

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 1283

By: Treat, Jett, and Rogers of
the Senate

3

and

4

McCall of the House

5

6

7 An Act relating to sales tax; amending 68 O.S. 2021,
8 Section 1352, as amended by Section 1 of Enrolled
9 House Bill No. 1955 of the 2nd Session of the 59th
10 Oklahoma Legislature, which relates to definitions;
11 defining terms; modifying definition; and updating
12 statutory language.

10

11

12 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
13 and insert:

13

14

15

16 "An Act relating to sales tax; amending 68 O.S. 2021,
17 Section 1352, as amended by Section 1 of Enrolled
18 House Bill No. 1955 of the 2nd Session of the 59th
19 Oklahoma Legislature, which relates to definitions;
20 defining terms; modifying definitions; updating
21 statutory language; amending Section 2 of Enrolled
22 House Bill No. 1955 of the 2nd Session of the 59th
23 Oklahoma Legislature, which relates to local sales
24 and use taxes; modifying provisions related to
differential tax dates; and providing an effective
date.

22

23

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

1 SECTION 1. AMENDATORY 68 O.S. 2021, Section 1352, as
2 amended by Section 1 of Enrolled House Bill No. 1955 of the 2nd
3 Session of the 59th Oklahoma Legislature, is amended to read as
4 follows:

5 Section 1352. Definitions.

6 As used in the Oklahoma Sales Tax Code:

7 1. "Alcoholic beverages" means beverages that are suitable for
8 human consumption and contain one-half of one percent (0.5%) or more
9 of alcohol by volume;

10 2. "Bottled water" means water that is placed in a safety
11 sealed container or package for human consumption. Bottled water is
12 calorie-free and does not contain sweeteners or other additives
13 except that it may contain:

14 a. antimicrobial agents,

15 b. fluoride,

16 c. carbonation,

17 d. vitamins, minerals, and electrolytes,

18 e. oxygen,

19 f. preservatives, and

20 g. only those flavors, extracts, or essences derived from
21 a spice or fruit;

22 3. "Bundled transaction" means the retail sale of two or more
23 products, except real property and services to real property, where
24 the products are otherwise distinct and identifiable, and the

1 products are sold for one nonitemized price. A ~~"bundled~~
2 ~~transaction"~~ bundled transaction does not include the sale of any
3 products in which the sales price varies, or is negotiable, based on
4 the selection by the purchaser of the products included in the
5 transaction. As used in this paragraph:

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

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

15 (2) a product provided free of charge with the
16 required purchase of another product. A product
17 is provided free of charge if the sales price of
18 the product purchased does not vary depending on
19 the inclusion of the product provided free of
20 charge, or

21 (3) items included in the definition of gross
22 receipts or sales price, pursuant to this
23 section,
24

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

9 A transaction that otherwise meets the definition of a
10 bundled transaction shall not be considered a bundled
11 transaction if it is:

12 (1) the retail sale of tangible personal property and
13 a service where the tangible personal property is
14 essential to the use of the service, and is
15 provided exclusively in connection with the
16 service, and the true object of the transaction
17 is the service,

18 (2) the retail sale of services where one service is
19 provided that is essential to the use or receipt
20 of a second service and the first service is
21 provided exclusively in connection with the
22 second service and the true object of the
23 transaction is the second service,

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

17 (4) the retail sale of exempt tangible personal
18 property and taxable tangible personal property
19 where:

20 (a) the transaction includes food and food
21 ingredients, drugs, durable medical
22 equipment, mobility enhancing equipment,
23 over-the-counter drugs, prosthetic devices
24 or medical supplies, and

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

10 ~~3.~~ 4. "Business" means any activity engaged in or caused to be
11 engaged in by any person with the object of gain, benefit, or
12 advantage, either direct or indirect;

13 ~~4.~~ 5. "Candy" means a preparation of sugar, honey, or other
14 natural or artificial sweeteners in combination with chocolate,
15 fruits, nuts, or other ingredients or flavorings in the form of
16 bars, drops, or pieces. Candy shall not include any preparation
17 containing flour or requiring refrigeration;

18 ~~5.~~ 6. "Commission" or "Tax Commission" means the Oklahoma Tax
19 Commission;

20 ~~6.~~ 7. "Computer" means an electronic device that accepts
21 information in digital or similar form and manipulates it for a
22 result based on a sequence of instructions;

1 ~~7.~~ 8. "Computer software" means a set of coded instructions
2 designed to cause a ~~"computer"~~ computer or automatic data processing
3 equipment to perform a task;

4 ~~8.~~ 9. "Consumer" or "user" means a person to whom a taxable
5 sale of tangible personal property is made or to whom a taxable
6 service is furnished. ~~"Consumer"~~ Consumer or ~~"user"~~ user includes
7 all contractors to whom a taxable sale of materials, supplies,
8 equipment, or other tangible personal property is made or to whom a
9 taxable service is furnished to be used or consumed in the
10 performance of any contract;

11 ~~9.~~ 10. "Contractor" means any person who performs any
12 improvement upon real property and who, as a necessary and
13 incidental part of performing such improvement, incorporates
14 tangible personal property belonging to or purchased by the person
15 into the real property being improved;

16 ~~10.~~ 11. "Dietary supplements" means any product, other than
17 tobacco, intended to supplement the diet that:

18 a. contains one or more of the following dietary
19 ingredients:

