

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 65. SALES AND USE TAX**

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 65: Sales and Use Tax

SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing rules have been made. All legislative references are to the First Regular Session of the 55th Legislature (2015) unless otherwise indicated.

Sections 710:65-7-15 & 710:13-334 have been amended to update the current name of the accrediting organization for purposes of the sales tax exemption afforded museums holding such accreditation. [68:1356(25)]

Section 710:65-7-24 has been amended to remove outdated language.

Section 710:65-13-19 has been amended to clarify that the sales tax exemption afforded farmers possessing agricultural exemption permits for sales made at or from the farm extends to farmers markets and similar venues.[68:1358]

Section 710:65-13-30 has been amended to comply with the passage of SB 574 which exempts a 501(c)(3) charitable healthcare organization from sales tax on purchases of charitable games equipment. [68:1355(7)(c)]

New Section 710:65-13-30.1 has been added to outline Commission policy regarding the tax treatment of unmanned aerial vehicle sales. [68:1355]

Section 710:65-13-130 has been amended pursuant to a request by the U.S. State Department to include exemption cards issued to Taiwanese Diplomats as part of the provisions relating to sales tax exemption cards for foreign diplomats and other mission personnel. The parameters regarding the transferability of the referenced exemption cards are also outlined in the referenced section.

Section 710:19-143 has been amended to clarify the sales tax treatment of lease agreements for apartments located in hotels and other similar entities. [68:1354(7)]

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and ensure accurate internal cross-references.

AUTHORITY:

68 O.S. §203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by **4:30 p.m., March 2, 2016**, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, date and place of the hearing are as follows: **March 4, 2016 at 1:00 p.m.** in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date by calling Kali Walker at (405) 521-3133.

In order to facilitate entry into the building, those wishing to appear should contact Kali Walker at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-

registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that, pursuant to 75 O.S. § 303(B)(6), business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be reviewed online at www.tax.ok.gov.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after **February 1, 2016**, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Christy Caesar, Liaison; Phone: 405-521-3133; FAX: 405-522-0063; Email: ccaesar@tax.ok.gov

CHAPTER 65. SALES AND USE TAX

SUBCHAPTER 7. DUTIES AND LIABILITIES

710:65-7-15. Vendors' responsibility - sales to entities with other specific statutory exemptions

(a) **Sales to entities with other specific statutory exemptions.** In the case of sales to purchasers claiming exemption based upon specific statutory authority, the vendor must obtain the information described in this subsection:

- (1) A **copy** of the letter or card from the Oklahoma Tax Commission recognizing the entity as one which is statutorily exempt from sales tax on its purchases; and
- (2) A signed statement that the purchase is **authorized by, and being made by**, the exempt entity, with funds of the exempt entity, and **not** by the individual; and,
- (3) In the case of sales to **fire departments organized for unincorporated areas**, as defined in 18 O.S. § 592, certification on the face of the invoice or sales ticket is also required.
- (4) In the case of purchases made by the federal government, charged pursuant to the GSA SmartCard program, no letter or card from the Commission is required, and 710:65-13-130 should be consulted to determine the taxability of the transaction.

(b) **Examples and applications.** Types of entities which may receive letters or cards, certifying or confirming a specific statutory exemption include:

- (1) **Churches**; [See: 710:65-13-40]
- (2) **Youth camps, supported or sponsored by one or more churches**, members of which serve as trustees of the organization; [See: 710:65-13-33]
- (3) **Children's homes** where church members are trustees or where the home is on church-owned land or where 50% of the juveniles are court-adjudicated and the home receives less than 10% of its funding from state funds; [See: 710:65-13-33]
- (4) **Council organizations** of the Boy Scouts and Girl Scouts of America or Camp Fire USA; [See: 710:65-13-341]
- (5) **Public schools**; [See: 710:65-13-210]
- (6) Oklahoma System of **Higher Education**; [See: 710:65-13-210]
- (7) **Private schools** registered with the State Department of Education and private institutions of higher education accredited by the Oklahoma State Board of Regents for Higher Education; [See: 710:65-13-210]
- (8) **Federal governmental** units, institutions, and instrumentalities; [See: 710:65-13-130]
- (9) **Governmental entities** of the State of Oklahoma, including county and local units; [See: 710:65-13-130]
- (10) City and county **trust authorities**; [See: 710:65-13-550]
- (11) Federally chartered **credit unions**;
- (12) **Rural water districts**;
- (13) Facilities engaged in the remediation or processing to ameliorate **hazardous wastes**; [See: 710-65-13-80]
- (14) **Disabled American Veterans** Department of Oklahoma and its subordinate chapters; [See: 710:65-13-336]
- (15) **Museums** which are members of the American Alliance of Museums formally the American Museum Association; [See: 710:65-13-334]
- (16) **Rural Electric Cooperatives**;
- (17) Federally qualified **health care** facilities;
- (18) **Health care** facilities receiving reimbursement from the Indigent Care Revolving Fund;

