniture and
3 fixtures, and

4 (iii) finished goods inventory that is a
5 qualified product capable of being sold
6 at retail in the inventory's present
7 form,

8 (c) "qualified integrated supply chain vendor"

9 means a person that is a member of an
10 integrated supply chain and that provides
11 integrated supply chain services within a
12 qualified integrated supply chain district
13 to a retailer that is a member of the
14 integrated supply chain or to another
15 qualified integrated supply chain vendor
16 that is located within the same such
17 district as the person but does not share a
18 common owner with that person,

19 (d) "qualified product" means a personal care,

20 health or beauty product or an aromatic
21 product, including a candle. "Qualified
22 product" does not include a drug that may be
23 dispensed only pursuant to a prescription,
24

1 durable medical equipment, mobility
2 enhancing equipment or a prosthetic device,
3 (e) "integrated supply chain" means two or more
4 qualified integrated supply chain vendors
5 certified on the most recent list certified
6 to the Tax Commission under this division
7 that systematically collaborate and
8 coordinate business operations with a
9 retailer on the flow of tangible personal
10 property from material sourcing through
11 manufacturing, assembly, packaging and
12 delivery to the retailer to improve long-
13 term financial performance of each vendor
14 and the supply chain that includes the
15 retailer.

16 For the purpose of the certification
17 required under this division, the reporting
18 person for each retailer, on or before the
19 first day of October of each year, shall
20 certify to the Tax Commission a list of the
21 qualified integrated supply chain vendors
22 providing or receiving integrated supply
23 chain services within a qualified integrated
24 supply chain district for the ensuing

1 calendar year. On or before the following
2 first day of November, the Tax Commission
3 shall issue a certificate to the retailer
4 and to each vendor certified to the Tax
5 Commission on that list. The certificate
6 shall include the names of the retailer and
7 of the qualified integrated supply chain
8 vendors.

9 The retailer shall notify the Tax Commission
10 of any changes to the list, including
11 additions to or subtractions from the list
12 or changes in the name or legal entity of
13 vendors certified on the list, within sixty
14 (60) days after the date the retailer
15 becomes aware of the change. Within thirty
16 (30) days after receiving that notification,
17 the Tax Commission shall issue a revised
18 certificate to the retailer and to each
19 vendor certified on the list. The revised
20 certificate shall include the effective date
21 of the change.

22 Each recipient of a certificate issued
23 pursuant to this division shall maintain a
24

1 copy of the certificate for four (4) years
2 from the date the certificate was received,

3 (f) "integrated supply chain services" means
4 procuring raw materials or manufacturing,
5 processing, refining, assembling, packaging
6 or repackaging tangible personal property
7 that will become finished goods inventory
8 capable of being sold at retail by a
9 retailer that is a member of an integrated
10 supply chain,

11 (g) "retailer" means a person primarily engaged
12 in making retail sales and any member of
13 that person's consolidated elected taxpayer
14 group or combined taxpayer group, whether or
15 not that member is primarily engaged in
16 making retail sales,

17 (h) "qualified integrated supply chain district"
18 means the parcel or parcels of land from
19 which a retailer's integrated supply chain
20 that existed on September 29, 2015, provides
21 or receives integrated supply chain
22 services, and to which all of the following
23 apply:
24

1 (i) the parcel or parcels are located
2 wholly in a county having a population
3 of greater than one hundred sixty-five
4 thousand (165,000) but less than one
5 hundred seventy thousand (170,000)
6 based on the 2010 Federal Decennial
7 Census,

8 (ii) the parcel or parcels are located
9 wholly in the corporate limits of a
10 municipal corporation with a population
11 greater than seven thousand five
12 hundred (7,500) and less than eight
13 thousand (8,000) based on the 2010
14 Federal Decennial Census that is partly
15 located in the county described in
16 clause (i) of this subdivision, as
17 those corporate limits existed on
18 September 29, 2015, and

19 (iii) the aggregate acreage of the parcel or
20 parcels equals or exceeds one hundred
21 (100) acres,

22 (37) in the case of a railroad company that purchases
23 dyed diesel fuel directly from a supplier, an
24 amount equal to the product of the number of

1 gallons of dyed diesel fuel purchased directly
2 from such a supplier multiplied by the average
3 wholesale price for a gallon of diesel fuel for
4 the period during which the fuel was purchased
5 multiplied by a fraction, the numerator of which
6 equals the applicable tax on the supplier, less
7 the applicable rate at retail, and the
8 denominator of which equals the rate of tax
9 applicable at retail, and

10 (38) any receipts for which the tax imposed by this
11 act is prohibited by the constitution or laws of
12 the United States or the constitution of this
13 state.

14 c. In the case of a taxpayer when acting as a real estate
15 broker, "gross receipts" includes only the portion of
16 any fee for the service of a real estate broker, or
17 service of a real estate salesperson associated with
18 that broker, that is retained by the broker and not
19 paid to an associated real estate salesperson or
20 another real estate broker.

21 d. A taxpayer's method of accounting for gross receipts
22 for a tax period shall be the same as the taxpayer's
23 method of accounting for federal income tax purposes
24 for the taxpayer's federal taxable year that includes

1 the tax period. If a taxpayer's method of accounting
2 for federal income tax purposes changes, its method of
3 accounting for gross receipts under this act shall be
4 changed accordingly;

5 7. "Taxable gross receipts" means gross receipts situated to
6 this state under Section 9 of this act;

7 8. A person has "substantial nexus with this state" if any of
8 the following applies - the person:

- 9 a. owns or uses a part or all of its capital in this
10 state,
- 11 b. holds a certificate of compliance with the laws of
12 this state authorizing the person to do business in
13 this state,
- 14 c. has bright-line presence in this state, or
- 15 d. otherwise has nexus with this state to an extent that
16 the person can be required to remit the tax imposed
17 under this act under the Constitution of the United
18 States;

19 9. A person has "bright-line presence" in this state for a
20 reporting period and for the remaining portion of the calendar year
21 if any of the following applies - the person:

- 22 a. has at any time during the calendar year property in
23 this state with an aggregate value of at least Fifty
24 Thousand Dollars (\$50,000.00). For the purpose of

1 this subparagraph, owned property is valued at
2 original cost and rented property is valued at eight
3 times the net annual rental charge,