- 20 (1) a vitamin,
21 (2) a mineral,
22 (3) an herb or other botanical,
23 (4) an amino acid,

24

1 (5) a dietary substance to supplement the diet by
2 increasing the total dietary intake, or
3 (6) a concentrate, metabolite, constituent, extract,
4 or combination of any ingredient described in
5 divisions (1) through (5) of this subparagraph,

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

11 c. is required to be labeled as a dietary supplement,
12 identifiable by the label and as required pursuant to
13 Section 101.36 of Title 21 of the Code of Federal
14 Regulations;

15 ~~11.~~ 12. "Drug" means a compound, substance or preparation, and
16 any component of a compound, substance or preparation:

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

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

23 c. intended to affect the structure or any function of
24 the body;

1 ~~12.~~ 13. "Electronic" means relating to technology having
2 electrical, digital, magnetic, wireless, optical, electromagnetic,
3 or similar capabilities;

4 ~~13.~~ 14. "Established place of business" means the location at
5 which any person regularly engages in, conducts, or operates a
6 business in a continuous manner for any length of time, that is open
7 to the public during the hours customary to such business, in which
8 a stock of merchandise for resale is maintained, and which is not
9 exempted by law from attachment, execution, or other species of
10 forced sale barring any satisfaction of any delinquent tax liability
11 accrued under the Oklahoma Sales Tax Code;

12 ~~14.~~ 15. "Fair authority" means:

- 13 a. any county, municipality, school district, public
14 trust or any other political subdivision of this
15 state, or
- 16 b. any not-for-profit corporation acting pursuant to an
17 agency, operating or management agreement which has
18 been approved or authorized by the governing body of
19 any of the entities specified in subparagraph a of
20 this paragraph which conduct, operate or produce a
21 fair commonly understood to be a county, district or
22 state fair;

23 ~~15.~~ 16. "Food and food ingredients" means substances, whether
24 in liquid, concentrated, solid, frozen, dried, or dehydrated form,

1 that are sold for ingestion or chewing by humans and are consumed
2 for their taste or nutritional value. Food and food ingredients
3 shall include bottled water, candy, and soft drinks. Food and food
4 ingredients shall not include:

- 5 a. alcoholic beverages,
- 6 b. dietary supplements,
- 7 c. marijuana, usable marijuana, or marijuana-infused
8 products,
- 9 d. prepared food, or
- 10 e. tobacco;

11 ~~16.~~ 17. "Food sold with eating utensils provided by the seller"

12 means food sold by a seller who meets the following requirements:

- 13 a. for a seller with a prepared food sales percentage of
14 greater than seventy-five percent (75%), the seller
15 makes eating utensils available to purchasers or, if a
16 food item is bottled water, candy, or soft drinks, the
17 seller gives or hands the eating utensils to
18 purchasers or makes plates, bowls, glasses, or cups
19 that are necessary for the purchaser to receive the
20 food available to purchasers. If a food item has four
21 or more servings packaged as one food item sold for a
22 single price, the seller must give or hand eating
23 utensils to the purchaser. Serving sizes must be
24 determined based on a label on an item sold, or if no

1 label is available, then a seller shall determine the
2 reasonable number of servings in an item, or
3 b. for a seller with a prepared food sales percentage of
4 seventy-five percent (75%) or less, the seller's
5 business practice is to give or hand eating utensils
6 to purchasers. Eating utensils necessary for the
7 purchaser to receive the food, such as bowls and cups,
8 need only be made available to purchasers.

9 Provided, food sold with eating utensils provided by the seller
10 does not include food items that have a utensil placed in a package
11 with the food items by a person other than the seller, and that
12 other person's North American Industry Classification System (NAICS)
13 classification code is that of a manufacturer, subsector 311. If
14 the packager has any other NAICS classification code, the seller is
15 considered to have provided the eating utensil;

16 18. a. "Gross receipts", "gross proceeds" or "sales price"
17 means the total amount of consideration, including
18 cash, credit, property and services, for which
19 personal property or services are sold, leased or
20 rented, valued in money, whether received in money or
21 otherwise, without any deduction for the following:
22 (1) the seller's cost of the property sold,
23 (2) the cost of materials used, labor or service
24 cost,

- 1 (3) interest, losses, all costs of transportation to
- 2 the seller, all taxes imposed on the seller, and
- 3 any other expense of the seller,
- 4 (4) charges by the seller for any services necessary
- 5 to complete the sale, other than delivery and
- 6 installation charges,
- 7 (5) delivery charges and installation charges, unless
- 8 separately stated on the invoice, billing or
- 9 similar document given to the purchaser, and
- 10 (6) credit for any trade-in.