- (19) **Community based health centers** providing primary care services at no cost to the patient;
- (20) **Cultural organizations** established to sponsor and promote educational, charitable, and **cultural events for disadvantaged children**; [See: 710:65-13-335]
- (21) Federally recognized **Indian Tribes**;
- (22) Leases or lease-purchases of tangible personal property or services to **municipalities, counties, or school districts**; [See: 710:65-13-210]
- (23) Sales of tangible personal property or services **to, or by,** a tax-exempt [26 U.S.C. § 501(c)(3)] organization, which is organized primarily to provide education and to conduct events related to **teacher training in robotics**, and affiliated with a comprehensive University within the Oklahoma System of Higher Education;
- (24) Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), in the course of conducting a **national championship sports event**, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i);
- (25) Volunteer fire departments organized pursuant to 18 O.S. § 592; [See: 710:65-13-340]
- (26) Parent-teacher associations and parent-teacher organizations that are exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code; [See: 710:65-13-210]
- (27) The non-profit organization which operates the Oklahoma City National Memorial and Museum; [See: 710:65-13-330]
- (28) The first Fifteen Thousand Dollars (\$15,000.00) of sales of tangible personal property sold for fund raising purposes to or by a youth athletic team which is part of an athletic organization exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(4); [See: 710:65-13-343]
- (29) Tax exempt, nonprofit organizations which provide services during the day to homeless persons; [See: 710:65-13-344]
- (30) Motion picture or television production companies for certain eligible productions; [See: 710:65-13-194]
- (31) Child care centers providing on site universal pre-kindergarten education; [See: 710:65-13-220]
- (32) Tax exempt organizations which are shelters for abused, neglected, or abandoned children; [See: 710:65-13-355]
- (33) Tax exempt organizations providing funding for medical scholarships; [See: 710:65-13-357]
- (34) Nonprofit local public or private school foundations; [See: 710:65-13-210(m)]
- (35) Nonprofit foundations in support of NRA and other like organizations; [See: 710:65-13-359]
- (36) Grassroots fundraising programs in support of NRA; [See: 710:65-13-360]
- (37) Construction projects for organizations providing end of life care and hospice service. [See: 710:65-13-178]

710:65-7-24. Seller's relief from certain liability

Sellers and Certified Service Providers (CSPs) will be relieved from liability for having charged and collected the incorrect amount of sales or use tax resulting from the seller or CSP relying on erroneous data provided in the ~~best practices~~ taxability matrix, available online at www.tax.ok.gov. If the taxability matrix is amended, sellers and CSPs are relieved from liability until the first day of the calendar month that is at least 30 days after notice of a change is

submitted to the Streamlined Sales Tax Governing Board, provided the seller or CSP relied on the prior version of the taxability matrix.

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 3. AGRICULTURAL TRANSACTIONS

710:65-13-19. Sales at or from the farm and sales at farmers markets.

(a) The sale of agricultural products by the producer at or from the producer's agricultural property to the consumer or user, including transactions where those products are sold and shipped directly to the consumer or user, is not subject to sales tax. As used in this Section "**agricultural property**" means the location at which the agricultural products were grown or where the animals from which the agricultural products are derived were raised or milked.

