

**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 [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing Sales and Use Tax rules have been made to implement recent legislation. All legislative references are to the 54th Legislature, 2nd Regular Session (2014).

Section **710:65-3-4** relating to contents of a monthly sales tax report has been amended to require inclusion of a vendor's social security number or federal employer identification number only in the circumstances where the vendor's sales tax permit number is not provided.

Sections **710:65-5-5** and **710:65-7-3** have been amended to implement the provisions of Senate Bill 1228 by outlining the parameters under which a person will be deemed personally liable for the nonpayment of sales tax. [68:253]

Section **710:65-7-24** has been amended for purposes of Oklahoma's compliance as a member state with the Streamlined Sales and Use Tax Agreement.

Section **710:65-13-15** has been amended to remove the beekeeping exclusion from the activities that constitute agricultural production for purposes of the sales tax exemption afforded holders of agricultural exemption permits. [68:1358].

Section **710:65-13-40** has been amended to delete the requirement that an IRS determination letter be presented in order for a church to obtain a sales tax exemption card. [68:1356(7)].

Sections **710:65-13-95**, **710:65-19-9**, **710:65-19-61** and **710:65-19-105** have been amended and Section **710:65-19-50** has been revoked consistent with the passage of SB 862 which amended the sales tax exemption for sales of gold, silver, platinum, palladium or other bullion items such as coins, bars and legal tender of any nation by removing the requirement that in order to be exempt the items must be stored within a recognized depository facility. [68:1357(42)].

Section **710:65-19-142** has been amended to remove the requirement that hospitals, infirmaries, or sanitariums possess a sales tax permit in order to purchase exempt from sales tax prescription drugs for patient treatment. [68:1357(9)].

Section **710:65-19-58** has been revoked as obsolete and unnecessary.

Sections **710:65-7-18**, **710:65-13-171**, **710:65-19-330** and **710:65-19-367** have been amended along with other sections that may be amended to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and ensure accurate internal cross-references.

Sections **710:65-3-4**, **710:65-9-10**, **710:65-13-51**, **710:65-13-54**, **710:65-13-80**, **710:65-13-85**, **710:65-13-153**, **710:65-13-155**, **710:65-13-156**, **710:65-13-194** and **710:65-13-348** have been amended, changing *Rules of Practice and Procedure before the Oklahoma Tax Commission* to *Rules of Practice and Procedure before the Office of the Administrative Law Judges* and also updating the internal cross-references.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. § 203

COMMENT PERIOD:

Persons wishing to make written submissions may do so by **4:30 p.m. February 20, 2015**, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma

City, Oklahoma 73194. 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 Emmily Hood at (405) 521-3133

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 is as follows: **February 23, 2015 at 11:00 a.m.**, in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Emmily Hood 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 complete.

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 any business entity 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 January 30, 2015, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa Haws, Liaison; Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@tax.ok.gov

CHAPTER 65. SALES AND USE TAX

**SUBCHAPTER 3. REPORTS AND RETURNS;
PAYMENTS AND PENALTIES; RECORDS**

PART 1. GENERAL PROVISIONS

710:65-3-4. Contents of monthly sales report

(a) **General provisions.** Every vendor shall file a monthly report for sales made the preceding month stating the name of the seller, address, telephone number, ~~federal employer identification number (FEIN) or social security number (SSN)~~ and, sales tax number as it appears on the sales tax permit of the business and the period (month and year) covered by the report. In instances where a business does not provide a sales tax number, the federal employer identification number (FEIN) or social security number (SSN) of the business is required to be included on the sales tax report. In addition, the report shall disclose the following:

- (1) Total gross receipts for the preceding month from sales, both taxable and non-taxable.
- (2) The "**sales value**" of all withdrawals from inventory of goods initially purchased exempt from sales tax, including all items withdrawn for gifts, donations, prizes or business or personal use. Included is the cost of all withdrawals from inventory of goods initially purchased on a tax deferred basis pursuant to a direct pay permit which are subsequently withdrawn for a taxable use.
- (3) Deductions allowed by law. Deductions not specifically delineated on the face of the return must be fully explained in the space provided.
- (4) The amount of tax due, including any city or county tax, or both, as described in (d) of this Section.
- (5) The balance of tax due less any remuneration earned, as described in (b) of this Section.
 - (A) The return should show the amount of interest (if any) that is due.
 - (B) The return should show the amount of penalty (if any) that is due.
- (6) Such other reasonable information as the Commission may require. [See: 68 O.S. §§1365, 1367.1]

(b) **Remuneration.** When the sales tax report with all required information included is timely filed, the vendor may deduct the applicable remuneration of one percent (1%) as an allowance to reimburse the vendor for the expenses incurred in keeping records, preparing and filing reports, remitting tax to the Commission, etc. The remuneration may not be deducted and is not available to a vendor who files an incomplete report, files his report after the date of delinquency, or fails to make full payment on or before the due date.

(c) **Exception to the requirement to file electronically.** The vendor may apply in writing to the Business Tax Electronic Filing Coordinator, Oklahoma Tax Commission, 440 S. Houston Suite 501, Tulsa, OK, 74127-8913, for a determination that the vendor is unable to participate in the electronic funds transfer and electronic data interchange program, and if the application is approved, the vendor will be permitted to report on paper and to deduct the remuneration of one percent (1%).

- (1) To determine whether a vendor is "unable" to file electronically, the following guidelines shall be utilized:
 - (A) The taxpayer does not have access to a computer or internet access at home or place of business; and,
 - (B) The taxpayer does not use a tax preparer that has a computer or one that does not have internet access.

(2) Any exception to the electronic filing requirement will be granted for only twelve (12) months. At the end of the exception period the taxpayer's electronic filing capability may be reviewed.

(3) An aggrieved taxpayer may protest the determination of the Commission as provided by 68 O.S. § 207 pursuant to *OAC* 710:1-5-20 through 710:1-5-49, the ~~rules~~ Rules of practice Practice and ~~procedure~~ Procedure before the Commission Office of the Administrative Law Judges.

(d) **Reporting for city and county taxes.**

(1) The state tax is determined by applying the state rate to the amount of net taxable sales (all sales less deductions allowed by law).