11 b. Such term shall not include:

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

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

3 (1) the seller actually receives consideration from a
4 party other than the purchaser and the
5 consideration is directly related to a price
6 reduction or discount on the sale,

7 (2) the seller has an obligation to pass the price
8 reduction or discount through to the purchaser,

9 (3) the amount of the consideration attributable to
10 the sale is fixed and determinable by the seller
11 at the time of the sale of the item to the
12 purchaser, and

13 (4) one of the following criteria is met:

14 (a) the purchaser presents a coupon, certificate
15 or other documentation to the seller to
16 claim a price reduction or discount where
17 the coupon, certificate or documentation is
18 authorized, distributed or granted by a
19 third party with the understanding that the
20 third party will reimburse any seller to
21 whom the coupon, certificate or
22 documentation is presented,

23 (b) the purchaser identifies himself or herself
24 to the seller as a member of a group or

1 organization entitled to a price reduction
2 or discount; provided, a "preferred
3 customer" card that is available to any
4 patron does not constitute membership in
5 such a group, or

6 (c) the price reduction or discount is
7 identified as a third-party price reduction
8 or discount on the invoice received by the
9 purchaser or on a coupon, certificate or
10 other documentation presented by the
11 purchaser;

12 ~~17.~~

13 19. a. "Maintaining a place of business in this state" means
14 and shall be presumed to include:

15 (1) (a) utilizing or maintaining in this state,
16 directly or by subsidiary, an office,
17 distribution house, sales house, warehouse,
18 or other physical place of business, whether
19 owned or operated by the vendor or any other
20 person, other than a common carrier acting
21 in its capacity as such, or

22 (b) having agents operating in this state,
23 whether the place of business or agent is
24 within this state temporarily or permanently

1 or whether the person or agent is authorized
2 to do business within this state, and

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

6 (a) sells a similar line of products as the
7 vendor and does so under the same or a
8 similar business name,

9 (b) uses trademarks, service marks or trade
10 names in this state that are the same or
11 substantially similar to those used by the
12 vendor,

13 (c) delivers, installs, assembles or performs
14 maintenance services for the vendor,

15 (d) facilitates the vendor's delivery of
16 property to customers in the state by
17 allowing the vendor's customers to pick up
18 property sold by the vendor at an office,
19 distribution facility, warehouse, storage
20 place or similar place of business
21 maintained by the person in this state, or

22 (e) conducts any other activities in this state
23 that are significantly associated with the
24

1 vendor's ability to establish and maintain a
2 market in this state for the vendor's sale.

3 b. The presumptions in divisions (1) and (2) of
4 subparagraph a of this paragraph may be rebutted by
5 demonstrating that the person's activities in this
6 state are not significantly associated with the
7 vendor's ability to establish and maintain a market in
8 this state for the vendor's sales.

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

22 ~~18.~~ 20. "Manufacturing" means and includes the activity of
23 converting or conditioning tangible personal property by changing
24 the form, composition, or quality of character of some existing

1 material or materials, including natural resources, by procedures
2 commonly regarded by the average person as manufacturing,
3 compounding, processing or assembling, into a material or materials
4 with a different form or use. ~~"Manufacturing"~~ Manufacturing does
5 not include extractive industrial activities such as mining,
6 quarrying, logging, and drilling for oil, gas and water, nor oil and
7 gas field processes, such as natural pressure reduction, mechanical
8 separation, heating, cooling, dehydration and compression;

9 ~~19.~~ 21. "Manufacturing operation" means the designing,
10 manufacturing, compounding, processing, assembling, warehousing, or
11 preparing of articles for sale as tangible personal property. A
12 manufacturing operation begins at the point where the materials
13 enter the manufacturing site and ends at the point where a finished
14 product leaves the manufacturing site. ~~"Manufacturing operation"~~
15 Manufacturing operation does not include administration, sales,
16 distribution, transportation, site construction, or site
17 maintenance. Extractive activities and field processes shall not be
18 deemed to be a part of a manufacturing operation even when performed
19 by a person otherwise engaged in manufacturing;

20 ~~20.~~ 22. "Manufacturing site" means a location where a
21 manufacturing operation is conducted, including a location
22 consisting of one or more buildings or structures in an area owned,
23 leased, or controlled by a manufacturer;

24

1 ~~21.~~ 23. "Over-the-counter drug" means a drug that contains a
2 label that identifies the product as a drug as required by 21
3 C.F.R., Section 201.66. The over-the-counter-drug label includes:

- 4 a. a "Drug Facts" panel, or
- 5 b. a statement of the "active ingredient(s)" with a list
6 of those ingredients contained in the compound,
7 substance or preparation;

8 ~~22.~~ 24. "Person" means any individual, company, partnership,
9 joint venture, joint agreement, association, mutual or otherwise,
10 limited liability company, corporation, estate, trust, business
11 trust, receiver or trustee appointed by any state or federal court
12 or otherwise, syndicate, this state, any county, city, municipality,
13 school district, any other political subdivision of the state, or
14 any group or combination acting as a unit, in the plural or singular
15 number;

16 ~~23.~~ 25. "Prepared food" means:

- 17 a. food sold in a heated state or that is heated by the
18 seller,
- 19 b. two or more food ingredients mixed or combined by the
20 seller for sale as a single item, or
- 21 c. food sold with eating utensils provided by the seller,
22 including plates, knives, forks, spoons, glasses,
23 cups, napkins, or straws, but does not include a
24 container or packaging used to transport the food.