4 b. has during the calendar year payroll in this state of
5 at least Fifty Thousand Dollars (\$50,000.00). Payroll
6 in this state includes all of the following:

7 (1) any amount subject to withholding by the person
8 under state laws of taxation,

9 (2) any other amount the person pays as compensation
10 to an individual under the supervision or control
11 of the person for work done in this state, and

12 (3) any amount the person pays for services performed
13 in this state on its behalf by another,

14 c. has during the calendar year taxable gross receipts of
15 at least Five Hundred Thousand Dollars (\$500,000.00),

16 d. has at any time during the calendar year within this
17 state at least twenty-five percent (25%) of the
18 person's total property, total payroll or total gross
19 receipts, or

20 e. is domiciled in this state as an individual or for
21 corporate, commercial or other business purposes;

22 10. "Tangible personal property" means personal property that
23 can be seen, weighed, measured, felt or touched or that is in any
24 other manner perceptible to the senses. "Tangible personal

1 property" includes electricity, water, gas, steam and prewritten
2 computer software;

3 11. "Internal Revenue Code" means the Internal Revenue Code of
4 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in
5 this act that is not otherwise defined has the same meaning as when
6 used in a comparable context in the laws of the United States
7 relating to federal income taxes unless a different meaning is
8 clearly required. Any reference in this act to the Internal Revenue
9 Code includes other laws of the United States relating to federal
10 income taxes;

11 12. "Calendar quarter" means a three-month period ending on the
12 thirty-first day of March, the thirtieth day of June, the thirtieth
13 day of September, or the thirty-first day of December;

14 13. "Tax period" means the calendar quarter or calendar year on
15 the basis of which a taxpayer is required to pay the tax imposed
16 under this act;

17 14. "Calendar year taxpayer" means a taxpayer for which the tax
18 period is a calendar year;

19 15. "Calendar quarter taxpayer" means a taxpayer for which the
20 tax period is a calendar quarter;

21 16. "Agent" means a person authorized by another person to act
22 on its behalf to undertake a transaction for the other, including
23 any of the following:

24

- a. a person receiving a fee to sell financial instruments,
- b. a person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person,
- c. a person issuing hunting and fishing licenses and permits,
- d. a lottery sales agent holding a valid license, and
- e. a person acting as an agent of the division of liquor control;

17. "Received" includes amounts accrued under the accrual method of accounting; and

18. "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this act if the group satisfies all of the following requirements:

1. The group elects to include all persons, including persons enumerated in subparagraphs b through e of paragraph 5 of Section 2

1 of this act, having at least eighty percent (80%), or having at
2 least fifty percent (50%), of the value of their ownership interests
3 owned or controlled, directly or constructively through related
4 interests, by common owners during all or any portion of the tax
5 period, together with the common owners.

6 A group making its initial election on the basis of the eighty-
7 percent-ownership test may change its election so that its
8 consolidated elected taxpayer group is formed on the basis of the
9 fifty-percent-ownership test if all of the following are satisfied:

- 10 a. when the initial election was made, the group did not
11 have any persons satisfying the fifty-percent-
12 ownership test,
- 13 b. one or more of the persons in the initial group
14 subsequently acquires ownership interests in a person
15 such that the fifty-percent-ownership test is
16 satisfied, the eighty-percent-ownership test is not
17 satisfied, and the acquired person would be required
18 to be included in a combined taxpayer group under
19 Section 4 of this act,
- 20 c. the group requests the change in writing to the Tax
21 Commission as required by subsection D of this
22 section, and
- 23 d. the group has not previously changed its election.

24

1 At the election of the group, all entities that are not
2 incorporated or formed under the laws of a state or of the United
3 States and that meet the consolidated-elected-ownership test shall
4 either be included in the group or all shall be excluded from the
5 group. If, at the time of registration, the group does not include
6 any such entities that meet the consolidated-elected-ownership test,
7 the group shall elect to either include or exclude the newly
8 acquired entities before the due date of the first return due after
9 the date of the acquisition.

10 If fifty percent (50%) of the value of a person's ownership
11 interests is owned or controlled by each of two consolidated elected
12 taxpayer groups formed under the fifty-percent-ownership-or-control
13 test, that person is a member of each group for the purposes of this
14 section, and each group shall include in the group's taxable gross
15 receipts fifty percent (50%) of that person's taxable gross
16 receipts. Otherwise, all of that person's taxable gross receipts
17 shall be included in the taxable gross receipts of the consolidated
18 elected taxpayer group of which the person is a member. In no event
19 shall the ownership or control of fifty percent (50%) of the value
20 of a person's ownership interests by two otherwise unrelated groups
21 form the basis for consolidating the groups into a single
22 consolidated elected taxpayer group or permit any exclusion under
23 subsection C of this section of taxable gross receipts between
24

1 members of the two groups. Paragraph 3 of this subsection applies
2 with respect to the elections described in this subsection;

3 2. The group makes the election to be treated as a consolidated
4 elected taxpayer in the manner prescribed under subsection D of this
5 section;

6 3. Subject to review and audit by the Tax Commission, the group
7 agrees that all of the following apply:

8 a. the group shall file reports as a single taxpayer for
9 at least the next eight (8) calendar quarters
10 following the election so long as at least two or more
11 of the members of the group meet the requirements of
12 paragraph 1 of this subsection,

13 b. before the expiration of the eighth such calendar
14 quarter, the group shall notify the Tax Commission if
15 it elects to cancel its designation as a consolidated
16 elected taxpayer. If the group does not so notify the
17 Tax Commission, the election remains in effect for
18 another eight (8) calendar quarters,

19 c. if, at any time during any of those eight (8) calendar
20 quarters following the election, a former member of
21 the group no longer meets the requirements under
22 paragraph 1 of this subsection, that member shall
23 report and pay the tax imposed under this act
24 separately, as a member of a combined taxpayer, or, if

1 the former member satisfies such requirements with
2 respect to another consolidated elected group, as a
3 member of that consolidated elected group, and

4 d. the group agrees to the application of subsection B of
5 this section.

6 B. A group of persons making the election under this section
7 shall report and pay tax on all of the group's taxable gross
8 receipts even if substantial nexus with this state does not exist
9 for one or more persons in the group.

10 C. 1. a. Members of a consolidated elected taxpayer group shall
11 exclude gross receipts among persons included in the
12 consolidated elected taxpayer group.