(2) The amount of city sales tax is determined by multiplying the amount of net taxable sales for each city by the rate for that city.

(3) The amount of county sales tax is determined by multiplying the amount of net taxable sales for each county by the rate for that county.

(e) **Excess tax collected.** If the vendor has collected, in the aggregate, an amount of sales tax from its customers, larger than the amount which would result from multiplying the taxable sales by the tax rate, whether due to the use of the bracket charts supplied by the Commission, the use of an electronic cash register that rounds up the tax, or any other reason, the vendor is responsible for remitting the total tax collected. The statement "**Excess Tax Collected**" should be written on the face of the report, under the line captioned "**Total Due.**"

SUBCHAPTER 5. AUDIT AND ASSESSMENT

710:65-5-5. Issuance of sales tax assessments

(a) ~~General rule.~~ Sales/use tax assessments will be issued against the legal entity as well as against other person(s) who may be liable for the tax pursuant to law. Any person shall be liable for the payment of sales tax if during the period of time for which the assessment was made the person was responsible for the collection and remittance of sales tax or had direct control, supervision or responsibility for filing returns and making payments of the tax due the State of Oklahoma.

(b) ~~Sole proprietorships.~~ Assessments against sole proprietorships will be issued against the proprietor. The trade name, if any, will be identified following the proprietor's name preceded by the initials DBA.

(c) ~~Partnerships.~~ Partners will be assessed jointly and identified by all of the partners' names followed by the trade name, if any. In the case of a limited partnership, only the partnership and general partner(s) will be assessed.

(d) ~~Limited liability companies.~~ A limited liability company (LLC) will be assessed in the name of the LLC and the specified members or managers specified as responsible for the collection of sales tax. If no member or manager is specified, all members and managers will be assessed.

(e) ~~Corporations; trusts; receiverships.~~ Corporations, trusts and receiverships will be assessed in the legal name of the corporation, trust or receivership. Furthermore, principal corporate officers will be assessed as corporate officers and as individuals. Corporate stockholders will not be assessed unless the particular stockholder is also a principal corporate officer.

(f) ~~Trustees and receivers.~~ Trustees and receivers will be assessed in their official capacity as trustee or receiver and not in their individual capacity. [See: 68 O.S. §221]

SUBCHAPTER 7. DUTIES AND LIABILITIES

710:65-7-3. Personal liability for sales tax due; ~~corporate officers, partners, individuals~~

Sales tax is paid by the consumer/user to the vendor as trustee for the state. Any person required to collect sales tax as a trustee for the state will be held personally liable for the sales tax due. ~~In the case of a corporation each "principal" officer will be held personally liable for the sales tax due.~~

(1) ~~The Commission identifies "principal" officers as:~~

- ~~(A) President,~~
- ~~(B) Vice President,~~
- ~~(C) Secretary,~~
- ~~(D) Treasurer, or~~
- ~~(E) Secretary/Treasurer.~~

(2) ~~Some factors which may influence the identification of a person either as a "principal" officer of a corporation or not may be:~~

- ~~(A) limited responsibilities within the corporation (only responsibility is as keeper of the corporate seal),~~
- ~~(B) limited duties within the corporation (only duty is taking minutes at Board of Directors meeting), and~~
- ~~(C) limited authority within the corporation (could not write checks on the corporate account).~~

(3) ~~The decision as to whether an individual is personally liable for sales tax officer is a "principal" officer shall be made on an "individual case" basis. The standard to be applied is that of determining liability for payment of federal withholding tax pursuant to the Internal Revenue Code of 1986, as amended, or regulations promulgated pursuant to same. Once it is finally determined that a person is liable a principal officer, a tax warrant which has the force and effect of a judgment or lien will be filed against that person individually for the full amount of the liability, i.e. tax, interest and penalty. [See: 68 O.S. §1361(A) § 253]~~

710:65-7-18. Vendor's responsibility — sales to, by, or for the benefit of, neighborhood watch organizations

In the case of sales made to purchasers claiming exemption because the purchases are made by, or for the benefit of a neighborhood watch association, the vendor must obtain the items of information described in this section:

- (1) A copy of the neighborhood watch association's sales tax exemption card that was issued by the Oklahoma Tax Commission pursuant to Section ~~710:65-13-344~~ 710:65-13-348.
- (2) A signed, dated statement by the purchaser listing the purchaser's name, address and telephone number which states that the purchase is being made by or for the benefit of the neighborhood watch organization. The statement shall also contain the name, address and telephone number of the person responsible for keeping a record of the purchases made by or for the benefit of the organization.

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 9. PERMITS

710:65-9-10. Direct payment permits (DPP)

(a) **General provisions.** The holder of a valid Oklahoma direct payment permit may make purchases of taxable items, for use in its Oklahoma enterprises and not for resale, and defer the taxes imposed by the Oklahoma Sales and Use Tax Codes until such time as the items are first used or consumed in a taxable manner, if all requirements described in this Section are met. [See: 68 O.S. § 1364.1]

(b) **Qualification for direct payment permit.** To qualify for a direct payment permit, valid for three (3) years, an applicant must meet the requirement set forth in paragraph 1, 2, or 3.

(1) **Documentation for established businesses.** The applicant must be making purchases of \$800,000.00 annually in taxable items for the use in its Oklahoma enterprises, and not for resale and annual purchases of \$800,000.00 must be verifiable from the applicant's sales or use tax records.

(2) **Documentation for new or expanding businesses.** An applicant without any qualifying sales and use tax reporting history in Oklahoma must submit to the Commission along with its application, a sworn statement that "applicant shall purchase \$800,000.00 of taxable items and services annually for use in its Oklahoma enterprises and not for resale." Adequate records or documentation must be available to support the statement of projected purchases.

(3) **Documentation for healthcare providers.** The applicant must be making purchases of drugs for the treatment of human beings, medical appliances, medical devices and other medical equipment including but not limited to corrective eyeglasses, contact lenses, hearing aids, prosthetic devices, durable medical equipment, and mobility-enhancing equipment for administration or distribution by a practitioner, as defined in 68 O. S. § 1357.6(B), who is authorized by law to administer or distribute the referenced items and the cost of such items will be reimbursed under the Medicare or Medicaid programs.

