

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1337

By: Treat

4
5
6
7 AS INTRODUCED

8 An Act relating to sales tax; exempting certain
9 disaster preparedness supplies from sales tax for a
10 specified time period; providing for application of
11 exemption subject to certain definition; authorizing
12 Oklahoma Tax Commission to promulgate rules; amending
13 68 O.S. 2011, Sections 1370, as amended by Section 2,
14 Chapter 254, O.S.L. 2015 and 1377 (68 O.S. Supp.
15 2015, Section 1370), which relate to county sales
16 tax; requiring conformity of application of
17 exemptions; exempting certain sales from county sales
18 tax; amending 68 O.S. 2011, Section 2701, which
19 relates to municipal sales tax; exempting certain
20 sales from municipal sales tax; providing for
21 codification; and providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 1357.11 of Title 68, unless
there is created a duplication in numbering, reads as follows:

A. The sale of a disaster preparedness supply shall be exempt
from the tax imposed by Section 1354 of Title 68 of the Oklahoma
Statutes if:

1 1. The sales price of the supply is less than One Thousand
2 Dollars (\$1,000.00); and

3 2. The sale takes place during a period beginning at 12:01 a.m.
4 on the first Friday in March and ending at 12 midnight on the
5 following Sunday, covering a period of three (3) days.

6 B. Subsection A of this section shall only apply to items which
7 are defined as disaster preparedness supplies pursuant to the
8 Streamlined Sales and Use Tax Agreement.

9 C. The Oklahoma Tax Commission shall promulgate any necessary
10 rules to implement the provisions of this section.

11 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1370, as
12 amended by Section 2, Chapter 254, O.S.L. 2015 (68 O.S. Supp. 2015,
13 Section 1370), is amended to read as follows:

14 Section 1370. A. In accordance with the provisions of Section
15 ± 1354.36 of this ~~act~~ title, any county of this state may levy a
16 sales tax of not to exceed two percent (2%) upon the gross proceeds
17 or gross receipts derived from all sales or services in the county
18 upon which a consumer's sales tax is levied by this state. Before a
19 sales tax may be levied by the county, the imposition of the tax
20 shall first be approved by a majority of the registered voters of
21 the county voting thereon at a special election called by the board
22 of county commissioners or by initiative petition signed by not less
23 than five percent (5%) of the registered voters of the county who
24 were registered at the time of the last general election. However,

1 if a majority of the registered voters of a county voting fail to
2 approve such a tax, the board of county commissioners shall not call
3 another special election for such purpose for six (6) months. Any
4 sales tax approved by the registered voters of a county shall be
5 applicable only when the point of sale is within the territorial
6 limits of such county. Any sales tax levied or any change in the
7 rate of a sales tax levied pursuant to the provisions of this
8 section shall become effective on the first day of the calendar
9 quarter following approval by the voters of the county unless
10 another effective date, which shall also be on the first day of a
11 calendar quarter, is specified in the ordinance or resolution
12 levying the sales tax or changing the rate of sales tax.

13 B. The Oklahoma Tax Commission shall give notice to all vendors
14 of a rate change at least sixty (60) days prior to the effective
15 date of the rate change. Provided, for purchases from printed
16 catalogs wherein the purchaser computed the tax based upon local tax
17 rates published in the catalog, the rate change shall not be
18 effective until the first day of a calendar quarter after a minimum
19 of one hundred twenty (120) days' notice to vendors. Failure to
20 give notice as required by this section shall delay the effective
21 date of the rate change to the first day of the next calendar
22 quarter.

23 C. Initiative petitions calling for a special election
24 concerning county sales tax proposals shall be in accordance with

1 Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma
2 Statutes. Petitions shall be submitted to the office of county
3 clerk for approval as to form prior to circulation. Following
4 approval, the petitioner shall have ninety (90) days to secure the
5 required signatures. After securing the requisite number of
6 signatures, the petitioner shall submit the petition and signatures
7 to the county clerk. Following the verification of signatures, the
8 county clerk shall present the petition to the board of county
9 commissioners. The special election shall be held within sixty (60)
10 days of receiving the petition. The ballot title presented to the
11 voters at the special election shall be identical to the ballot as
12 presented in the initiative petition.

13 D. Subject to the provisions of Section 1357.10 of this title
14 and Section 1 of this act, all items that are exempt from the state
15 sales tax shall be exempt from any sales tax levied by a county.