13 b. Subject to subparagraph c of this paragraph and
14 paragraph 2 of this subsection, nothing in this
15 section shall have the effect of requiring a
16 consolidated elected taxpayer group to include gross
17 receipts received by a person enumerated in
18 subparagraphs b through e of paragraph 5 of Section 2
19 of this act if that person is a member of the group
20 pursuant to the elections made by the group under
21 paragraph 1 of subsection A of this section.

22 c. (1) As used in this subparagraph, "dealer transfer"
23 means a transfer of property that satisfies both
24 of the following:

1 (a) the property is directly transferred by any
2 means from one member of the group to
3 another member of the group that is a dealer
4 in intangibles, and

5 (b) the property is subsequently delivered by
6 the dealer in intangibles to a person that
7 is not a member of the group.

8 (2) In the event of a dealer transfer, a consolidated
9 elected taxpayer group shall not exclude, under
10 this subsection, gross receipts from the transfer
11 described in subdivision (a) of division (1) of
12 this subparagraph.

13 2. Gross receipts related to the sale or transmission of
14 electricity through the use of an intermediary regional transmission
15 organization approved by the Federal Energy Regulatory Commission
16 shall be excluded from taxable gross receipts under paragraph 1 of
17 this subsection if all other requirements of that paragraph are met,
18 even if the receipts are from and to the same member of the group.

19 D. To make the election to be a consolidated elected taxpayer,
20 a group of persons shall notify the Tax Commission of the election
21 on a form prescribed by the Tax Commission for that purpose, which
22 shall be signed by one or more individuals with authority,
23 separately or together, to make a binding election on behalf of all
24 persons in the group. Elections under subsection A of this section

1 shall be made on or before the due date for filing the first return
2 due after the election applies.

3 Any person acquired or formed after the filing of the
4 registration shall be included in the group if the person meets the
5 requirements of paragraph 1 of subsection A of this section, and the
6 group shall notify the Tax Commission of any additions to the group
7 on a form prescribed by the Tax Commission for such purpose.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 7004 of Title 68, unless there
10 is created a duplication in numbering, reads as follows:

11 A. All persons, other than persons enumerated in subparagraphs
12 b through e of paragraph 5 of Section 2 of this act, having more
13 than fifty percent (50%) of the value of their ownership interest
14 owned or controlled, directly or constructively through related
15 interests, by common owners during all or any portion of the tax
16 period, together with the common owners, shall be members of a
17 combined taxpayer group if those persons are not members of a
18 consolidated elected taxpayer group pursuant to an election under
19 Section 3 of this act.

20 B. A combined taxpayer group shall register, file returns and
21 pay taxes under this act as a single taxpayer and shall neither
22 exclude taxable gross receipts between its members nor from others
23 that are not members.

24

1 C. Any person acquired or formed after the filing of the
2 registration shall be included in the group if the person meets the
3 requirements of subsection A of this section, and the group must
4 notify the Tax Commission of any additions to the group on a form
5 prescribed by the Tax Commission for such purpose.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 7005 of Title 68, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Except as provided in subsection B of this section:

10 1. A person shall include as taxable gross receipts the value
11 of property the person transfers into this state for the person's
12 own use within one (1) year after the person receives the property
13 outside this state; and

14 2. In the case of a consolidated elected taxpayer group or a
15 combined taxpayer group, the taxpayer shall include as taxable gross
16 receipts the value of property that any of the taxpayer's members
17 transferred into this state for the use of any of the taxpayer's
18 members within one (1) year after the taxpayer receives the property
19 outside this state.

20 B. Property brought into this state within one (1) year after
21 it is received outside this state by a person or group described in
22 paragraphs 1 and 2 of subsection A of this section shall not be
23 included as taxable gross receipts as required under those
24 paragraphs if the Tax Commission ascertains that the property's

1 receipt outside this state by the person or group followed by its
2 transfer into this state within one (1) year was not intended in
3 whole or in part to avoid in whole or in part the tax imposed under
4 this act.

5 C. The Tax Commission may adopt rules necessary to administer
6 this section.

7 SECTION 6. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 7006 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 All members of a consolidated elected taxpayer or combined
11 taxpayer group during the tax period or periods for which additional
12 tax, penalty or interest is owed are jointly and severally liable
13 for such amounts. Although the reporting person will be assessed
14 for the liability, such amounts due may be collected by assessment
15 against any member of the group as authorized by law.

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 7007 of Title 68, unless there
18 is created a duplication in numbering, reads as follows:

19 A. For the purpose of funding the needs of this state and its
20 local governments, there is hereby levied a commercial activity tax
21 on each person with taxable gross receipts for the privilege of
22 doing business in this state. For the purposes of this act, "doing
23 business" means engaging in any activity, whether legal or illegal,
24 that is conducted for, or results in, gain, profit or income, at any

1 time during a calendar year. Persons on which the commercial
2 activity tax is levied include, but are not limited to, persons with
3 substantial nexus with this state. The tax imposed under this
4 section is not a transactional. The tax imposed under this section
5 is in addition to any other taxes or fees imposed under law. The
6 tax levied under this section is imposed on the person receiving the
7 gross receipts and is not a tax imposed directly on a purchaser.
8 The tax imposed by this section is an annual privilege tax for the
9 calendar year that, in the case of calendar year taxpayers, is the
10 annual tax period and, in the case of calendar quarter taxpayers,
11 contains all quarterly tax periods in the calendar year. A taxpayer
12 is subject to the annual privilege tax for doing business during any
13 portion of such calendar year.

14 B. The tax imposed by this section is a tax on the taxpayer and
15 shall not be billed or invoiced to another person. Even if the tax
16 or any portion thereof is billed or invoiced and separately stated,
17 such amounts remain part of the price for purposes of the sales and
18 use taxes levied under the laws of this state. Nothing in this
19 subsection prohibits:

20 1. A person from including in the price charged for a good or
21 service an amount sufficient to recover the tax imposed by this
22 section; or

23 2. A lessor from including an amount sufficient to recover the
24 tax imposed by this section in a lease payment charged, or from

1 including such an amount on a billing or invoice pursuant to the
2 terms of a written lease agreement providing for the recovery of the
3 lessor's tax costs. The recovery of such costs shall be based on an
4 estimate of the total tax cost of the lessor during the tax period,
5 as the tax liability of the lessor cannot be calculated until the
6 end of that period.