(c) **Other qualifications.** In addition to any other conditions mandated by statute, all applicants for a direct payment permit must comply with all conditions, prerequisites and qualifications described in (1) through (4) of this subsection:

(1) **Overall compliance with tax provisions.** The applicant must be in compliance with all pertinent tax laws of the State of Oklahoma and with the respective rules of the Commission.

(2) **Applicant must establish reliability and accuracy of accounting methods.** All applicant(s) must be able to establish to the satisfaction of the Commission that the applicant is or will be using an accounting method which clearly distinguishes between taxable and nontaxable purchases. An explanation of the accounting procedures which will be used to determine the taxability of any purchase and to ensure that any tax due is correctly accrued and remitted must accompany the application for a direct payment permit. Additionally to substantiate the exempt purchase of medical equipment pursuant to subsection (a) of 710:65-13-173, a healthcare provider holding a direct pay permit must maintain separate from confidential patient records the following information:

- (i) Patient case number or account number;
- (ii) Type of insurance and
- (iii) Item description or product number.

(3) **Compliance with reporting and remitting requirements; waiver of discount.** The applicant must agree to accrue and pay all taxes imposed by the Sales or Use Tax Codes, on the applicable direct payment sales or use tax return, for items not specifically exempted. The applicant must agree to make the payments to the State on or before the 20th day of the month

following the applicable reporting period in which the items become subject to the tax by reason of their consumption in this State. A written agreement to this effect, signed by an officer or other person authorized to legally bind the applicant, and an acknowledgement that the discount allowed by Section 1367.1 of Title 68 is waived on all purchases which are taxable to the applicant, must be furnished to the Commission and it must be signed and returned along with the application for a direct payment permit.

(4) **Compliance with restrictions on purchases for resale.** The applicant must agree to give a resale certificate, rather than a direct payment permit, for any item that will be resold, as provided by the Sales or Use Tax Codes.

(d) **Application for direct payment permit.** Application for a direct payment permit may be made to the Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, OK 73194.

(e) **Granting of permit discretionary; options available upon denial.** The Oklahoma Tax Commission shall be the sole judge of an applicant's qualifications and may deny an application or refuse to issue a direct payment permit. However, an applicant is not precluded from submitting an amended application or may submit a new application after a reasonable period of time from the date of the original application. For purposes of this subsection "**reasonable period of time**" means a period of time of not less than twelve (12) calendar months duration from the date of the Commission denial or refusal to issue the permit.

(f) **Issuance, scope, limitations of direct payment permit.** When a direct payment permit is issued to a particular legal entity, it will include all branches and divisions of that entity which are purchasing taxable items. A direct payment permit issued to a supplier by one branch or division shall apply to purchases made by all branches or divisions from the same supplier. For purposes of this Section, "**branches and divisions**" shall be limited those subunits or groups associated with a single unique federal employers' identification number. A direct payment permit-holder may not authorize any other person or entity to purchase any taxable items under the permit. Use by unauthorized persons may result in revocation of the permit.

(g) **Use of direct payment certification procedure with vendors.** A direct payment permit-holder must provide its vendors with the direct payment certification defined in this Section and a copy of its direct payment permit in order to make those purchases to which the permit is applicable.

(h) **"Direct payment certification" described.** "**Direct payment certification**" means the procedure by which a direct payment permit-holder provides a vendor with properly completed documentation and certification as to its deferred status. Properly completed documentation may consist of a copy of the direct payment permit, multi-state exemption certificate, or other document, so long as it contains the information described in (1) through (4) of this subsection.

(1) A **copy** of the purchaser's Direct Payment Permit (DPP), or if unavailable, the name, address, and DPP number of the purchaser;

(2) A statement that the permit-holder claims deferral of the payment of state, city and county sales or use taxes upon its purchases of taxable tangible personal property or services;

(3) A statement that the articles purchased are for use in the purchaser's Oklahoma enterprises, and not for resale;

(4) The signature of the purchaser or a person authorized to legally bind the purchaser, and date signed.

(i) **Limitations on use of direct payment procedure.** Direct payment certification procedures are not applicable to the purchase of materials or supplies used, transferred, or consumed by a third party in performing services for the direct payment permit-holder, regardless of whether the third

party is a contractor, service provider, or other person.

(j) **Incidence of tax for purchases made pursuant to direct payment permit and stored in Oklahoma.** For taxable items purchased under a direct payment permit, the incidence of Oklahoma sales and use taxes to be accrued and remitted on items stored in Oklahoma is to be determined by reference to this subsection, as well as to the provisions of the Oklahoma Sales and Use Tax Codes.

[See: 68 O.S. § 1361(C)]

(1) **Use tax to be accrued on items and goods purchased outside Oklahoma.** Items and goods purchased outside Oklahoma pursuant to an Oklahoma direct payment permit, which are intended solely for use in other states, but which are stored in the State pending shipment to such other states, or which are temporarily retained for the purpose of fabrication, repair, testing, alteration, maintenance, or other service, are not subject to Oklahoma use tax. However, if the items purchased out-of-state are first used or consumed in Oklahoma, then Oklahoma use tax and any applicable city use tax shall be accrued and remitted to the Commission by the direct payment permit-holder.

(2) **Sales tax to be accrued on items and goods purchased in Oklahoma.** Items and goods purchased in Oklahoma pursuant to a valid Oklahoma direct payment permit are subject to Oklahoma sales and applicable city and county sales taxes at the time they are first used or consumed in a taxable manner. Sales made to direct payment permit holders of tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service are not subject to Oklahoma sales tax.

(k) **Monthly reports required.** All direct payment permit-holders must file sales and use tax returns, in the manner set out in this subsection, whether or not they have either sales tax or use tax to report.

(1) Purchases made in Oklahoma, using the taxpayer's DPP, such that the Sales Tax otherwise due has been deferred, are to be reported monthly on the Sales Tax Report Form which bears taxpayer's Direct Payment Permit Number. This report is in addition to any Sales Tax Report which is required to be filed using taxpayer's Sales Tax Permit Number.

(2) Purchases made outside Oklahoma, using the taxpayer's DPP, such that the Use Tax otherwise due has been deferred, are to be reported monthly on the taxpayer's Use Tax Report Form, using the Use Tax Account Number.