(b) This exemption does not apply to sales by florists, nurserymen, or chicken hatcheries. Dairy products are exempt only if offered for sale by the owner of all of the cows from which the dairy products were produced. [See: 68 O.S. §1358(A)]

(c) Transactions exempted by this Section include sales of agricultural products produced in Oklahoma by farmers who sell their products directly to consumers at farmers markets, roadside stands, festivals/fairs or other similar venues. However, agents of agricultural producers and other third parties may not sell agricultural products exempt from sales tax pursuant to this Section.

PART 5. ITEMS SUBJECT TO OTHER TAXES

710:65-13-30. Exemption for the sale of tangible personal property subject to other taxes

(a) **Aircraft, boats, boat motors, and motor vehicles, including low-speed electrical vehicles.** Sales and use tax does not apply to the sale of airplanes, boats, boat motors, and motor vehicles, including low-speed electrical vehicles, which are subject to the "Oklahoma Aircraft Excise Tax Act" [See: 68 O.S. § 6002], the "Oklahoma Vessel and Motor Registration Act" [See: 63 O.S. § 4107], or the "Oklahoma Vehicle Excise Tax Act" [See: 68 O.S. § 2106]. These excise taxes are levied on all aircraft, small vessels, watercraft, sailboats, motors greater than ten (10) horsepower, motorboats, or motor vehicles, including low-speed electrical vehicles, and also the optional equipment and accessories attached at the time of the sale and included in the purchase price or manufacturer statement of origin.

(b) **Accessories, optional equipment, and parts.** Sales tax is due on accessories, optional equipment, or parts which are not attached and sold as part of the purchase price on the sale of aircraft, motors greater than ten (10) horsepower, vessels, motorboats, motor vehicles and low-speed electrical vehicles.

(c) **Boats motors.** The sale of boat motors in excess of ten (10) horsepower is subject to boat and motor excise tax. [See: 63 O.S. §§ 4003(B)(1), 4107] The sale of boat motors ten (10) horsepower or less is subject to sales/use tax. [See: 68 O.S. § 1355]

(d) **Leases of aircraft.** Leases of aircraft are not subject to sales tax if either the aircraft excise tax has been paid on the lease transaction or an exemption applies to the transfer from the lessor to the lessee, pursuant to 68 O.S. ~~Supp.2000~~, §§ 1355(9) and 6001(4).

(e) **Sales of crude petroleum, natural or casinghead gas, and other products.** *Sales of crude petroleum, natural or casinghead gas, and other products subject to gross production tax pursuant to 68 O.S. §1001 et seq. and 68 O.S. §1101 et seq. are not subject to sales tax. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas.* [See: 68 O.S. § 1355(3)]

(f) **Sales from coin-operated vending devices.** Sales from coin-operated vending devices on which the fee imposed by 68 O.S. §§1501-1512 has been paid are not subject to sales tax.

(g) **Leases of motor vehicles.** Leases of motor vehicles are exempt from sales tax provided that the lease is for a term of twelve (12) months or more and the vehicle excise tax levied by Section 2103 of Title 68 of the Oklahoma Statutes has been paid.

(h) **Sales of charity game equipment.** Sales of charity game equipment on which a tax is paid pursuant to the Oklahoma Charity Games Act, (3A O.S. § 401 et seq.), are not subject to sales tax. Additionally charity games equipment is exempt from sales tax when sold to the following entities: ~~or which is sold to~~ (1) a veterans' organization exempt from taxation pursuant to the provisions of Section 501(c)(4),(7),(8),(10), or (19) of the Internal Revenue Code; ~~or which is sold to~~ (2) a group home for mentally disabled individuals exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code ~~are not subject to sales tax;~~ and (3) Charitable healthcare organizations exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

(i) **Sales of cigarettes and tobacco products.** Sales of cigarettes and tobacco products are exempt from sales tax in the following instances:

(1) Sales to a federally-recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of 68 O.S. § 346(C) or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid;

(2) Sales to a federally-recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied by 68 O.S. § 349 or 426 has been paid; or,

(3) From and after January 1, 2005, sales of cigarettes on which the tax levied in 68 O.S. § 301 et seq. or tobacco products on which the tax levied in 68 O.S. § 401 et seq. has been paid. [See: 68 O.S. § 1355(11)]