7 C. The commercial activities tax provided for in this act shall
8 be collected and apportioned as follows:

9 1. Seventy-five percent (75%) shall be paid to the State
10 Treasurer to be placed in the General Revenue Fund of the state;

11 2. Twenty percent (20%) shall be paid to the State Treasurer to
12 be placed in the School District Tangible Property Tax Replacement
13 Fund created in Section 22 of this act; and

14 3. Five percent (5%) shall be paid to the State Treasurer to be
15 placed in the Local Government Tangible Property Tax Replacement
16 Fund created in Section 23 of this act.

17 SECTION 8. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 7008 of Title 68, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Except as provided in subsection B of this section, the tax
21 levied under this section for each tax period shall be the product
22 of two and six-tenths mills per dollar times the remainder of the
23 taxpayer's taxable gross receipts for the tax period after
24

1 subtracting the exclusion amount provided for in subsection C of
2 this section.

3 B. Notwithstanding subsection C of this section, the tax on the
4 first One Million Dollars (\$1,000,000.00) in taxable gross receipts
5 each calendar year shall be calculated as follows:

6 1. For taxpayers with annual taxable gross receipts of One
7 Million Dollars (\$1,000,000.00) or less for the calendar year, One
8 Hundred Fifty Dollars (\$150.00);

9 2. For taxpayers with annual taxable gross receipts greater
10 than One Million Dollars (\$1,000,000.00), but less than or equal to
11 Two Million Dollars (\$2,000,000.00) for the calendar year, Eight
12 Hundred Dollars (\$800.00);

13 3. For taxpayers with annual taxable gross receipts greater
14 than Two Million Dollars (\$2,000,000.00), but less than or equal to
15 Four Million Dollars (\$4,000,000.00) for the calendar year, Two
16 Thousand One Hundred Dollars (\$2,100.00);

17 4. For taxpayers with annual taxable gross receipts greater
18 than Four Million Dollars (\$4,000,000.00) for the calendar year, Two
19 Thousand Six Hundred Dollars (\$2,600.00).

20 The tax imposed under paragraph 1 of this subsection shall be
21 paid not later than the tenth day of May of each year along with the
22 annual tax return. The tax imposed under paragraphs 2, 3 and 4 of
23 this subsection shall be paid not later than the tenth day of May of
24 each year along with the first quarter tax return.

1 C. 1. Each taxpayer may exclude the first One Million Dollars
2 (\$1,000,000.00) of taxable gross receipts for a calendar year.
3 Calendar quarter taxpayers shall apply the full exclusion amount to
4 the first calendar quarter return the taxpayer files that calendar
5 year and may carry forward and apply any unused exclusion amount to
6 subsequent calendar quarters within that same calendar year.

7 2. A taxpayer switching from a calendar year tax period to a
8 calendar quarter tax period may, for the first quarter of the
9 change, apply the full one-million-dollar exclusion amount to the
10 first calendar quarter return the taxpayer files that calendar year.
11 Such taxpayers may carry forward and apply any unused exclusion
12 amount to subsequent calendar quarters within that same calendar
13 year. The tax rate shall be based on the rate imposed that calendar
14 quarter when the taxpayer switches from a calendar year to a
15 calendar quarter tax period.

16 3. A taxpayer shall not exclude more than One Million Dollars
17 (\$1,000,000.00) pursuant to this subsection in a calendar year.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 7009 of Title 68, unless there
20 is created a duplication in numbering, reads as follows:

21 For the purposes of this act, gross receipts shall be sitused to
22 this state as follows:

23 1. Gross rents and royalties from real property located in this
24 state shall be sitused to this state;

1 2. Gross rents and royalties from tangible personal property
2 shall be situated to this state to the extent the tangible personal
3 property is located or used in this state;

4 3. Gross receipts from the sale of electricity and electric
5 transmission and distribution services shall be situated to this
6 state in the same manner as otherwise provided in law;

7 4. Gross receipts from the sale of real property located in
8 this state shall be situated to this state;

9 5. Gross receipts from the sale of tangible personal property
10 shall be situated to this state if the property is received in this
11 state by the purchaser. In the case of delivery of tangible
12 personal property by motor carrier or by other means of
13 transportation, the place at which such property is ultimately
14 received after all transportation has been completed shall be
15 considered the place where the purchaser receives the property. For
16 purposes of this section, the phrase "delivery of tangible personal
17 property by motor carrier or by other means of transportation"
18 includes the situation in which a purchaser accepts the property in
19 this state and then transports the property directly or by other
20 means to a location outside this state. Direct delivery in this
21 state, other than for purposes of transportation, to a person or
22 firm designated by a purchaser constitutes delivery to the purchaser
23 in this state, and direct delivery outside this state to a person or
24 firm designated by a purchaser does not constitute delivery to the

1 purchaser in this state, regardless of where title passes or other
2 conditions of sale;

3 6. Gross receipts from the sale, exchange, disposition or other
4 grant of the right to use trademarks, trade names, patents,
5 copyrights and similar intellectual property shall be sitused to
6 this state to the extent that the receipts are based on the amount
7 of use of the property in this state. If the receipts are not based
8 on the amount of use of the property, but rather on the right to use
9 the property, and the payor has the right to use the property in
10 this state, then the receipts from the sale, exchange, disposition
11 or other grant of the right to use such property shall be sitused to
12 this state to the extent the receipts are based on the right to use
13 the property in this state;

14 7. Gross receipts from the sale of transportation services by a
15 motor carrier shall be sitused to this state in proportion to the
16 mileage traveled by the carrier during the tax period on roadways,
17 waterways, airways and railways in this state to the mileage
18 traveled by the carrier during the tax period on roadways,
19 waterways, airways and railways everywhere. With prior written
20 approval of the Tax Commission, a motor carrier may use an
21 alternative situsing procedure for transportation services;

22 8. The Tax Commission may promulgate rules to determine how
23 gross receipts from dividends, interest and other sources of income
24

1 from financial instruments shall otherwise be considered situated in
2 this state;