(l) **Cancellation, suspension, revocation of permit.** A direct payment permit may be cancelled by the Commission if the annual purchases fall below the qualifying threshold. Further, the Commission may revoke a permit upon information that the permit has been used by persons other than to whom it was issued. Finally, the Commission may suspend, cancel, or revoke a direct payment permit, at any time, for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a license or permit pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through ~~710:1-5-48~~ 710:1-5-49 of the permanent rules of the Commission.

(m) **Procedure upon cancellation, revocation, or forfeiture.** Any entity whose direct payment permit is either voluntarily forfeited, or is cancelled or revoked by action of the Commission, must immediately notify all vendors from whom purchases of taxable items are made advising them that any certification provided to them pursuant to the forfeited, cancelled or revoked direct payment permit is no longer valid.

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 3. AGRICULTURAL TRANSACTIONS

710:65-13-15. "Agricultural production" defined; taxable and exempt transactions

(a) **Definitions.** For the purposes of this Section:

- (1) "Agricultural production" and "production of agricultural products" is limited to what would ordinarily be considered a farming or ranching operation undertaken for profit. The term refers to the raising of food crops or livestock for sale. Included within the meaning of "agricultural production" and "production of agricultural products" are ranches, orchards, and dairies. Also included is any feedlot operation, whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned by persons conducting the feedlot.
- (2) "Farmers" means persons engaged in agricultural production or production of agricultural products.
- (3) "Farming" or "ranching" means the production, harvesting or processing of agricultural products.
- (4) "Livestock" means cattle, horses, sheep, goats, asses, mules, swine and also chickens, turkeys, and other domesticated fowl. It also includes ~~american~~ American bison, emus, ostriches and llamas.

(b) **Examples of persons engaged in farming, ranching or agricultural production.** Besides the persons defined as farmers and ranchers above, the law recognizes persons engaged in the following types of activities, whose aim is the making of a profit, to also be engaged in farming, ranching or agricultural production:

- (1) Wholesale divisions of nurseries are considered to be farmers and the planting, growing, cultivation and harvesting of shrubs, flowers, trees and other plants for sale in the wholesale division of a nursery operation are defined to be farming operations.
- (2) Persons who plant, cultivate, and harvest sod for commercial sale are also considered to be farmers.

(c) **Examples of persons who are not engaged in farming, ranching, or agricultural production.** The following activities do not qualify as farming, ranching, or agricultural production:

- (1) Operation of commercial greenhouses;
- (2) Operation of plant nurseries, except their wholesale divisions;
- (3) Catfish raising;
- (4) ~~Beekeeping;~~
- (5) Ownership of livestock solely for one's own use for pleasure riding, trail riding, performance riding, participation in horse shows, or racing; and,
- (6)(5) The raising of cats, dogs, other fur-bearing animals not included in the definition of livestock, or non-domesticated fowl.

(d) **Sales of feed, fertilizers, biologicals, and pharmaceuticals.** The statute provides an exemption from sales tax for sales of certain items, such as feed, fertilizer, pharmaceuticals, biologicals, seeds, plants, and pesticides, when sold to a person regularly engaged in farming or ranching, for profit, and the items are to be used and in fact are used in agricultural production. Sales of agricultural fertilizer, pharmaceuticals and biologicals sold to a person engaged in the business of applying such materials on a contract or custom basis are specifically exempted from sales and use tax.

(e) **Sales to persons other than farmers or ranchers.** Sales of tangible personal property are subject to the sales or use tax under this rule, if the sales are to persons other than a farmer or rancher, regularly engaged in business for profit, or if the sales are made to a farmer or rancher, but the property is used or consumed for a purpose other than the production of agricultural products for sale.

(f) **Sales for personal use.** Sales to a farmer or rancher of fuel, clothing, and all other tangible personal property for personal living or human consumption or use are taxable. Sales of tangible personal property are taxable when the property is used in producing food or other products for personal consumption and not for sale. Similarly, sales of seed, fertilizer, equipment, etc. to anyone for use on homes, gardens, lawns, parks and golf courses or for use by landscape gardeners are taxable.

(g) **Farm machinery.** Sales of farm machinery used directly on a farm or ranch in the production of agricultural products are exempt. Such machinery is also exempt if sold to a custom harvester, baler, producer or planter performing service on a farm or a ranch.

(1) **"Farm machinery"** includes:

- (A) Expendable supplies, such as baling wire, and binders twine, hand tools, and implements such as fence stretchers, picks, posthole diggers, scoops and shovels;
- (B) Lubricants for farm machinery;
- (C) Repair or replacement parts for machinery used directly on a farm or ranch in production of agricultural products;
- (D) Fencepost, ~~eattle~~guards cattle guards, gates and chutes;
- (E) Buildings and structures which are essentially an item of equipment or machinery for agricultural production if the structure is specifically designed for such use and the structure cannot be economically used for any other purpose, for example: an automated laying house or farrowing house.

(2) **"Farm machinery"** does not include any motor vehicle licensed for highway use.

(h) **Exemption limited to use in agricultural production.** The fact that an item is purchased for use on a farm or ranch, or that a piece of equipment is convenient, does not necessarily make the purchase exempt from sales tax. The items purchased must be directly used on the purchaser's farm or ranch in the production of agricultural products. "To be directly used by the purchaser on a farm or ranch in the production of food or agricultural products" requires that the property in question must have a direct effect on the article being produced.

(i) **Examples of taxable items.** The following is a partial list of taxable items:

- (1) Water supply systems for personal use.
- (2) Repair parts for all motor vehicles (licensed with a farm tag or any other tag).
- (3) Household appliances.
- (4) Garden and lawn equipment.
- (5) Personal apparel.
- (6) Pets and their supplies.
- (7) All equipment, supplies and tools to maintain personal home and/or vehicle/ equipment storage buildings.
- (8) Electricity for non-agricultural use.
- (9) LPG storage tanks for fuels used for domestic purposes.
- (10) Livestock, not including horses, but including cattle, mules or other domestic or draft animals except those sold for resale to a person who holds a valid sales tax permit or those sold by the producer by private treaty or at a special livestock sale.