710:65-13-30.1. Unmanned aerial vehicles

Unmanned aerial vehicles including drones meeting the definition of aircraft pursuant to Section 6001 of Title 68 which are required to be registered with the Federal Aviation Administration (FAA) are subject to aircraft excise tax upon the transfer of legal ownership of any such aircraft or the use of any such aircraft within this state. If not subject to FAA registration requirements, the sale of the referenced items are subject to sales tax. In the case of a purchaser claiming exemption from sales tax because of a requirement that aircraft excise tax is due on the transaction, the vendor should obtain a statement, signed by the purchaser, or by a person who may legally bind the purchaser, that Oklahoma Aircraft Excise Tax will be paid on the purchase of the item in accordance with the provisions of 68 O.S. § 6003, and that if the excise tax is not so paid, the purchaser will be responsible for the sales tax due.

PART 25. GOVERNMENTAL ENTITIES

710:65-13-130. Sales to and by the government; taxable and exempt transactions

(a) **Sales "to" governmental entities.** Sales of tangible personal property or services to this State, its institutions or political subdivisions, and to the United States, including its agencies and instrumentalities are exempt from sales tax. Sales to other states' governments, political subdivisions, institutions, or agencies are not exempt, unless the state is one which borders Oklahoma and grants a like exemption from taxes on similar sales of items to Oklahoma or its political subdivisions.

(1) **Records required.** The books and records of the vendor must show that the purchase was billed to and paid by the government agency.

(2) **Sales to government employees.** Sales to individuals who are employees of this State, its institutions and subdivisions, or of the United States government, are not exempt from tax unless the sale is billed directly to the appropriate government agency or the purchase is by means of properly completed government purchase order or credit card. Sales made on credit cards bearing an employee's name and the name of the government agency for which the employee works will qualify for exemption only if the card is issued to the Federal Government, rather than to the individual, and is paid directly by the Federal Government. The credit cards that currently meet these criteria are those issued through the GSA SmartPay card program:

(A) **Fleet cards.** All Federal Government **fleet cards** are centrally-billed. This means that all charges are billed directly to the Federal Government and paid directly by the Federal Government. Charges made using an authorized **fleet card** are therefore, exempt from the levy of Oklahoma sales tax. Authorized **fleet cards** must meet all the requirements set out in this paragraph:

- (i) The **fleet card** prefix (first 4 digits) must be 4486, 4614, 4716, 5565, 5568 or 8699;
- (ii) The **fleet card** platform must be Voyager, MasterCard, Wright Express, or Visa; and
- (iii) The Voyager **fleet card** must be issued by Citibank, or U.S. Bank; the MasterCard **fleet card** must be issued by Citibank, JP Morgan Chase or U.S. Bank; the Wright Express fleet card must be issued by Citibank.

(B) **Purchase cards.** All Federal Government **purchase cards** are centrally-billed. This means that all charges are billed directly to the Federal Government and paid directly by the Federal Government. Charges made using an authorized **purchase card** are therefore, exempt from the levy of Oklahoma sales tax. Authorized **purchase cards** must meet all the requirement set out in this paragraph:

- (i) The **purchase card** prefix (first 4 digits) must be 4486, 4614, 4716, 5565 or 5568;
- (ii) The **purchase card** platform must be Visa or MasterCard; and
- (iii) The Visa **purchase card** must be issued by Citibank, JP Morgan Chase or U.S. Bank; The MasterCard **purchase card** must be issued by Citibank, JP Morgan Chase, or U.S. Bank;

(C) **Travel cards.** Federal Government **travel cards** may be centrally-billed or individually billed. Individually-billed charges are billed to and paid by the federal **employee**, and then reimbursed by the Federal Government. Individually-billed charges made using a **travel card** are **subject to** the levy of Oklahoma sales tax. Only centrally-billed charges made using an authorized **travel card**, because they are billed directly to and paid directly by the Federal Government, are exempt from the levy of Oklahoma sales tax. Authorized **travel cards** must meet all the requirements set out in this paragraph:

- (i) The **travel card** prefix (1st four (4) digits) must by 4486, 4614, 5565 or 5568;
- (ii) The sixth (6th) digit of the account numbering structure will denote whether the travel card is centrally-billed or individually-billed:
 - (I) A sixth digit of 0, 6, 7, 8, or 9 denotes that the **travel card** is centrally-billed;
 - (II) A sixth digit of 1, 2, 3, or 4 indicates that the **travel card** is individually-billed;
- (iii) The **travel card** platform must be Visa or MasterCard; and
- (iv) The **travel card**, whether Visa or MasterCard, must be issued by Citibank, U.S.Bank, or JP Morgan Chase.