16 E. Any sales tax which may be levied by a county shall be
17 designated for a particular purpose. Such purposes may include, but
18 are not limited to, projects owned by the state, any agency or
19 instrumentality thereof, the county and/or any political subdivision
20 located in whole or in part within such county, regional
21 development, economic development, common education, general
22 operations, capital improvements, county roads, weather modification
23 or any other purpose deemed, by a majority vote of the county
24 commissioners or as stated by initiative petition, to be necessary

1 to promote safety, security and the general well-being of the
2 people, including any authorized purpose pursuant to the Oklahoma
3 Community Economic Development Pooled Finance Act. The county shall
4 identify the purpose of the sales tax when it is presented to the
5 voters pursuant to the provisions of subsection A of this section.
6 Except as otherwise provided in this section and except as required
7 by the Oklahoma Community Economic Development Pooled Finance Act,
8 the proceeds of any sales tax levied by a county shall be deposited
9 in the general revenue or sales tax revolving fund of the county and
10 shall be used only for the purpose for which such sales tax was
11 designated. If the proceeds of any sales tax levied by a county
12 pursuant to this section are pledged for the purpose of retiring
13 indebtedness incurred for the specific purpose for which the sales
14 tax is imposed, the sales tax shall not be repealed until such time
15 as the indebtedness is retired. However, in no event shall the life
16 of the tax be extended beyond the duration approved by the voters of
17 the county.

18 F. 1. Notwithstanding any other provisions of law, any county
19 that has approved a sales tax for the construction, support or
20 operation of a county hospital may continue to collect such tax if
21 such hospital is subsequently sold. Such collection shall only
22 continue if the county remains indebted for the past construction,
23 support or operation of such hospital. The collection may continue
24

1 only until the debt is repaid or for the stated term of the sales
2 tax, whichever period is shorter.

3 2. If the construction, support or operation of a hospital is
4 funded through the levy of a county sales tax pursuant to this
5 section and such hospital is subsequently sold, the county levying
6 the tax may dissolve the governing board of such hospital following
7 the sale. Upon the sale of the hospital and dissolution of any
8 governing board, the county is relieved of any future liability for
9 the operation of such hospital.

10 G. Proceeds from any sales tax levied that is designated to be
11 used solely by the sheriff for the operation of the office of
12 sheriff shall be placed in the special revenue account of the
13 sheriff.

14 H. The life of the tax could be limited or unlimited in
15 duration. The county shall identify the duration of the tax when it
16 is presented to the voters pursuant to the provisions of subsections
17 A and C of this section. The maximum duration of a levy imposed
18 pursuant to Section 891.14 of Title 62 of the Oklahoma Statutes
19 shall be no longer than allowed pursuant to the Oklahoma Community
20 Economic Development Pooled Finance Act.

21 I. Except for the levies imposed pursuant to Section 891.14 of
22 Title 62 of the Oklahoma Statutes, there are hereby created one or
23 more county sales tax revolving funds in each county which levies a
24 sales tax under this section if any or all of the proceeds of such

1 tax are not to be deposited in the general revenue fund of the
2 county or comply with the provisions of subsection G of this
3 section. Each such revolving fund shall be designated for a
4 particular purpose and shall consist of all monies generated by such
5 sales tax which are designated for such purpose. Monies in such
6 funds shall only be expended for the purposes specifically
7 designated as required by this section. A county sales tax
8 revolving fund shall be a continuing fund not subject to fiscal year
9 limitations.

10 J. In the case of a levy submitted for voter approval pursuant
11 to Section 891.14 of Title 62 of the Oklahoma Statutes, taxes levied
12 by a county shall not become valid until the ordinance or resolution
13 setting the rate of the levy shall have been approved by a majority
14 vote of the registered voters of each such county voting on such
15 question at a special election. Elections conducted pursuant to
16 questions submitted pursuant to Section 891.14 of Title 62 of the
17 Oklahoma Statutes shall be conducted on the same date or in a
18 sequence that provides that the last vote required for approval by
19 all participating counties or municipalities occurs not later than
20 thirty (30) days after the date upon which the first vote occurs.

21 SECTION 3. AMENDATORY 68 O.S. 2011, Section 1377, is
22 amended to read as follows:

23
24

1 Section 1377. The sales tax imposed by any county or authority
2 authorized by law to levy a sales tax shall not be imposed upon the
3 sale of ~~an~~:

4 1. An article of clothing or footwear designed to be worn on or
5 about the human body in accordance with and to the extent set forth
6 in ~~Section 3 of this act~~ Section 1357.10 of this title; or

7 2. A disaster preparedness supply in accordance with and to the
8 extent set forth in Section 1 of this act.