(11) All computers and software, except that which is to be used directly on a farm or ranch in the production, cultivation, planting, sowing, harvesting, processing, spraying, preservation or irrigation of any livestock, poultry, agricultural or dairy products produced from such lands.

(12) Home and or office furnishings and supplies.

(13) Groceries and purchases of meals and beverages at restaurants.

(j) Examples of items not commonly exempt, except when used in agricultural production.

The following items are taxable, unless used directly in agricultural production:

(1) ~~Liquified~~ Liquefied petroleum gas (LPG).

(2) Communication radios.

(3) Building materials, including:

(A) Roofing cement.

(B) Lumber.

(C) Electrical wiring.

(D) Nails, staples, and other fasteners.

(k) Examples of exempt items. The following items are **exempt** if used directly in agricultural production, or as otherwise stated:

(1) Electric fence insulators.

(2) Electric fence chargers.

(3) Cattle electric water warmer & tank.

(4) Cattle water tank.

(5) Cattle squeeze chute.

(6) Welding machines and associated equipment, including the lease or rental of both the equipment and the cylinders used to store the gases used in welding. Welding rod, oxygen, acetylene are exempt, providing welding machine with which they are used is qualified for the exemption.

(7) Sprays for control of flies & lice, insect repellent.

(8) Pinkeye patches, livestock wormers.

(9) Disinfectants (alcohol, iodine).

(10) Breeding supplies (includes semen, biostate sales & liquid nitrogen for storage).

(11) Drugs for disease or bacteria control such as penicillin, milk fever medicines, mastitis treatment.

(12) Supplies for administering drugs to farm animals for production (syringes, needles).

(13) Vaccines for preventive disease.

(14) Bottles, nipples & mixing containers for feeding calves.

(15) Farm tractors.

(16) Combines.

(17) Hay balers, mowers, rakes & loaders.

(18) Cultivators.

(19) Harrows, disks, planters, drills.

(20) Windmills (except for domestic use).

(21) Spray machines.

(22) Mechanical brush cutters, ensilage cutters.

(23) Grain grinders.

(24) Electric milking machines & separators.

(25) Standby generators (except those for domestic use).

(26) Silo unloaders, silage distributor.

(27) Augers-power take off.

- (28) Bale loaders.
- (29) Crust busters.
- (30) Diamond packers
- (31) Rotary hoes.
- (32) Bulk milk tanks & pipeline milkers.
- (33) Power take off post hole diggers.
- (34) Motor chain saw (to clear land).
- (35) Repair parts for farm equipment (includes tires, batteries, oil filters, belts, air filters & other parts).
- (36) Diesel & special fuels (for agricultural use).
- (37) Antifreeze (for agricultural use).
- (38) Oil & grease (for agricultural use).
- (39) Stock tanks.
- (40) Grain storage bins.
- (41) Stock trailers.
- (42) Wire fencing.
- (43) Fence posts.
- (44) Air conditioner (for agricultural use).
- (45) Feed racks.
- (46) Bulk feed bins & associated equipment.
- (47) Silo loading chutes.
- (48) Farm wagons, farm plows, truck unloaders.
- (49) Fertilizer spreading equipment.
- (50) All farm animals for production.
- (51) Containers used to package farm products for sale.
- (52) Cattle chutes.
- (53) Hay wire or twine, hay hooks.
- (54) Ear tags, neck tags for cattle.
- (55) Seeds, plants.
- (56) Fertilizers.
- (57) Insecticides.
- (58) Packaging materials, such as sacks, wrappers, and crates, for use in packing, shipping or delivering of agricultural products. This exemption shall not apply to any packaging material which can be used more than once or which is ordinarily known as a returnable container, except those specifically noted under 68 O.S. § 1359(3), 68 O.S. § 1359(4), and 68 O.S. § 1359(14).
- (59) *"Returnable cartons, crates, pallets, and containers used to transport mushroom products from a farm for resale to the consumer or processor."* [See: 68 O.S. § 1359(14)]
- (60) Salt blocks (for agricultural use).
- (61) Irrigation equipment (for agricultural use).

(l) **Examples not exhaustive.** Activities and items enumerated in this Section as examples and illustrations are not intended to be exclusive or exhaustive.

(m) **Purchases of taxable personal property or services by a contractor.** 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 farmer 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 farmer. However, sales of materials, supplies, and equipment may be made exempt from sales tax to any person who has contracted to construct

facilities which are or will be **used directly** in the production of any livestock. For purposes of this subsection, "**used directly in the production of any livestock**" includes facilities used in the production and storage of feed for livestock owned by the permit holder. To receive the exemption, the contractor must follow the applicable requirements of Section 710:65-13-17.

(n) **The exemption as it pertains to horses, ranching, and ranches.**

- (1) The exemption is allowed only to those persons breeding or raising horses for marketing.
- (2) The exemption is not extended to persons who own horses for personal use or who are solely engaged in activities such as boarding horses, giving riding lessons, or providing horses for recreational riding.

(o) **The exemption as it extends to feed and similar products for livestock, including horses.** The holder of an agricultural exemption permit may purchase generally recognized animal feeds, stock tonics, water purifying products, stock sprays, disinfectants, and other such agricultural supplies subject to the following limitations:

- (1) The purchaser must obtain an Agricultural Permit; and
- (2) The purchaser must follow the applicable requirements of Section 710:65-13-17.

PART 7. CHURCHES

710:65-13-40. Sales by churches; sales to churches

(a) **Sales "by" churches.** Sales by churches are not subject to sales tax when it can be said that such selling is noncompetitive with business establishments.

(1) The following are tests for determining that such selling is noncompetitive:

- (A) The transactions are conducted by members of the church and not by any franchisee or licensee.
- (B) All of the proceeds must go to the church organization.
- (C) The transaction must not be a continuing one but rather should be held whether annually or a reasonably small number of times within a year. The test of reasonableness would be an administrative decision, to be made by the Commission.
- (D) The reasonably ascertainable dominant motive of most transferees of the items sold must be the making of a contribution, with the transfer of property being merely incidental and secondary to the dominant purpose of making a gift to the church.