(D) **Integrated cards.** Federal Government **integrated cards** may include **fleet, travel, or purchase card** functionality and offer the Federal Government a single card for all purchases. All **fleet and purchase type transactions** made on an **integrated card** are centrally-billed, and therefore exempt from the levy of Oklahoma sales tax, regardless of the sixth digit on the card. **Travel card** type functionality may be centrally-billed or individually-billed. Authorized **integrated cards** must meet all the requirements set out in this paragraph:

(i) The prefix (first four (4) digits) of an **integrated card** must be 4486, 4614, 4716, 5565 or 5568;

(ii) For travel functionality **only**, the sixth digit of the **integrated card** will denote whether the card is centrally or individually billed:

(I) A sixth digit of 0, 6, 7, 8, or 9 denotes that the **integrated card** being used for travel functionality is centrally-billed;

(II) A sixth digit of 1, 2, 3, or 4 indicates that the **integrated card** being used for travel functionality is individually-billed;

(iii) The **integrated card** platform must be Visa or MasterCard; and

(iv) The **integrated card**, whether Visa or MasterCard, must be issued by Citibank, U.S.Bank or JP Morgan Chase.

(3) **Sale to contractors.** Sales to contractors in connection with the performance of any contract with the United States government are not exempt unless the ownership and possession of the property purchased by the contractor or agent transfers immediately to the United States government. [See: 68 O.S. §§1356(1), 1356(2)]

(4) **Sales to foreign diplomats, consular mission and mission employees.** Foreign diplomats and consular missions and their personnel and eligible family members who have been issued a *Diplomatic Tax Exemption Card* by the United States Department of State, Office of Foreign Missions may make eligible purchases exempt from sales tax. Qualifying Diplomatic Tax Exemption Cards may also be issued by the American Institute in Taiwan. ~~The Diplomatic Tax Exemption Card is not transferable and each~~ Each category of tax exemption card bears an animal image indicating the purchases eligible for sales tax exemption by the cardholder as follows:

(A) **Owl image card** exempts the cardholder from sales tax on all official mission purchases.

(B) **Buffalo image card** exempts the cardholder from sales tax on all official mission purchases subject to the restrictions listed on the card. For example, the card may read: "Exempt from tax on purchases over \$300; not valid for hotels."

(C) **Eagle image card** exempts the cardholder from sales tax on all personal purchases.

(D) **Deer image card** exempts the cardholder from sales tax on personal purchases, subject to the restrictions listed on the card. For example, the card may read: "Exempt from tax on purchases over \$150; not exempt for hotels, restaurants, and services."

(5) **Transferability.** The Eagle and Deer exemption cards used for personal purchases are not transferable. The exempt use of the Owl and Buffalo cards is not restricted to the individual pictured on the card.

(6) **Exemption requirements.** To qualify for exemption, official mission purchases made with either an Owl or Buffalo Card must be invoiced to the cardholder and payments made with mission check or mission credit card. For personal purchases made pursuant to an Eagle or Deer Card to qualify for the exemption, they must be invoiced to the cardholder and payment may be in any form including cash, check, or credit card.

(b) **Sales by a lease or lease-purchase agreement with a municipality or county.** The sale of tangible personal property or services pursuant to a lease or lease-purchase agreement executed between a vendor and a school district is exempt from sales tax.

(c) **Sales "by" governmental entities.** Except as specifically exempt by statute, the State of Oklahoma, its agencies and instrumentalities, all counties, townships, and municipal corporations, their respective agencies and instrumentalities, and all other state governmental entities and subdivisions, including state colleges and universities, shall collect, report and remit sales tax on taxable sales of tangible personal property and services. For example, sales of city maps, sales of gifts and souvenirs, sales of food from city operated concessions at stadiums, ballparks, auditoriums, etc., are subject to tax.