1 Prepared food shall not include food sold by a seller whose primary
2 North American Industry Classification System (NAICS) classification
3 is manufacturing in Sector 311, except subsector 3118, food sold in
4 an unheated state by weight or volume as a single item, and food
5 sold that ordinarily requires additional cooking, not including just
6 reheating, by the consumer prior to consumption;

7 ~~24.~~ 26. "Prescription" means an order, formula or recipe issued
8 in any form of oral, written, electronic, or other means of
9 transmission by a duly licensed "practitioner" as defined in Section
10 1357.6 of this title;

11 ~~25.~~ 27. "Prewritten computer software" means ~~"computer~~
12 ~~software"~~ computer software, including prewritten upgrades, which is
13 not designed and developed by the author or other creator to the
14 specifications of a specific purchaser. The combining of two or
15 more prewritten computer software programs or prewritten portions
16 thereof does not cause the combination to be other than prewritten
17 computer software. Prewritten software includes software designed
18 and developed by the author or other creator to the specifications
19 of a specific purchaser when it is sold to a person other than the
20 purchaser. Where a person modifies or enhances computer software of
21 which the person is not the author or creator, the person shall be
22 deemed to be the author or creator only of such person's
23 modifications or enhancements. Prewritten software or a prewritten
24 portion thereof that is modified or enhanced to any degree, where

1 such modification or enhancement is designed and developed to the
2 specifications of a specific purchaser, remains prewritten software;
3 provided, however, that where there is a reasonable, separately
4 stated charge or an invoice or other statement of the price given to
5 the purchaser for such modification or enhancement, such
6 modification or enhancement shall not constitute prewritten computer
7 software;

8 ~~26.~~ 28. "Repairman" means any person who performs any repair
9 service upon tangible personal property of the consumer, whether or
10 not the repairman, as a necessary and incidental part of performing
11 the service, incorporates tangible personal property belonging to or
12 purchased by the repairman into the tangible personal property being
13 repaired;

14 ~~27.~~ 29. "Sale" means the transfer of either title or possession
15 of tangible personal property for a valuable consideration
16 regardless of the manner, method, instrumentality, or device by
17 which the transfer is accomplished in this state, or other
18 transactions as provided by this paragraph, including but not
19 limited to:

- 20 a. the exchange, barter, lease, or rental of tangible
21 personal property resulting in the transfer of the
22 title to or possession of the property,
- 23 b. the disposition for consumption or use in any business
24 or by any person of all goods, wares, merchandise, or

1 property which has been purchased for resale,
2 manufacturing, or further processing,

3 c. the sale, gift, exchange, or other disposition of
4 admission, dues, or fees to clubs, places of
5 amusement, or recreational or athletic events or for
6 the privilege of having access to or the use of
7 amusement, recreational, athletic or entertainment
8 facilities,

9 d. the furnishing or rendering of services taxable under
10 the Oklahoma Sales Tax Code, and

11 e. any use of motor fuel or diesel fuel by a supplier, as
12 defined in Section 500.3 of this title, upon which
13 sales tax has not previously been paid, for purposes
14 other than to propel motor vehicles over the public
15 highways of this state. Motor fuel or diesel fuel
16 purchased outside the state and used for purposes
17 other than to propel motor vehicles over the public
18 highways of this state shall not constitute a sale
19 within the meaning of this paragraph;

20 ~~28.~~ 30. "Sale for resale" means:

21 a. a sale of tangible personal property to any purchaser
22 who is purchasing tangible personal property for the
23 purpose of reselling it within the geographical limits
24 of the United States of America or its territories or

1 possessions, in the normal course of business either
2 in the form or condition in which it is purchased or
3 as an attachment to or integral part of other tangible
4 personal property,

5 b. a sale of tangible personal property to a purchaser
6 for the sole purpose of the renting or leasing, within
7 the geographical limits of the United States of
8 America or its territories or possessions, of the
9 tangible personal property to another person by the
10 purchaser, but not if incidental to the renting or
11 leasing of real estate,

12 c. a sale of tangible goods and products within this
13 state if, simultaneously with the sale, the vendor
14 issues an export bill of lading, or other
15 documentation that the point of delivery of such goods
16 for use and consumption is in a foreign country and
17 not within the territorial confines of the United
18 States. If the vendor is not in the business of
19 shipping the tangible goods and products that are
20 purchased from the vendor, the buyer or purchaser of
21 the tangible goods and products is responsible for
22 providing an export bill of lading or other
23 documentation to the vendor from whom the tangible
24 goods and products were purchased showing that the

1 point of delivery of such goods for use and
2 consumption is a foreign country and not within the
3 territorial confines of the United States, or

- 4 d. a ~~sales~~ sale of any carrier access services, right of
5 access services, telecommunications services to be
6 resold, or telecommunications used in the subsequent
7 provision of, use as a component part of, or
8 integrated into, end-to-end telecommunications
9 service;

10 ~~29.~~ 31. "Soft drinks" means any nonalcoholic beverages that
11 contain natural or artificial sweeteners. Soft drinks shall not
12 include beverages that contain:

- 13 a. milk or milk products,
14 b. soy, rice, oat, or similar milk substitutes, or
15 c. greater than fifty percent (50%) of vegetable or fruit
16 juice by volume;

17 ~~30.~~ 32. "Tangible personal property" means personal property
18 that can be seen, weighed, measured, felt, or touched or that is in
19 any other manner perceptible to the senses. ~~"Tangible personal
20 property"~~ Tangible personal property includes electricity, water,
21 gas, steam and prewritten computer software. This definition shall
22 be applicable only for purposes of the Oklahoma Sales Tax Code;

23 ~~31.~~ 33. "Taxpayer" means any person liable to pay a tax imposed
24 by the Oklahoma Sales Tax Code;

1 ~~32.~~ 34. "Tax period" or "taxable period" means the calendar
2 period or the taxpayer's fiscal period for which a taxpayer has
3 obtained a permit from the Tax Commission to use a fiscal period in
4 lieu of a calendar period;