(2) In addition, there are these further considerations as guides to the resolution of questions raised by each individual situation:

- (A) The nature of the particular item sold. All other things being equal, the decision as to candy might well be different from the decision as to refrigerators.
- (B) The character of the particular sale, and the real practical effect upon putative competition. [See: 68 O.S. § 1356(7)]

(b) **Sales "to" churches.** Generally, sales made directly to a church are exempt from sales and use tax. Only sales purchased by the church, invoiced to the church, and paid for by funds or check directly from the church, will qualify for the exemption. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of *OAC* 710:65-7-6 and 710:65-7-15.

(c) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor with whom a church has duly entered into a construction contract, or to any subcontractor to such construction contract, are exempt provided they are necessary for carrying out the contract. A vendor wishing to be relieved of liability to collect the tax should follow the requirements of subsection (c) of *OAC* 710:65-7-13.

(d) **Application process.** Application for 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 telephonically at (405) 521-3160 or online at www.tax.ok.gov along with supporting documentation as follows:

- (1) ~~Letter from the Internal Revenue Service recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and~~
- (2) ~~Documentation which shows that the church consists of a body of believers which holds religious services and public notification of the place and time of those services such as a copy of a newspaper or yellow pages ad, newsletter or bulletin sent to regular attendees or distributed during a service.~~

PART 9. COMPUTERS; DATA PROCESSING; TELECOMMUNICATIONS

710:65-13-51. Exemption for sales of computers, data processing, telephonic and certain related equipment and services to a qualified aircraft maintenance or manufacturing facility

(a) Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility are exempt from sales and use tax.

(1) For purposes of this exemption, "**qualified aircraft maintenance or manufacturing facility**" is defined as any new or expanded business which adds at least Two Hundred Fifty (250) new full-time-equivalent employees, as certified by the Employment Security Commission. In order to qualify for the exemption, the construction cost of the new or expanded facility must exceed Five Million Dollars (\$5,000,000.00).

(2) For purposes of this exemption, the following will apply:

(A) "**Computer**" means an electronic device *that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S. Supp. 2003, § 1352]

(B) "**Data processing equipment**" includes machines which perform work using programmed instruction, and which singly or collectively have capabilities of memory, logic, arithmetic and/or communication and all machines used in support of machines possessing those capabilities;

(C) "**Related peripheral**" means input, output, processing, storage, software and communication facilities which are connected or related to a device in a system or network; and

(D) "**Telecommunications**" includes data transmission between a computing system and remotely located devices.

(3) The exemption shall include, but shall not be limited, to the following:

- (A) Computer
- (B) Terminal
- (C) Modem
- (D) Printer
- (E) Disk Drive
- (F) Video Display Terminal
- (G) Memory
- (H) Removable Disk
- (I) Fixed Disk
- (J) Bar Code Reader

- (K) Key Punch
- (L) CRT
- (M) Plotter
- (N) Card Reader/Punch
- (O) Tape Drive
- (P) Monitor
- (Q) Software
- (R) Telephone equipment
- (S) Telephone service
- (T) Telegraph equipment
- (U) Telegraph service
- (V) Dedicated lines

(4) The exemption shall not apply to the following:

(A) Supplies, such as:

- (i) Diskettes
- (ii) Tape
- (iii) Paper
- (iv) Pens
- (v) Ribbons
- (vi) Print Wheels
- (vii) Media Storage
- (viii) Storage Case
- (ix) Cleaning Product
- (x) Cleaning Kit
- (xi) Template
- (xii) Print-out Ruler
- (xiii) Label

(B) Furniture, such as:

- (i) Desk
- (ii) Chair
- (iii) Table
- (iv) Rack
- (v) Stand
- (vi) Acoustical Protector
- (vii) Shelving

(C) Accessories, such as:

- (i) Surge Protector
- (ii) Filter
- (iii) Radiation Shield
- (iv) Dust Cover
- (v) Static Dissipator
- (vi) Security System

(b) No exemption shall be granted if the qualified aircraft maintenance or manufacturing facility fails to file the documentation required below with the Commission within thirty-six (36) months of the date of purchase and the required certification issued by the Employment Security Commission within sixty (60) months of the date of first purchase.

(c) Pursuant to statute, the exemption for sales to an aircraft maintenance or manufacturing facility outlined above will be administered as a refund for state and local taxes paid by the aircraft maintenance or manufacturing facility to the vendor or, in the case of use tax, self-remitted to the State of Oklahoma.

(d) All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specifications of the new or expanded facility, a complete description of the maintenance repair or manufacturing that will take place within the facility, and other information requested by the Commission. Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the Application will be forwarded to the Employment Security Commission for establishment of the entity's base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) For each purchase made, the entity who believes that it will be certified shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(1) Invoice indicating the amount of state and local taxes billed to the aircraft maintenance or manufacturing facility;

(2) Affidavit of the vendor of the tangible personal property that state and local sales tax reflected on that invoice has not been credited, rebated, or refunded to the aircraft maintenance or manufacturing facility, but rather, that the sales tax charged has been collected by the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(3) All additional documentation required to be submitted by the Commission.

(f) At the option of the entity who believes it will be certified as a qualified aircraft maintenance or manufacturing facility, the documentation required in (e) of this Section can be filed monthly, quarterly, semi-annually, or annually. However, all documentation must be filed no later than thirty-six (36) months after the item is purchased. The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for denial. The entity submitting the documentation will similarly be notified that a claim has been approved.

(g) Each month, the Commission shall transfer from sales tax collected, to an account designated by the Commission, the estimated amount of claims approved the previous month.

(h) Upon completion of the new or expanded business and the addition of the employees as required by statute, the entity believing it falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the total cost of construction exceeded the sum of Five Million Dollars (\$5,000,000.00) required by law. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.