(d) **Purchases by contractors.** Except where specifically authorized by statute, purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for a governmental entity may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to a governmental entity.

PART 43. SOCIAL, CHARITABLE, AND CIVIC ORGANIZATIONS AND ACTIVITIES

710:65-13-334. Exemption for qualified museums

(a) **General provisions.** Museums or other entities accredited by the American Alliance of Museums formally the American Association of Museums are exempt from the levy of sales tax on their purchases of tangible personal property and services, and provided that the museum is in compliance with (d)(2) of this Section, on the sales of tickets for admission.

(b) **Certification required for purchases.** Certification, in which the name of the museum or other accredited entity is set out on the face of the invoice or sales receipt to be obtained and retained by the vendor, is required of persons making purchases on behalf of a qualifying museum or other accredited entity, in order to support the exemption pursuant to *OAC* 710:65-3-30 and 710:65-3-33.

(c) **Application procedure.** Application for the exemption is made by submitting to the Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 Lincoln Blvd. Oklahoma City, OK 73194, a completed Form 13-16A, contained in Packet E available from the Division at (405) 521-3160 or online at www.tax.ok.gov along with written confirmation that the applicant is currently accredited by the American Alliance of Museums formally the American Association of Museums.

(d) **Exemption limited to eligible, properly-documented transactions.**

(1) Only those purchases actually purchased by the museum or other accredited entity, invoiced to the museum or entity, and paid for by funds or check directly from the museum or other accredited entity, will qualify for the exemption on purchases.

(2) To qualify for the exemption on sales of admission tickets, the museum must separately state an amount equivalent to the tax which would otherwise have been required to be collected on the face of the admission ticket and must use the amount so stated and so collected solely for the purpose of servicing debt incurred by the museum in the construction, enlargement, or renovation of facilities used or to be used for the entertainment, edification, or cultural cultivation of persons admitted to the museum or facility. The museum or other accredited entity must maintain records adequate to show that the proper amount was collected in lieu of the tax and that those funds were used for purposes of servicing qualifying projects.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs

improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to museums and other accredited entities.

SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES

PART 15. "H"

710:65-19-143. Hotels, motels, apartments, etc.

(a) The gross receipts from the furnishing of rooms, except meeting rooms, by a hotel, apartment-hotel, cottage camp, or lodging house open to the public is subject to sales tax without regard to the length of guest stay. ~~Should a hotel operate apartments in connection with and as a part of their hotel business, the rentals on such apartments are subject to the tax. The tax will always apply so long as the place of business retains its identity as a hotel, apartment hotel, cottage camp or lodging house, without regard to the length of stay of the guest. Sales tax does not apply to rental agreements which are governed by the Oklahoma Residential Landlord and Tenant Act [41 O.S. §§101 et seq.].~~

(b) The revenue received from the forfeiture of a deposit is not revenue arising from the furnishing of a room and is therefore not subject to sales tax. However, revenue which is derived from a guaranteed room is subject to sales tax, even if the guest did not occupy the room.

(c) The gross proceeds received by hotels or other persons for local telephone calls are considered a part of the service of furnishing rooms and are, therefore, taxable. No deduction will be allowed for any expense in connection with such service such as switchboard rental, trunk line rental, etc.

(d) Supplies such as toilet tissue, soap, shoeshine cloths, clothes bags, matches, facial tissue, and other items available for guests' use are subject to sales or use tax at the time of purchase by the hotel or motel. Linens, furniture, pool equipment and supplies, and similar items are subject to sales or use tax at the time purchased by the hotel or motel.

(e) Sales tax is not due on food or drinks that are provided as a part of a packaged room rate by hotel or motel operators if the furnishing of the room is subject to tax under Section 1354 of Title 68 and if no separate charge is made for the food or drinks. Such food or drinks are considered to be sold at retail as part of the total charge for the room.

(f) With the exception of subsection (e) hotel or motel operators who are also vendors of meals are required to remit sales tax on the "sales value" of inventory withdrawn from stock that is used in providing complimentary meals to its customers. The proper sales tax basis to be used for sales of food and beverages for related services, and for various "complimentary" offerings, both in the context of rooms and of other services, is explained in more detail in OAC 710:65-1-2 and 710:65-19-109.