9 SECTION 4. AMENDATORY 68 O.S. 2011, Section 2701, is
10 amended to read as follows:

11 Section 2701. A. Any incorporated city or town in this state
12 is hereby authorized to assess, levy, and collect taxes for general
13 and special purposes of municipal government as the Legislature may
14 levy and collect for purposes of state government, subject to the
15 provisions of subsection F of this section, except ad valorem
16 property taxes. Provided:

17 1. Taxes shall be uniform upon the same class subjects, and any
18 tax, charge, or fee levied upon or measured by income or receipts
19 from the sale of products or services shall be uniform upon all
20 classes of taxpayers;

21 2. Motor vehicles may be taxed by the city or town only when
22 such vehicles are primarily used or located in such city or town for
23 a period of time longer than six (6) months of a taxable year;

24

1 3. The provisions of this section shall not be construed to
2 authorize imposition of any tax upon persons, firms, or corporations
3 exempted from other taxation under the provisions of Sections 348.1,
4 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of
5 payment of taxes imposed under such sections;

6 4. Cooperatives and communications companies are hereby
7 authorized to pass on to their subscribers in the incorporated city
8 or town involved, the amount of any special municipal fee, charge or
9 tax hereafter assessed or levied on or collected from such
10 cooperatives or communications companies;

11 5. No earnings, payroll or income taxes may be levied on
12 nonresidents of the cities or towns levying such tax;

13 6. The governing body of any city or town shall be prohibited
14 from proposing taxing ordinances more often than three times in any
15 calendar year, or twice in any six-month period; and

16 7. Any revenues derived from a tax authorized by this
17 subsection not dedicated to a limited purpose shall be deposited in
18 the municipal general fund.

19 B. A sales tax authorized in subsection A of this section may
20 be levied for limited purposes specified in the ordinance levying
21 the tax. Such ordinance shall be submitted to the voters for
22 approval as provided in Section 2705 of this title. Any sales tax
23 levied or any change in the rate of a sales tax levied pursuant to
24 the provisions of this section shall become effective on the first

1 day of the calendar quarter following approval by the voters of the
2 city or town unless another effective date, which shall also be on
3 the first day of a calendar quarter, is specified in the ordinance
4 levying the sales tax or changing the rate of sales tax. Such
5 ordinance shall describe with specificity the projects or
6 expenditures for which the limited-purpose tax levy would be made.
7 The municipal governing body shall create a limited-purpose fund and
8 deposit therein any revenue generated by any tax levied pursuant to
9 this subsection. Money in the fund shall be accumulated from year
10 to year. The fund shall be placed in an insured interest-bearing
11 account and the interest which accrues on the fund shall be retained
12 in the fund. The fund shall be nonfiscal and shall not be
13 considered in computing any levy when the municipality makes its
14 estimate to the excise board for needed appropriations. Money in
15 the limited-purpose tax fund shall be expended only as accumulated
16 and only for the purposes specifically described in the taxing
17 ordinance as approved by the voters.

18 C. The Oklahoma Tax Commission shall give notice to all vendors
19 of a rate change at least sixty (60) days prior to the effective
20 date of the rate change. Provided, for purchases from printed
21 catalogs wherein the purchaser computed the tax based upon local tax
22 rates published in the catalog, the rate change shall not be
23 effective until the first day of a calendar quarter after a minimum
24 of one hundred twenty (120) days' notice to vendors. Failure to

1 give notice as required by this section shall delay the effective
2 date of the rate change to the first day of the next calendar
3 quarter.

4 D. The change in the boundary of a municipality shall be
5 effective, for sales and use tax purposes only, on the first day of
6 a calendar quarter after a minimum of sixty (60) days' notice to
7 vendors.

8 E. If the proceeds of any sales tax levied by a municipality
9 pursuant to subsection B of this section are being used by the
10 municipality for the purpose of retiring indebtedness incurred by
11 the municipality or by a public trust of which the municipality is a
12 beneficiary for the specific purpose for which the sales tax was
13 imposed, the sales tax shall not be repealed until such time as the
14 indebtedness is retired. However, in no event shall the life of the
15 tax be extended beyond the duration approved by the voters of the
16 municipality. The provisions of this subsection shall apply to all
17 sales tax levies imposed by a municipality and being used by the
18 municipality for the purposes set forth in this subsection prior to
19 or after July 1, 1995.

20 F. The sale of ~~an~~ :

21 1. An article of clothing or footwear designed to be worn on or
22 about the human body shall be exempt from the sales tax imposed by
23 any incorporated city or town, in accordance with and to the extent
24 set forth in ~~Section 3 of this act~~ Section 1357.10 of this title; or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

2. A disaster preparedness supply in accordance with and to the extent set forth in Section 1 of this act.

SECTION 5. This act shall become effective November 1, 2016.

55-2-2789 JCR 1/21/2016 12:32:35 PM