(1) The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The qualified aircraft maintenance or manufacturing facility will also receive accrued interest upon the principal amount of the refund made as provided for by statute. [See: 68 O.S. §1357(16)]

- (2) The following shall apply when a request for certification is denied:
- (A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or a duly authorized agent setting out:
- (i) a statement of denial as determined by the Commission;
 - (ii) a statement of the applicant's disagreement with such denial, and
 - (iii) supporting documentation relied on by the taxpayer in support of certification.
- (B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission, shall become final and no appeal will be entertained.
- (C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing. The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested certification.
- (D) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [NOTE: For further information the applicant should refer to the Rules of Practice and Procedure ~~Before~~ before the ~~Oklahoma Tax Commission~~ Office of the Administrative Law Judges (710:1-5-21 through 710:1-5-49). [See: 68 O.S. §§ 225, 1357.5, 1404.4]

710:65-13-54. Exemption for sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

- (1) "**Computer**" means an electronic device *that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S. ~~Supp. 2003~~, § 1352]
- (2) "**Data processing equipment**" means machines which perform work using programmed instruction, and which singly or collectively have capabilities of memory, logic, arithmetic or communication and all machines used in support of machines possessing those capabilities.
- (3) "**Equipment**", for purposes of this Section, means any independent device or tool, separate from any machinery, but essential to use of the machinery, or any sub-unit or sub-assembly comprising a component of any machinery or auxiliary, adjunct, or attachment, to parts of machinery. "**Equipment**" also specifically includes "**computers**" and "**data processing equipment**", as defined in this Section.
- (4) "**Machinery**", for purposes of this Section, means major mechanical, electrical, or electronic machines or major components of such machines.
- (5) "**Qualified purchaser**" means an establishment primarily engaged in computer services and data processing:
 - (A) Which is defined under Industrial Group Numbers 7372 (prepackaged software) and 7373 (computer integrated system design) of the Standard Industrial Classification (SIC) Manual, latest version, and which derives at least fifty percent (50%) of its annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, or

(B) Which is defined under Industrial Group Number 7374 (computer processing and data preparation processing services) of the SIC Manual, latest version, which derives at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

(6) **"Related peripheral"** means input, output, processing, storage, software, and communication facilities which are connected or related to a device in a system or network.

(b) **General provisions.** The sale of machinery and equipment, including computers, data processing equipment, and related peripherals, to a qualified purchaser primarily engaged in computer services and data processing as defined by (a) of this Section is specifically exempt from the levy of sales or use tax. For purposes of determining "qualified purchaser" status, all sales to the federal government shall be considered sales to an out-of-state buyer or consumer.

(c) **Examples of exempt items.** Exempt items include, but are not limited to:

- (1) Bar code reader
- (2) Card reader/punch
- (3) Computer
- (4) CRT
- (5) Disk drive
- (6) Fixed Disk
- (7) Key punch
- (8) Memory
- (9) Modem
- (10) Monitor
- (11) Plotter
- (12) Printer
- (13) Removable disk
- (14) Software
- (15) Tape drive
- (16) Telegraph equipment
- (17) Telegraph service
- (18) Telephone equipment
- (19) Telephone service
- (20) Terminal
- (21) Video display terminal

(d) **Examples of non-exempt items.** The exemption shall not apply to:

- (1) Cleaning products
- (2) Paper
- (3) Pens
- (4) Print-out labels

(e) **Application.** Application for exemption may be made by filing a signed, sworn affidavit with the Commission, stating:

- (1) The name, address, and federal employer's identification number of the applicant and the name and title of the person signing for the applicant;
- (2) A complete description of the computer services and data processing that will take place within the establishment;
- (3) A statement of the establishment's annual gross revenues, and the percentage of the annual gross revenues derived from sales made to out-of-state buyers and consumers, determined for the most recently completed income tax year;

- (4) A statement that the applicant is primarily engaged in the activities appropriate to SIC Code classification number 7372, 7373 or 7374, as applicable;
 - (5) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and
 - (6) Such additional information as the Commission may require to confirm eligibility.
- (f) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying the exemption allowed the establishment will be forwarded to the applicant.
- (g) **Issuance, scope, limitations of direct payment permit.** The letter of certification issued by the Commission will become effective, commencing July 1st following the ending date of the income tax year on which the statement required by subsection (e) was calculated, for a period of twelve (12) months, and may be renewed, subject to annual review and recertification of the applicant's eligibility by the Commission.
- (h) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-48 710:1-5-49 of the permanent rules of the Commission.

PART 15. HAZARDOUS WASTES

710:65-13-80. Exemption for purchases to reduce hazardous waste

- (a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:
- (1) **"Directly used or consumed in the process of treatment"** means either the tangible personal property is:
 - (A) **"Directly used"** in the step-by-step processes by which hazardous waste is treated. Any tangible personal property or any services which are only indirectly related to the process of treatment are not included; or
 - (B) **"Consumed"** as in destroyed, used up, or worn out to the degree or extent that such property cannot be repaired, reconditioned, or rendered fit for further use. **"Consumed"** does not mean or include mere obsolescence.
 - (2) **"Equipment"** means the implements used in the direct process of treatment.
 - (3) **"Hazardous waste"** means waste materials and by-products, either solid or liquid, which are to be discarded by the generator, and which are toxic to human, animal, aquatic or plant life and which are generated in such quantity that they cannot be safely disposed of in properly operated, state-approved sanitary landfills, waste or sewage treatment facilities. Hazardous waste may include, but is not limited to, explosives, flammable liquids, spent acids, caustic solutions, poisons, containerized gases, sludge, tank bottoms containing heavy metallic ions, toxic organic chemicals, infectious materials, and materials such as paper, metal, cloth or wood which are contaminated with hazardous waste, and excludes domestic sewage. For purposes of the sales and use tax exemption, the term **"hazardous waste"** may include low-level radioactive waste.
 - (4) **"Incorporated into"** means directly used or consumed in the process of treatment.
 - (5) **"Machinery"** means mechanically, electrically, or electronically operated devices used for performing the tasks of remediation of hazardous waste.

(6) **"Other materials"** means other items of tangible personal property which are used in the direct process of treatment of hazardous waste, but which are not machinery, equipment, fuel, or chemicals. For purposes of this Section, electricity is included in the category "other materials".

(b) **Exemption limited to eligible, properly documented transactions.** Only purchases of machinery, equipment, fuel, and chemicals or other materials incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume of harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Hazardous Waste Management Act and operated at the place of waste generation, or facilities approved by the Department of Environmental Quality for the clean up of a site of contamination are exempt. Only purchases made by persons engaged in the process of treatment, invoiced to those persons, and paid for by such persons are exempt.