3 9. Gross receipts from the sale of all other services, and all
4 other gross receipts not otherwise situated under this section, shall
5 be situated to this state in the proportion that the purchaser's
6 benefit in this state with respect to what was purchased bears to
7 the purchaser's benefit everywhere with respect to what was
8 purchased. The physical location where the purchaser ultimately
9 uses or receives the benefit of what was purchased shall be
10 paramount in determining the proportion of the benefit in this state
11 to the benefit everywhere. If a taxpayer's records do not allow the
12 taxpayer to determine that location, the taxpayer may use an
13 alternative method to situs gross receipts under this paragraph if
14 the alternative method is reasonable, is consistently and uniformly
15 applied, and is supported by the taxpayer's records as the records
16 exist when the service is provided or within a reasonable period of
17 time thereafter;

18 10. If the situsing provisions of paragraphs 1 through 8 of
19 this section do not fairly represent the extent of a person's
20 activity in this state, the person may request, or the Tax
21 Commission may require or permit, an alternative method. Such
22 request by a person must be made within the applicable statute of
23 limitations set forth in this act; and

24

1 11. The Tax Commission may adopt rules to provide additional
2 guidance to the application of this section, and provide alternative
3 methods of situsing gross receipts that apply to all persons, or
4 subset of persons, that are engaged in similar business or trade
5 activities.

6 SECTION 10. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 7010 of Title 68, unless there
8 is created a duplication in numbering, reads as follows:

9 A. As used in this section, "person" includes a reporting
10 person.

11 B. Not later than thirty (30) days after a person first has
12 more than One Hundred Fifty Thousand Dollars (\$150,000.00) in
13 taxable gross receipts in a calendar year, each person subject to
14 this act shall register with the Tax Commission on the form
15 prescribed by the Tax Commission. The form shall include the
16 following:

- 17 1. The person's name;
- 18 2. The person's primary address;
- 19 3. The business or industry codes for the person;
- 20 4. The person's federal employer identification number or
21 social security number or equivalent, as applicable;
- 22 5. The person's organizational type;
- 23 6. The date the person is first subject to the tax imposed by
24 this act;

1 7. The names, addresses, federal identification numbers or
2 social security numbers or equivalents, and organization types of
3 each member that is commonly owned in a consolidated elected
4 taxpayer or combined taxpayer group; and

5 8. All other information that the Tax Commission requires to
6 administer and enforce this act.

7 C. 1. To help defray the costs of administering the tax
8 imposed by this act, the Tax Commission shall collect a registration
9 fee in the amount of Twenty Dollars (\$20.00) per person up to a
10 maximum of Two Hundred Dollars (\$200.00) per consolidated elected
11 taxpayer or combined taxpayer group. The Tax Commission shall
12 systematically deduct and collect the fee from the first tax payment
13 each taxpayer makes after registering or adding members, as
14 applicable. No separate registration fee may be collected in
15 addition to the tax imposed by this act.

16 2. If a person does not register within the time prescribed by
17 this section, an additional fee is imposed in the amount of One
18 Hundred Dollars (\$100.00) per month or part thereof that the fee is
19 outstanding, not to exceed One Thousand Dollars (\$1,000.00). The
20 Tax Commission may abate the additional fee. The fee imposed under
21 this paragraph may be assessed in the same manner as the tax imposed
22 under this act.

1 D. Proceeds from the fee imposed under subsection C of this
2 section shall be paid to the State Treasurer to be placed in the
3 Revenue Enhancement Fund created in Section 24 of this act.

4 E. If a person that has registered under this section is no
5 longer a taxpayer subject to this act, the person shall notify the
6 Tax Commission that the person's registration should be cancelled.

7 F. With respect to registrations received by the Tax Commission
8 before January 1, 2018, the taxpayer listed as the primary taxpayer
9 on the registration shall be the reporting person until the taxpayer
10 notifies the Tax Commission otherwise.

11 SECTION 11. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 7011 of Title 68, unless there
13 is created a duplication in numbering, reads as follows:

14 A. If a person subject to this act anticipates that the
15 person's taxable gross receipts will be more than One Million
16 Dollars (\$1,000,000.00) in a calendar year, the person shall notify
17 the Tax Commission on the person's initial registration form and
18 file on a quarterly basis as a calendar quarter taxpayer. Any
19 taxpayer with taxable gross receipts of One Million Dollars
20 (\$1,000,000.00) or less shall register as a calendar year taxpayer
21 and shall file annually.

22 B. Any person that is a calendar year taxpayer under subsection
23 A of this section shall become a calendar quarter taxpayer in the
24 subsequent calendar year if the person's taxable gross receipts for

1 the prior calendar year are more than One Million Dollars
2 (\$1,000,000.00), and shall remain a calendar quarter taxpayer until
3 the person notifies the Tax Commission, and receives approval in
4 writing from the Tax Commission, to switch back to being a calendar
5 year taxpayer.

6 C. The Tax Commission may grant written approval for a calendar
7 quarter taxpayer to use an alternative reporting schedule or
8 estimate the amount of tax due for a calendar quarter if the
9 taxpayer demonstrates to the Tax Commission the need for such a
10 deviation. The Tax Commission may adopt a rule to apply this
11 subsection to a group of taxpayers without the taxpayers having to
12 receive written approval from the Tax Commission.

13 SECTION 12. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 7012 of Title 68, unless there
15 is created a duplication in numbering, reads as follows:

16 A. 1. Not later than the tenth day of the second month after
17 the end of each calendar quarter, every taxpayer other than a
18 calendar year taxpayer shall file with the Tax Commission a tax
19 return in such form as the Tax Commission prescribes. The return
20 shall include, but is not limited to, the amount of the taxpayer's
21 taxable gross receipts for the calendar quarter and shall indicate
22 the amount of tax due under Section 8 of this act.

23

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1 2. a. Subject to subsection C of Section 11 of this act, a
2 calendar quarter taxpayer shall report the taxable
3 gross receipts for that calendar quarter.

4 b. With respect to taxable gross receipts incorrectly
5 reported in a calendar quarter that has a lower tax
6 rate, the tax shall be computed at the tax rate in
7 effect for the quarterly return in which such receipts
8 should have been reported. Nothing in this
9 subparagraph prohibits a taxpayer from filing an
10 application for refund under Section 15 of this act
11 with regard to the incorrect reporting of taxable
12 gross receipts discovered after filing the annual
13 return described in paragraph 3 of this subsection.

14 A tax return shall not be deemed to be an incorrect reporting of
15 taxable gross receipts for the purposes of this subparagraph if the
16 return reflects between ninety-five percent (95%) and one hundred
17 five percent (105%) of the actual taxable gross receipts for the
18 calendar quarter.