5 ~~33.~~ 35. "Tax remitter" means any person required to collect,
6 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
7 tax remitter who fails, for any reason, to collect, report, or remit
8 the tax shall be considered a taxpayer for purposes of assessment,
9 collection, and enforcement of the tax imposed by the Oklahoma Sales
10 Tax Code; and

11 ~~34.~~ 36. "Vendor" means:

- 12 a. any person making sales of tangible personal property
13 or services in this state, the gross receipts or gross
14 proceeds from which are taxed by the Oklahoma Sales
15 Tax Code,
16 b. any person maintaining a place of business in this
17 state and making sales of tangible personal property
18 or services, whether at the place of business or
19 elsewhere, to persons within this state, the gross
20 receipts or gross proceeds from which are taxed by the
21 Oklahoma Sales Tax Code,
22 c. any person who solicits business by employees,
23 independent contractors, agents, or other
24 representatives in this state, and thereby makes sales

1 to persons within this state of tangible personal
2 property or services, the gross receipts or gross
3 proceeds from which are taxed by the Oklahoma Sales
4 Tax Code, or

- 5 d. any person, pursuant to an agreement with the person
6 with an ownership interest in or title to tangible
7 personal property, who has been entrusted with the
8 possession of any such property and has the power to
9 designate who is to obtain title, to physically
10 transfer possession of, or otherwise make sales of the
11 property.

12 SECTION 2. AMENDATORY Section 2 of Enrolled House Bill
13 No. 1955 of the 2nd Session of the 59th Oklahoma Legislature, is
14 amended to read as follows:

15 A. 1. On or after the effective date of this act, an excise
16 tax of zero percent (0%) is hereby imposed upon all retail sales of
17 food and food ingredients sold for human consumption off the
18 premises where sold.

19 2. Any sales tax or excise tax levied by a city, town, county,
20 or any other jurisdiction in this state upon sales of food and food
21 ingredients shall be in effect regardless of ordinance or
22 contractual provisions referring to previously imposed state sales
23 tax on the items.

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2 BILL NO. 1283

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the Senate

3 and

4 McCall of the House

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21 2. "Bottled water" means water that is placed in a safety
22 sealed container or package for human consumption. Bottled water is
23 calorie-free and does not contain sweeteners or other additives
24 except that it may contain:

a. antimicrobial agents,

- 1 b. fluoride,
- 2 c. carbonation,
- 3 d. vitamins, minerals, and electrolytes,
- 4 e. oxygen,
- 5 f. preservatives, and
- 6 g. only those flavors, extracts, or essences derived from
- 7 a spice or fruit;

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

- 16 a. "distinct and identifiable products" does not include:
 - 17 (1) packaging such as containers, boxes, sacks, bags,
 - 18 and bottles, or other materials such as wrapping,
 - 19 labels, tags, and instruction guides, that
 - 20 accompany the retail sale of the products and are
 - 21 incidental or immaterial to the retail sale
 - 22 thereof, including but not limited to, grocery
 - 23 sacks, shoeboxes, dry cleaning garment bags and
 - 24 express delivery envelopes and boxes,

1 (2) a product provided free of charge with the
2 required purchase of another product. A product
3 is provided free of charge if the sales price of
4 the product purchased does not vary depending on
5 the inclusion of the product provided free of
6 charge, or

7 (3) items included in the definition of gross
8 receipts or sales price, pursuant to this
9 section,

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

18 A transaction that otherwise meets the definition of a
19 bundled transaction shall not be considered a bundled
20 transaction if it is:

21 (1) the retail sale of tangible personal property and
22 a service where the tangible personal property is
23 essential to the use of the service, and is
24 provided exclusively in connection with the

1 service, and the true object of the transaction
2 is the service,

3 (2) the retail sale of services where one service is
4 provided that is essential to the use or receipt
5 of a second service and the first service is
6 provided exclusively in connection with the
7 second service and the true object of the
8 transaction is the second service,

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

1 (4) the retail sale of exempt tangible personal
2 property and taxable tangible personal property
3 where:

4 (a) the transaction includes food and food
5 ingredients, drugs, durable medical
6 equipment, mobility enhancing equipment,
7 over-the-counter drugs, prosthetic devices
8 or medical supplies, and

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

18 ~~3.~~ 4. "Business" means any activity engaged in or caused to be
19 engaged in by any person with the object of gain, benefit, or
20 advantage, either direct or indirect;

21 ~~4.~~ 5. "Candy" means a preparation of sugar, honey, or other
22 natural or artificial sweeteners in combination with chocolate,
23 fruits, nuts, or other ingredients or flavorings in the form of
24

1 bars, drops, or pieces. Candy shall not include any preparation
2 containing flour or requiring refrigeration;

3 ~~5.~~ 6. "Commission" or "Tax Commission" means the Oklahoma Tax
4 Commission;

5 ~~6.~~ 7. "Computer" means an electronic device that accepts
6 information in digital or similar form and manipulates it for a
7 result based on a sequence of instructions;

8 ~~7.~~ 8. "Computer software" means a set of coded instructions
9 designed to cause a ~~"computer"~~ computer or automatic data processing
10 equipment to perform a task;

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

18 ~~9.~~ 10. "Contractor" means any person who performs any
19 improvement upon real property and who, as a necessary and
20 incidental part of performing such improvement, incorporates
21 tangible personal property belonging to or purchased by the person
22 into the real property being improved;