(g) A "**mini-bar**" means a closed container, either refrigerated or non-refrigerated, with access to the interior limited to a key, magnetic card, or similar device and controlled at all times by the holder of the license.

(h) A hotel beverage license shall authorize the holder to sell or serve alcoholic beverages in 50 milliliter spirits, 187 milliliter wine and 12 ounce malt beverage containers which are distributed from a hotel room mini-bar. The total retail value of the sale of alcoholic beverages by the licenseholder is subject to sales tax, pursuant to *OAC 710:20-5-4*.

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65. SALES AND USE

RULE IMPACT STATEMENT: This statement is provided in conjunction with the following rulemaking action(s):

SUBCHAPTER 7. DUTIES AND LIABILITIES

710:65-7-15. Vendors' responsibility - sales to entities with other specific statutory exemptions [AMENDED]

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 43. SOCIAL, CHARITABLE, AND CIVIC ORGANIZATIONS AND ACTIVITIES

710:65-13-334. Exemption for qualified museums [AMENDED]

- (a.) **Purpose of the Proposed Rule:** This rulemaking is undertaken to update the current name of the accrediting organization for purposes of the sales tax exemption afforded museums holding such accreditation.
- (b.) **Classes Affected:** Museums holding accreditation from the American Alliance of Museums
- (c.) **Persons Benefited:** Museums holding accreditation from the American Alliance of Museums
- (d.) **Probable Economic Impact:**
- 1. On Affected Classes:** No economic impact based on this rule change is anticipated.
 - 2. On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 - 3. Fees:** The rulemaking action does increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on or need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment –either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** January 8, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Marc Morrison **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65. SALES AND USE

RULE IMPACT STATEMENT: This statement is provided in conjunction with the following rulemaking action(s):

SUBCHAPTER 7. DUTIES AND LIABILITIES

710:65-7-24. Seller's relief from certain liability [Amended]

- (a.) **Purpose of the Proposed Rule:** This rulemaking is undertaken to remove outdated language.
- (b.) **Classes Affected:** All taxpayers.
- (c.) **Persons Benefited:** All taxpayers.
- (d.) **Probable Economic Impact:**
1. **On Affected Classes:** No economic impact based on this rule change is anticipated.
 2. **On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 3. **Fees:** The rulemaking action does increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on or need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment –either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** January 8, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Marc Morrison **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65. SALES AND USE

RULE IMPACT STATEMENT: This statement is provided in conjunction with the following rulemaking action(s):

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 3. AGRICULTURAL TRANSACTIONS

710:65-13-19. Sales at or from the farm and sales at farmers markets.

- (a.) **Purpose of the Proposed Rule:** This rulemaking is undertaken to clarify that the sales tax exemption afforded farmers possessing agricultural exemption permits for sales made at or from the farm extends to farmers markets and similar venues.
- (b.) **Classes Affected:** Farmers possessing agricultural exemption permits issued pursuant 68 O.S. § 1358.1
- (c.) **Persons Benefited:** Farmers possessing agricultural exemption permits issued pursuant 68 O.S. § 1358.1
- (d.) **Probable Economic Impact:**
- 1. On Affected Classes:** No economic impact based on this rule change is anticipated.
 - 2. On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 - 3. Fees:** The rulemaking action does increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on or need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment –either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** January 8, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Marc Morrison **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65. SALES AND USE

RULE IMPACT STATEMENT: This statement is provided in conjunction with the following rulemaking action(s):

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 5. ITEMS SUBJECT TO OTHER TAXES

710:65-13-30. Exemption for the sale of tangible personal property subject to other taxes [AMENDED]

- (a.) **Purpose of the Proposed Rule:** This rulemaking is undertaken to comply with the passage of SB 574 which exempts a 501(c)(3) charitable healthcare organization from sales tax on purchases of charitable games equipment. [68:1355(7)(c)]
- (b.) **Classes Affected:** Vendors of and charitable healthcare organizations purchasing charity games equipment.
- (c.) **Persons Benefited:** Vendors of and charitable healthcare organizations purchasing charity games equipment.
- (d.) **Probable Economic Impact:**
- 1. On Affected Classes:** No economic impact based on this rule change is anticipated.
 - 2. On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 - 3. Fees:** The rulemaking action does increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on or need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment –either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** January 8, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Marc Morrison **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION

Rule Impact Statement CHAPTER 65. SALES AND USE

RULE IMPACT STATEMENT: This statement is provided in conjunction with the following rulemaking action(s):

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 5. ITEMS SUBJECT TO OTHER TAXES

710:65-13-30.1 Unmanned aerial vehicles [New]

- (a.) **Purpose of the Proposed Rule:** This rulemaking is undertaken to outline Commission policy regarding the tax treatment of unmanned aerial vehicle sales.
- (b.) **Classes Affected:** Vendors and purchasers of unmanned aerial vehicles.
- (c.) **Persons Benefited:** Vendors and purchasers of unmanned aerial vehicles.
- (d.) **Probable Economic Impact:**
1. **On Affected Classes:** No economic impact based on this rule change is anticipated.
 2. **On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 3. **Fees:** The rulemaking action does increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on or need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment—either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** January 8, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Marc Morrison **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65. SALES AND USE

RULE IMPACT STATEMENT: This statement is provided in conjunction with the following rulemaking action(s):

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 25. GOVERNMENTAL ENTITIES

710:65-13-130. Sales to and by the government; taxable and exempt transactions [Amended]

- (a.) **Purpose of the Proposed Rule:** This rulemaking is undertaken pursuant to a request by the U.S. State Department to include exemption cards issued to Taiwanese Diplomats as part of the provisions relating to sales tax exemption cards for foreign diplomats and other mission personnel. The parameters regarding the transferability of the referenced exemption cards are also outlined in the referenced section.
- (b.) **Classes Affected:** Vendors making sales to and persons holding certain diplomatic sales tax exemption cards.
- (c.) **Persons Benefited:** Vendors making sales to and persons holding certain diplomatic sales tax exemption cards.
- (d.) **Probable Economic Impact:**
1. **On Affected Classes:** No economic impact based on this rule change is anticipated.
 2. **On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 3. **Fees:** The rulemaking action does increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on or need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment—either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** January 8, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Marc Morrison **Phone Number:** 521-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65. SALES AND USE

RULE IMPACT STATEMENT: This statement is provided in conjunction with the following rulemaking action(s):

SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES

PART 15. H

710:65-19-143. Hotels, motels, apartments, etc. [Amended]

- (a.) **Purpose of the Proposed Rule:** This rulemaking is undertaken to clarify the sales tax treatment of lease agreements for apartments located in hotels and other similar entities.
- (b.) **Classes Affected:** Persons executing rental agreements subject to the Oklahoma Residential Landlord and Tenant Act for apartments located in hotels or other similar establishments.
- (c.) **Persons Benefited:** Persons executing rental agreements subject to the Oklahoma Residential Landlord and Tenant Act for apartments located in hotels or other similar establishments.
- (d.) **Probable Economic Impact:**
1. **On Affected Classes:** No economic impact based on this rule change is anticipated.
 2. **On Political Subdivision:** The amendment is not expected to adversely impact other political subdivisions of the State.
 3. **Fees:** The rulemaking action does increase an existing fee.
- (e.) **Probable Costs to the Agency:** Costs to promulgate and enforce the proposed rule will be funded through normal agency budget. No measurable impact on State revenues is anticipated.
- (f.) **Will the Rule Impact Political Subdivisions?** No economic impact on or need for cooperation from political subdivisions is anticipated.
- (g.) **Small Business Impact:** After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rule will have no adverse impact upon Small Business.
- (h.) **Alternative Methods and Costs of Compliance:** There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of this proposed rule. No formalized compliance cost minimization measures have been pursued.
- (i.) **Public Health/Safety/Environmental Concerns:** The proposed rules are not anticipated to have any effect on public health, safety, or the environment—either beneficial or otherwise.
- (j.) **Effect of Non-Implementation on Environment:** If the proposed rules are not promulgated, no effect on the public health, safety, or the environment will result.
- (k.) **Date:** January 8, 2015 **Date Modified:** N/A
- (l.) **Prepared by:** Marc Morrison **Phone Number:** 521-3133