19 3. For the purposes of subparagraph b of paragraph 2 of this
20 subsection, the tax return filed for the fourth calendar quarter of
21 a calendar year is the annual return for the privilege tax imposed
22 by this act. Such return shall report any additional taxable gross
23 receipts not previously reported in the calendar year and shall
24 adjust for any over-reported taxable gross receipts in the calendar

1 year. If the taxpayer ceases to be a taxpayer before the end of the
2 calendar year, the last return the taxpayer is required to file
3 shall be the annual return for the taxpayer and the taxpayer shall
4 report any additional taxable gross receipts not previously reported
5 in the calendar year and shall adjust for any over-reported taxable
6 gross receipts in the calendar year.

7 4. Because the tax imposed by this act is a privilege tax, the
8 tax rate with respect to taxable gross receipts for a calendar
9 quarter is not fixed until the end of the measurement period for
10 each calendar quarter. Subject to subparagraph b of paragraph 2 of
11 this subsection, the total amount of taxable gross receipts reported
12 for a given calendar quarter shall be subject to the tax rate in
13 effect in that quarter.

14 5. Not later than the tenth day of May following the end of
15 each calendar year, every calendar year taxpayer shall file with the
16 Tax Commission a tax return in such form as the Tax Commission
17 prescribes. The return shall include, but is not limited to, the
18 amount of the taxpayer's taxable gross receipts for the calendar
19 year and shall indicate the amount of tax due under Section 8 of
20 this act for the calendar year.

21 B. 1. A person that first becomes subject to the tax imposed
22 under this act shall pay the minimum tax imposed under subsection B
23 of Section 8 of this act on or before the day the return is required
24 to be filed for that quarter under paragraph 1 of subsection A of

1 this section, regardless of whether the person registers as a
2 calendar year taxpayer under Section 11 of this act.

3 2. The amount of the minimum tax for a person subject to
4 paragraph 1 of this subsection shall be reduced by one-half (1/2) if
5 the registration is timely filed after the first day of May and
6 before the first day of January of the following calendar year.

7 SECTION 13. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 7013 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Any taxpayer that fails to file a return or pay the full
11 amount of the tax due within the period prescribed therefor under
12 this act shall pay a penalty in an amount not exceeding the greater
13 of Fifty Dollars (\$50.00) or ten percent (10%) of the tax required
14 to be paid for the tax period.

15 B. 1. If any additional tax is found to be due, the Tax
16 Commission may impose an additional penalty of up to fifteen percent
17 (15%) on the additional tax found to be due.

18 2. Any delinquent payments of the tax made after a taxpayer is
19 notified of an audit or a tax discrepancy by the Commission is
20 subject to the penalty imposed by this subsection. If an assessment
21 is issued under Section 17 of this act in connection with such
22 delinquent payments, the payments shall be credited to the
23 assessment.

24

1 C. After calendar year 2018, the Tax Commission may impose an
2 additional penalty against a taxpayer that fails to switch to being
3 a calendar quarter taxpayer at the time it had over Two Million
4 Dollars (\$2,000,000.00) in taxable gross receipts in the calendar
5 year, as required under Section 10 of this act. The penalty may be
6 imposed in an amount not to exceed ten percent (10%) of the tax due
7 above Two Million Dollars (\$2,000,000.00) in taxable gross receipts
8 for the calendar year. Any penalty imposed under this subsection is
9 in addition to any other penalties imposed under this section.

10 D. If the Tax Commission notifies a person required to register
11 under Section 11 of this act of such requirement and of the
12 requirement to remit the tax due under this act, and the person
13 fails to so register and remit the tax within sixty (60) days after
14 such notice, the Tax Commission may impose an additional penalty of
15 up to thirty-five percent (35%) of the tax due. The penalty imposed
16 under this subsection is in addition to any other penalties imposed
17 under this section.

18 E. The Tax Commission may collect any penalty or interest
19 imposed by this section in the same manner as the tax imposed under
20 this act. Penalties and interest so collected shall be considered
21 as revenue arising from the tax imposed under this act.

22 F. The Tax Commission may abate all or a portion of any
23 penalties imposed under this section and may adopt rules governing
24 such abatements.

1 G. If any tax due is not timely paid in accordance with this
2 act, the taxpayer shall pay interest, calculated at the rate per
3 annum prescribed by law, from the date the tax payment was due to
4 the date of payment or to the date an assessment was issued,
5 whichever occurs first.

6 H. The Tax Commission may impose a penalty of up to ten percent
7 (10%) for any additional tax that is due under subparagraph b of
8 paragraph 2 of subsection A of Section 12 of this act from a
9 taxpayer incorrectly reporting its taxable gross receipts.

10 I. If the Tax Commission discovers that a taxpayer has billed
11 or invoiced another person for the tax imposed under this act in
12 violation of subsection B of Section 7 of this act, the Tax
13 Commission shall notify the taxpayer of the violation by certified
14 mail and may impose a penalty of up to Five Hundred Dollars
15 (\$500.00). If the taxpayer subsequently bills or invoices a person
16 for the tax imposed under this act, the Tax Commission shall impose
17 a penalty of Five Hundred Dollars (\$500.00).

18 SECTION 14. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 7014 of Title 68, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Any person required to file returns under this act shall
22 remit each tax payment, and, if required by the Tax Commission, file
23 the tax return or the annual report electronically. The Tax
24 Commission may require taxpayers to use a particular Internet

1 interface to file returns and remit the tax, or may provide another
2 means for taxpayers to file and remit the tax electronically.

3 B. A person required by this section to remit taxes or file
4 returns electronically may apply to the Tax Commission, on the form
5 prescribed by the Tax Commission, to be excused from that
6 requirement. The Tax Commission may excuse a person from the
7 requirements of this subsection for good cause.

8 C. 1. If a person required to remit taxes or file a return
9 electronically under this section fails to do so, the Tax Commission
10 may impose a penalty not to exceed the following:

11 a. for either of the first two tax periods the person so
12 fails, the greater of Twenty-five Dollars (\$25.00) or
13 five percent (5%) of the amount of the payment that
14 was required to be remitted, and

15 b. for the third and any subsequent tax periods the
16 person so fails, the greater of Fifty Dollars (\$50.00)
17 or ten percent (10%) of the amount of the payment that
18 was required to be remitted.