23 ~~10.~~ 11. "Dietary supplements" means any product, other than
24 tobacco, intended to supplement the diet that:

- 1 a. contains one or more of the following dietary
2 ingredients:
- 3 (1) a vitamin,
4 (2) a mineral,
5 (3) an herb or other botanical,
6 (4) an amino acid,
7 (5) a dietary substance to supplement the diet by
8 increasing the total dietary intake, or
9 (6) a concentrate, metabolite, constituent, extract,
10 or combination of any ingredient described in
11 divisions (1) through (5) of this subparagraph,
- 12 b. is intended for ingestion in tablet, capsule, powder,
13 softgel, gelcap, or liquid form, or, if not intended
14 for ingestion in such form, is not represented as
15 conventional food and is not represented for use as a
16 sole item of a meal or of the diet, and
- 17 c. is required to be labeled as a dietary supplement,
18 identifiable by the label and as required pursuant to
19 Section 101.36 of Title 21 of the Code of Federal
20 Regulations;

21 ~~11.~~ 12. "Drug" means a compound, substance or preparation, and
22 any component of a compound, substance or preparation:

- 23 a. recognized in the official United States ~~Pharmacopoeia~~
24 Pharmacopeia, official Homeopathic Pharmacopoeia of

1 the United States, or official National Formulary, and
2 supplement to any of them,

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

5 c. intended to affect the structure or any function of
6 the body;

7 ~~12.~~ 13. "Electronic" means relating to technology having
8 electrical, digital, magnetic, wireless, optical, electromagnetic,
9 or similar capabilities;

10 ~~13.~~ 14. "Established place of business" means the location at
11 which any person regularly engages in, conducts, or operates a
12 business in a continuous manner for any length of time, that is open
13 to the public during the hours customary to such business, in which
14 a stock of merchandise for resale is maintained, and which is not
15 exempted by law from attachment, execution, or other species of
16 forced sale barring any satisfaction of any delinquent tax liability
17 accrued under the Oklahoma Sales Tax Code;

18 ~~14.~~ 15. "Fair authority" means:

19 a. any county, municipality, school district, public
20 trust or any other political subdivision of this
21 state, or

22 b. any not-for-profit corporation acting pursuant to an
23 agency, operating or management agreement which has
24 been approved or authorized by the governing body of

1 any of the entities specified in subparagraph a of
2 this paragraph which conduct, operate or produce a
3 fair commonly understood to be a county, district or
4 state fair;

5 ~~15.~~ 16. "Food and food ingredients" means substances, whether
6 in liquid, concentrated, solid, frozen, dried, or dehydrated form,
7 that are sold for ingestion or chewing by humans and are consumed
8 for their taste or nutritional value. Food and food ingredients
9 shall include bottled water, candy, and soft drinks. Food and food
10 ingredients shall not include:

- 11 a. alcoholic beverages,
- 12 b. dietary supplements,
- 13 c. marijuana, usable marijuana, or marijuana-infused
14 products,
- 15 d. prepared food, or
- 16 e. tobacco;

17 ~~16.~~ 17. "Food sold with eating utensils provided by the seller"
18 means food sold by a seller who meets the following requirements:

- 19 a. for a seller with a prepared food sales percentage of
20 greater than seventy-five percent (75%), the seller
21 makes eating utensils available to purchasers or, if a
22 food item is bottled water, candy, or soft drinks, the
23 seller gives or hands the eating utensils to
24 purchasers or makes plates, bowls, glasses, or cups

1 that are necessary for the purchaser to receive the
2 food available to purchasers. If a food item has four
3 or more servings packaged as one food item sold for a
4 single price, the seller must give or hand eating
5 utensils to the purchaser. Serving sizes must be
6 determined based on a label on an item sold, or if no
7 label is available, then a seller shall determine the
8 reasonable number of servings in an item, or

9 b. for a seller with a prepared food sales percentage of
10 seventy-five percent (75%) or less, the seller's
11 business practice is to give or hand eating utensils
12 to purchasers. Eating utensils necessary for the
13 purchaser to receive the food, such as bowls and cups,
14 need only be made available to purchasers.

15 Provided, food sold with eating utensils provided by the seller
16 does not include food items that have a utensil placed in a package
17 with the food items by a person other than the seller, and that
18 other person's NAICS classification code is that of a manufacturer,
19 subsector 311. If the packager has any other NAICS classification
20 code, the seller is considered to have provided the eating utensil;

21 18. a. "Gross receipts", "gross proceeds" or "sales price"
22 means the total amount of consideration, including
23 cash, credit, property and services, for which
24 personal property or services are sold, leased or

1 rented, valued in money, whether received in money or
2 otherwise, without any deduction for the following:

- 3 (1) the seller's cost of the property sold,
- 4 (2) the cost of materials used, labor or service
5 cost,
- 6 (3) interest, losses, all costs of transportation to
7 the seller, all taxes imposed on the seller, and
8 any other expense of the seller,
- 9 (4) charges by the seller for any services necessary
10 to complete the sale, other than delivery and
11 installation charges,
- 12 (5) delivery charges and installation charges, unless
13 separately stated on the invoice, billing or
14 similar document given to the purchaser, and
- 15 (6) credit for any trade-in.

16 b. Such term shall not include:

- 17 (1) discounts, including cash, term, or coupons that
18 are not reimbursed by a third party that are
19 allowed by a seller and taken by a purchaser on a
20 sale,
- 21 (2) interest, financing, and carrying charges from
22 credit extended on the sale of personal property
23 or services, if the amount is separately stated
24

1 on the invoice, bill of sale or similar document
2 given to the purchaser, and

3 (3) any taxes legally imposed directly on the
4 consumer that are separately stated on the
5 invoice, bill of sale or similar document given
6 to the purchaser.

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

9 (1) the seller actually receives consideration from a
10 party other than the purchaser and the
11 consideration is directly related to a price
12 reduction or discount on the sale,

13 (2) the seller has an obligation to pass the price
14 reduction or discount through to the purchaser,

15 (3) the amount of the consideration attributable to
16 the sale is fixed and determinable by the seller
17 at the time of the sale of the item to the
18 purchaser, and

19 (4) one of the following criteria is met:

20 (a) the purchaser presents a coupon, certificate
21 or other documentation to the seller to
22 claim a price reduction or discount where
23 the coupon, certificate or documentation is
24 authorized, distributed or granted by a

1 third party with the understanding that the
2 third party will reimburse any seller to
3 whom the coupon, certificate or
4 documentation is presented,

5 (b) the purchaser identifies himself or herself
6 to the seller as a member of a group or
7 organization entitled to a price reduction
8 or discount; provided, a "preferred
9 customer" card that is available to any
10 patron does not constitute membership in
11 such a group, or

12 (c) the price reduction or discount is
13 identified as a third-party price reduction
14 or discount on the invoice received by the
15 purchaser or on a coupon, certificate or
16 other documentation presented by the
17 purchaser;

18 ~~17.~~ 19. a. "Maintaining a place of business in this state"
19 means and shall be presumed to include:

20 (1) (a) utilizing or maintaining in this state,
21 directly or by subsidiary, an office,
22 distribution house, sales house, warehouse,
23 or other physical place of business, whether
24 owned or operated by the vendor or any other

1 person, other than a common carrier acting
2 in its capacity as such, or

3 (b) having agents operating in this state,
4 whether the place of business or agent is
5 within this state temporarily or permanently
6 or whether the person or agent is authorized
7 to do business within this state, and

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

11 (a) sells a similar line of products as the
12 vendor and does so under the same or a
13 similar business name,

14 (b) uses trademarks, service marks or trade
15 names in this state that are the same or
16 substantially similar to those used by the
17 vendor,

18 (c) delivers, installs, assembles or performs
19 maintenance services for the vendor,

20 (d) facilitates the vendor's delivery of
21 property to customers in the state by
22 allowing the vendor's customers to pick up
23 property sold by the vendor at an office,
24 distribution facility, warehouse, storage

1 place or similar place of business
2 maintained by the person in this state, or
3 (e) conducts any other activities in this state
4 that are significantly associated with the
5 vendor's ability to establish and maintain a
6 market in this state for the vendor's sale.

7 b. The presumptions in divisions (1) and (2) of
8 subparagraph a of this paragraph may be rebutted by
9 demonstrating that the person's activities in this
10 state are not significantly associated with the
11 vendor's ability to establish and maintain a market in
12 this state for the vendor's sales.

13 c. Any ruling, agreement or contract, whether written or
14 oral, express or implied, between a person and
15 executive branch of this state, or any other state
16 agency or department, stating, agreeing or ruling that
17 the person is not ~~"maintaining a place of business in~~
18 ~~this state"~~ maintaining a place of business in this
19 state or is not required to collect sales and use tax
20 in this state despite the presence of a warehouse,
21 distribution center or fulfillment center in this
22 state that is owned or operated by the vendor or an
23 affiliated person of the vendor shall be null and void
24

1 unless it is specifically approved by a majority vote
2 of each house of the ~~Oklahoma~~ Legislature;

3 ~~18.~~ 20. "Manufacturing" means and includes the activity of
4 converting or conditioning tangible personal property by changing
5 the form, composition, or quality of character of some existing
6 material or materials, including natural resources, by procedures
7 commonly regarded by the average person as manufacturing,
8 compounding, processing or assembling, into a material or materials
9 with a different form or use. ~~"Manufacturing"~~ Manufacturing does
10 not include extractive industrial activities such as mining,
11 quarrying, logging, and drilling for oil, gas and water, nor oil and
12 gas field processes, such as natural pressure reduction, mechanical
13 separation, heating, cooling, dehydration and compression;

14 ~~19.~~ 21. "Manufacturing operation" means the designing,
15 manufacturing, compounding, processing, assembling, warehousing, or
16 preparing of articles for sale as tangible personal property. A
17 manufacturing operation begins at the point where the materials
18 enter the manufacturing site and ends at the point where a finished
19 product leaves the manufacturing site. ~~"Manufacturing operation"~~
20 Manufacturing operation does not include administration, sales,
21 distribution, transportation, site construction, or site
22 maintenance. Extractive activities and field processes shall not be
23 deemed to be a part of a manufacturing operation even when performed
24 by a person otherwise engaged in manufacturing;

1 ~~20.~~ 22. "Manufacturing site" means a location where a
2 manufacturing operation is conducted, including a location
3 consisting of one or more buildings or structures in an area owned,
4 leased, or controlled by a manufacturer;