19 2. The penalty imposed under paragraph 1 of this subsection is
20 in addition to any other penalty imposed under this act and shall be
21 considered as revenue arising from the tax imposed under this act.
22 A penalty may be collected by assessment in the manner prescribed by
23 Section 17 of this act. The Tax Commission may abate all or a
24 portion of such a penalty.

1 D. The Tax Commission may adopt rules necessary to administer
2 this section.

3 SECTION 15. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7015 of Title 68, unless there
5 is created a duplication in numbering, reads as follows:

6 A. An application for refund to the taxpayer of the amount of
7 taxes imposed under this act that are overpaid, paid illegally or
8 erroneously, or paid on any illegal or erroneous assessment shall be
9 filed by the reporting person with the Tax Commission, on the form
10 prescribed by the Tax Commission, within four (4) years after the
11 date of the illegal or erroneous payment of the tax, or within any
12 additional period allowed under subsection F of Section 17 of this
13 act. The applicant shall provide the amount of the requested refund
14 along with the claimed reasons for, and documentation to support,
15 the issuance of a refund.

16 B. On the filing of the refund application, the Tax Commission
17 shall determine the amount of refund to which the applicant is
18 entitled.

19 C. Interest on a refund applied for under this section shall be
20 allowed from the later of the date the tax was paid or when the tax
21 payment was due.

22 D. A calendar quarter taxpayer with more than One Million
23 Dollars (\$1,000,000.00) in taxable gross receipts that is not able
24 to exclude One Million Dollars (\$1,000,000.00) in taxable gross

1 receipts because of the operation of the taxpayer's business in that
2 calendar year may file for a refund under this section to obtain the
3 full exclusion of One Million Dollars (\$1,000,000.00) in taxable
4 gross receipts for that calendar year.

5 E. Except as provided in Section 16 of this act, the Tax
6 Commission may, with the consent of the taxpayer, provide for the
7 crediting against tax due for a tax year the amount of any refund
8 due the taxpayer under this act for a preceding tax year.

9 SECTION 16. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 7016 of Title 68, unless there
11 is created a duplication in numbering, reads as follows:

12 A. As used in this section, "debt to this state" means unpaid
13 taxes due the state, unpaid workers' compensation premiums due the
14 state, unpaid unemployment compensation contributions due, unpaid
15 unemployment compensation, unpaid fees payable to the state,
16 incorrect payments for Medicaid services under the Medicaid program,
17 or any unpaid charge, penalty or interest arising from any of the
18 foregoing.

19 B. If a taxpayer entitled to a refund under Section 15 of this
20 act owes any debt to this state, the amount refundable may be
21 applied in satisfaction of the debt. If the amount refundable is
22 less than the amount of the debt, it may be applied in partial
23 satisfaction of the debt. If the amount refundable is greater than
24 the amount of the debt, the amount remaining after satisfaction of

1 the debt shall be refunded. This section applies only to debts that
2 have become final. For the purposes of this section, a debt becomes
3 final when, under the applicable law, any time provided for petition
4 for reassessment, request for reconsideration or other appeal of the
5 legality or validity of the amount giving rise to the debt expires
6 without an appeal having been filed in the manner provided by law.

7 SECTION 17. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 7017 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The Tax Commission may make an assessment, based on any
11 information in the Tax Commission's possession, against any person
12 that fails to file a return or pay any tax as required by this act.
13 The Tax Commission shall give the person assessed written notice of
14 the assessment. With the notice, the Tax Commission shall provide
15 instructions on the manner in which to petition for reassessment and
16 request a hearing with respect to the petition. The Tax Commission
17 shall send any assessments against consolidated elected taxpayer and
18 combined taxpayer groups under Section 2 of this act to the
19 taxpayer's "reporting person" as defined under paragraph 18 of
20 Section 2 of this act. The reporting person shall notify all
21 members of the group of the assessment and all outstanding taxes,
22 interest and penalties for which the assessment is issued.

23 B. Unless the person assessed, within sixty (60) days after
24 service of the notice of assessment, files with the Tax Commission,

1 either personally or by certified mail, a written petition signed by
2 the person or the person's authorized agent having knowledge of the
3 facts, the assessment becomes final, and the amount of the
4 assessment is due and payable from the person assessed to the State
5 Treasurer. The petition shall indicate the objections of the person
6 assessed, but additional objections may be raised in writing if
7 received by the Tax Commission prior to the date shown on the final
8 determination.

9 C. 1. After an assessment becomes final, if any portion of the
10 assessment, including accrued interest, remains unpaid a certified
11 copy of the Tax Commission's entry making the assessment final may
12 be filed in the office of the court clerk of the county in which the
13 person resides or has its principal place of business in this state.

14 2. Immediately upon the filing of the entry, the clerk shall
15 enter judgment for the state against the person assessed in the
16 amount shown on the entry. The judgment may be filed by the clerk
17 in a loose-leaf book entitled "Special Judgments for the Commercial
18 Activity Tax" and shall have the same effect as other judgments.
19 Execution shall issue upon the judgment at the request of the Tax
20 Commission, and all laws applicable to sales on execution shall
21 apply to sales made under the judgment.

22 3. If the assessment is not paid in its entirety within sixty
23 (60) days after the day the assessment was issued, the portion of
24 the assessment consisting of tax due shall bear interest at the rate

1 per annum prescribed by law from the day the Tax Commission issues
2 the assessment until it is paid or until it is certified to the
3 Attorney General for collection, whichever comes first. If the
4 unpaid portion of the assessment is certified to the Attorney
5 General for collection, the entire unpaid portion of the assessment
6 shall bear interest at the rate per annum prescribed by law from the
7 date of certification until the date it is paid in its entirety.
8 Interest shall be paid in the same manner as the tax and may be
9 collected by the issuance of an assessment under this section.

10 D. If the Tax Commission believes that collection of the tax
11 will be jeopardized unless proceedings to collect or secure
12 collection of the tax are instituted without delay, the Tax
13 Commission may issue a jeopardy assessment against the person liable
14 for the tax. Immediately upon the issuance of the jeopardy
15 assessment, the Tax Commission shall file an entry with the court
16 clerk in the manner prescribed by subsection C of this section.
17 Notice of the jeopardy assessment shall be served on the person
18 assessed or the person's authorized agent within five (5) days of
19 the filing of the entry with the clerk. The total amount assessed
20 is immediately due and payable, unless the person assessed files a
21 petition for reassessment in accordance with subsection B of this
22 section and provides security in a form satisfactory to the Tax
23 Commission and in an amount sufficient to satisfy the unpaid balance
24 of the assessment. Full or partial payment of the assessment does

1 not prejudice the Tax Commission's consideration of the petition for
2 reassessment.

3 E. The Tax Commission shall immediately forward to the State
4 Treasurer all amounts the Tax Commission receives under this
5 section, and such amounts shall be considered as revenue arising
6 from the tax imposed under this act.

7 F. Except as otherwise provided in this subsection, no
8 assessment shall be made or issued against a taxpayer for the tax
9 imposed under this act more than four (4) years after the due date
10 for the filing of the return for the tax period for which the tax
11 was reported, or more than four (4) years after the return for the
12 tax period was filed, whichever is later. The time limit may be
13 extended if both the taxpayer and the Tax Commission consent in
14 writing to the extension or enter into an agreement waiving or
15 extending the time limit. Any such extension shall extend the four-
16 year time limit in subsection B of Section 15 of this act for the
17 same period of time. Nothing in this subsection bars an assessment
18 against a taxpayer that fails to file a return required by this act
19 or that files a fraudulent return.

20 G. If the Tax Commission possesses information that indicates
21 that the amount of tax a taxpayer is required to pay under this act
22 exceeds the amount the taxpayer paid, the Tax Commission may audit a
23 sample of the taxpayer's gross receipts over a representative period
24 of time to ascertain the amount of tax due, and may issue an

1 assessment based on the audit. The Tax Commission shall make a
2 good-faith effort to reach agreement with the taxpayer in selecting
3 a representative sample. The Tax Commission may apply a sampling
4 method only if the Tax Commission has prescribed the method by rule.

5 SECTION 18. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 7018 of Title 68, unless there
7 is created a duplication in numbering, reads as follows:

8 If any person liable for the tax imposed under this act sells
9 the trade or business, disposes in any manner other than in the
10 regular course of business at least seventy-five percent (75%) of
11 assets of the trade or business, or quits the trade or business, any
12 tax owed by such person shall become due and payable immediately,
13 and the person shall pay the tax under this section, including any
14 applicable penalties and interest, within forty-five (45) days after
15 the date of selling or quitting the trade or business. The person's
16 successor shall withhold a sufficient amount of the purchase money
17 to cover the amount due and unpaid until the former owner produces a
18 receipt from the Tax Commission showing that the amounts are paid or
19 a certificate indicating that no taxes are due. If a purchaser
20 fails to withhold purchase money, that person is personally liable
21 up to the purchase money amount, for such amounts that are unpaid
22 during the operation of the business by the former owner.

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1 The Tax Commission may adopt rules regarding the issuance of
2 certificates under this section, including the waiver of the need
3 for a certificate if certain criteria are met.

4 SECTION 19. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 7019 of Title 68, unless there
6 is created a duplication in numbering, reads as follows:

7 If any person subject to this act fails to report or pay the tax
8 as required under this act, or fails to pay any penalty imposed
9 under this act within ninety (90) days after the time prescribed for
10 payment of the penalty, the Attorney General, on the request of the
11 Tax Commission, shall commence an action in quo warranto in the
12 district court of the county in which the person has its principal
13 place of business to forfeit and annul its privileges or franchise
14 within this state. If the court finds that the person is in default
15 for the amount claimed, it shall render judgment revoking the
16 person's privileges or franchise within this state.

17 SECTION 20. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 7020 of Title 68, unless there
19 is created a duplication in numbering, reads as follows:

20 The Tax Commission may prescribe requirements for the keeping of
21 records and other pertinent documents, the filing of copies of
22 federal income tax returns and determinations, and computations
23 reconciling federal income tax returns with the returns and reports
24 required by Section 12 of this act. The Tax Commission may require

1 any person, by rule or notice served on that person, to keep those
2 records that the Tax Commission considers necessary to show whether,
3 and the extent to which, a person is subject to this act. Those
4 records and other documents shall be open during business hours to
5 the inspection of the Tax Commission, and shall be preserved for a
6 period of four (4) years unless the Tax Commission, in writing,
7 consents to their destruction within that period, or by order
8 requires that they be kept longer. If such records are normally
9 kept by the person electronically, the person shall provide such
10 records to the Tax Commission electronically at the Tax Commission's
11 request.

12 Any information required by the Tax Commission under this act is
13 confidential. However, the Tax Commission shall make public an
14 electronic list of all actively registered persons required to remit
15 the tax under this act, including legal names, trade names,
16 addresses and account numbers. In addition, such list shall include
17 all persons that cancelled their registration at any time during the
18 preceding four (4) calendar years, including the effective date of
19 the cancellation.

20 SECTION 21. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 7021 of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 A. Whoever files a fraudulent refund claim under Section 15 of
24 this act shall be fined the greater of not more than One Thousand

1 Dollars (\$1,000.00) or the amount of the fraudulent refund requested
2 or imprisoned not more than sixty (60) days, or both.

3 B. Except as provided in this section, whoever violates any
4 section of this act, or any rule adopted by the Tax Commission under
5 this act, shall be fined not more than Five Hundred Dollars
6 (\$500.00) or imprisoned not more than thirty (30) days, or both.

7 SECTION 22. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 7022 of Title 68, unless there
9 is created a duplication in numbering, reads as follows:

10 There is hereby created within the State Treasury a fund to be
11 designated the "School District Tangible Property Tax Replacement
12 Fund". The fund shall consist of revenues apportioned to the fund
13 pursuant to Section 2 of this act.

14 SECTION 23. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 7023 of Title 68, unless there
16 is created a duplication in numbering, reads as follows:

17 There is hereby created within the State Treasury a fund to be
18 designated the "Local Government Tangible Property Tax Replacement
19 Fund". The fund shall consist of revenues apportioned to the fund
20 pursuant to Section 2 of this act.

21 SECTION 24. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 7024 of Title 68, unless there
23 is created a duplication in numbering, reads as follows:

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1 There is hereby created within the State Treasury a fund to be
2 designated the "Revenue Enhancement Fund". The fund shall consist
3 of revenues apportioned to the fund pursuant to Section 2 of this
4 act.

5 SECTION 25. This act shall become effective January 1, 2018.

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