5 ~~21.~~ 23. "Over-the-counter drug" means a drug that contains a
6 label that identifies the product as a drug as required by 21
7 C.F.R., Section 201.66. The over-the-counter-drug label includes:

- 8 a. a "Drug Facts" panel, or
9 b. a statement of the "active ingredient(s)" with a list
10 of those ingredients contained in the compound,
11 substance or preparation;

12 ~~22.~~ 24. "Person" means any individual, company, partnership,
13 joint venture, joint agreement, association, mutual or otherwise,
14 limited liability company, corporation, estate, trust, business
15 trust, receiver or trustee appointed by any state or federal court
16 or otherwise, syndicate, this state, any county, city, municipality,
17 school district, any other political subdivision of the state, or
18 any group or combination acting as a unit, in the plural or singular
19 number;

20 ~~23.~~ 25. "Prepared food" means:

- 21 a. food sold in a heated state or that is heated by the
22 seller,
23 b. two or more food ingredients mixed or combined by the
24 seller for sale as a single item, or

1 c. food sold with eating utensils provided by the seller,
2 including plates, knives, forks, spoons, glasses,
3 cups, napkins, or straws, but does not include a
4 container or packaging used to transport the food, and

5 d. prepared food shall not include:

6 (1) food sold by a seller whose primary North
7 American Industry Classification System (NAICS)
8 classification is manufacturing in Sector 311,
9 except subsector 3118,

10 (2) food sold in an unheated state by weight or
11 volume as a single item, and

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

15 ~~24.~~ 26. "Prescription" means an order, formula or recipe issued
16 in any form of oral, written, electronic, or other means of
17 transmission by a duly licensed "practitioner" as defined in Section
18 1357.6 of this title;

19 ~~25.~~ 27. "Prewritten computer software" means ~~"computer~~
20 ~~software"~~ computer software, including prewritten upgrades, which is
21 not designed and developed by the author or other creator to the
22 specifications of a specific purchaser. The combining of two or
23 more prewritten computer software programs or prewritten portions
24 thereof does not cause the combination to be other than prewritten

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

16 ~~26.~~ 28. "Repairman" means any person who performs any repair
17 service upon tangible personal property of the consumer, whether or
18 not the repairman, as a necessary and incidental part of performing
19 the service, incorporates tangible personal property belonging to or
20 purchased by the repairman into the tangible personal property being
21 repaired;

22 ~~27.~~ 29. "Sale" means the transfer of either title or possession
23 of tangible personal property for a valuable consideration
24 regardless of the manner, method, instrumentality, or device by

1 which the transfer is accomplished in this state, or other
2 transactions as provided by this paragraph, including but not
3 limited to:

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

1 other than to propel motor vehicles over the public
2 highways of this state shall not constitute a sale
3 within the meaning of this paragraph;

4 ~~28.~~ 30. "Sale for resale" means:

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

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

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

18 ~~29.~~ 31. "Soft drinks" means any nonalcoholic beverages that
19 contain natural or artificial sweeteners. Soft drinks shall not
20 include beverages that contain:

- 21 a. milk or milk products,
- 22 b. soy, rice, oat, or similar milk substitutes, or
- 23 c. greater than fifty percent (50%) of vegetable or fruit
24 juice by volume;

1 ~~30.~~ 32. "Tangible personal property" means personal property
2 that can be seen, weighed, measured, felt, or touched or that is in
3 any other manner perceptible to the senses. ~~"Tangible personal~~
4 ~~property"~~ Tangible personal property includes electricity, water,
5 gas, steam and prewritten computer software. This definition shall
6 be applicable only for purposes of the Oklahoma Sales Tax Code;

7 ~~31.~~ 33. "Taxpayer" means any person liable to pay a tax imposed
8 by the Oklahoma Sales Tax Code;

9 ~~32.~~ 34. "Tax period" or "taxable period" means the calendar
10 period or the taxpayer's fiscal period for which a taxpayer has
11 obtained a permit from the Tax Commission to use a fiscal period in
12 lieu of a calendar period;

13 ~~33.~~ 35. "Tax remitter" means any person required to collect,
14 report, or remit the tax imposed by the Oklahoma Sales Tax Code. A
15 tax remitter who fails, for any reason, to collect, report, or remit
16 the tax shall be considered a taxpayer for purposes of assessment,
17 collection, and enforcement of the tax imposed by the Oklahoma Sales
18 Tax Code; and

19 ~~34.~~ 36. "Vendor" means:

20 a. any person making sales of tangible personal property
21 or services in this state, the gross receipts or gross
22 proceeds from which are taxed by the Oklahoma Sales
23 Tax Code,

24

- 1 b. any person maintaining a place of business in this
2 state and making sales of tangible personal property
3 or services, whether at the place of business or
4 elsewhere, to persons within this state, the gross
5 receipts or gross proceeds from which are taxed by the
6 Oklahoma Sales Tax Code,
- 7 c. any person who solicits business by employees,
8 independent contractors, agents, or other
9 representatives in this state, and thereby makes sales
10 to persons within this state of tangible personal
11 property or services, the gross receipts or gross
12 proceeds from which are taxed by the Oklahoma Sales
13 Tax Code, or
- 14 d. any person, pursuant to an agreement with the person
15 with an ownership interest in or title to tangible
16 personal property, who has been entrusted with the
17 possession of any such property and has the power to
18 designate who is to obtain title, to physically
19 transfer possession of, or otherwise make sales of the
20 property.