(c) **Application process.** Application for exemption is made by submitting to the Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available telephonically at (405) 521-3160 or online at www.tax.ok.gov along with supporting documentation as follows:

- (1) A written description of the process in which the person will be engaged;
- (2) Information regarding the permit or approval under which the person is operating;
- (3) Documentation that any nonresident contractor or subcontractor is in compliance with the registration requirements found at 68 O.S. § 1701 et.seq.; and
- (4) Such additional information as the Commission may require to confirm eligibility.

(d) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying the exemption allowed will be forwarded to the applicant.

(e) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-48 710:1-5-49 of the permanent rules of the Commission.

(f) **Use of letter certifying eligibility for the exemption.** Persons claiming exemption under this Section should provide their vendors with a copy of the certification letter issued by the Commission and a signed statement that the purchase is being made exempt from sales tax. If purchases will be made from a vendor on a regular basis, the vendor may make subsequent sales without requiring proof of eligibility for each sale, providing the person to whom the exempt sales are being made has agreed in writing to notify the vendor of any and all purchases which may be made to which the exemption would not apply. Vendors may accept the certification set out in this subsection in the same manner as any other letter certifying to a specific statutory exemption as set out in 710:65-7-6 and 710:65-7-15.

(g) **Limitations.** Any letter certifying an exemption issued under this Section is valid only for use by the addressee and is not transferable. The exemption may **not** be used by any other entity, even if that entity claims to be an agent, administrator, party to a contract or other relationship. Each entity desiring to obtain a letter certifying an exemption must make application in its own name.

PART 16. ELECTRONIC GOODS – REFITTING, REFURBISHING OR REPAIRING

710:65-13-85. Exemption for refitting, refurbishing, or repairing of consumer electronic goods

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Qualified devices"** means certain electronic consumer goods including but not limited to cell phones, compact disc players, personal computers, MP3 players, digital devices for the storage and retrieval of information through hard-wired or wireless computer or Internet connections.

(2) **"Qualified purchaser"** means an entity primarily engaged in the repair of consumer electronic goods which purchases from the original manufacturers qualified devices for refitting, refurbishing or repairing and subsequently sells these devices to either retail customers or to businesses primarily engaged in the sale of the enumerated qualified devices.

(3) **"Qualified purchases"** means only tangible personal property and services directly related to the activity of refitting, refurbishing, and repairing consumer electronic goods purchased from the original manufacturer of the qualified items for subsequent sale or resale. Qualified purchasers may not make exempt purchases for their regular consumer repair business, for other facets of their business or for the refitting, repairing, or refurbishing of consumer electronic goods purchased or acquired from sources other than the original manufacturer of the qualified devices.

(b) **General provisions.** Effective July 1, 2007, Section 1357(40) of Title 68 provides for a sales tax exemption for sales of tangible personal property or services to a business primarily engaged in the repair of consumer electronic goods if the devices are sold to the business by the original manufacturer of such devices and the devices are repaired, refitted, or refurbished for sale by the entity qualifying for the exemption directly to retail customers or if the devices are sold to another business entity for sale to retail customers.

(c) **Application.** Application for exemption may be made by filing a signed, sworn statement with the Taxpayer Assistance Division of the Oklahoma Tax Commission, which includes:

(1) The name, address, and federal employer's identification number of the applicant and the name and title of the person signing for the applicant;

(2) A complete description of the repair, refitting or refurbishing activities that will take place at the business location;

(3) A statement that applicant is primarily engaged in the repair of consumer electronic goods.

(4) Identification of the original manufacturers of the electronic consumer goods from which the applicant purchases qualified devices.

(5) A statement that applicant, once the consumer electronic goods are refitted, repaired or refurbished, will hold these devices for sale either directly to retail customers or to businesses regularly engaged in selling the qualified devices;

(6) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and

(7) Copies of written documentation substantiating the purchase of the consumer electronic goods from the original manufacturers of those items along with such additional information as the Taxpayer Assistance Division may require to confirm eligibility.

(d) **Review and determination.** Upon receipt of the application, the Taxpayer Assistance Division will review and make a determination as to the applicant's eligibility. Upon approval, certification in the form of a letter or card, of the exemption allowed will be forwarded to the applicant.

(e) **Issuance, scope, limitations of exemption certification.** The certification issued by the Taxpayer Assistance Division will be effective for a period of twelve (12) months, and may be renewed, subject to annual review and recertification of the applicant's eligibility by the Taxpayer Assistance Division.

(f) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through ~~710:1-5-48~~ 710:1-5-49 of the permanent rules of the Commission.

PART 18. PRECIOUS METALS

710:65-13-95. Exemption for sales of gold, silver, platinum, palladium or other bullion items for storage in a recognized depository facility

(a) **Definitions.** The following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(1) ~~"Bullion"~~ means any precious metal, including, but not limited to, gold, silver, platinum and palladium, that is in such a state or condition that its value depends upon its precious metal content and not its form. The definition of "bullion" does not apply to fabricated metals that have been processed or manufactured for artistic use or as jewelry.

(2) ~~"Depository facility"~~ means an institution that accepts delivery of precious metals on behalf of the purchaser and provides storage of such precious metals, but shall not include financial institutions.

(3) ~~"Recognized depository facility"~~ means any facility which qualifies as a depository facility as defined in paragraph (2).

(b) **General provisions.** ~~Sales~~ The sale of gold, silver, platinum, palladium or other bullion items such as coins and bars and legal tender of any nation, which legal tender is sold according to its value as precious metal or as an investment is exempt ~~when stored within a recognized depository facility.~~ "Bullion" for purposes of this Section means any precious metal, including, but not limited to, gold, silver, platinum and palladium, that is in such a state or condition that its value depends upon its precious metal content and not its form.

(c) ~~Exemption limited to eligible, properly documented transactions.~~ In order for such sales to be considered exempt from sales tax, a vendor, which is also a recognized depository facility, must provide its customer and retain a copy of documentation that the purchased bullion is to be kept for storage in the vendor's depository facility. Vendors which are not also acting as a recognized depository facility must maintain bills of lading or other documentation issued by the vendor or purchaser indicating that the bullion purchases are to be immediately transported and delivered to a "recognized depository facility" for storage. (b) **Eligibility.** Transactions eligible for the exemption outlined in subsection (a) of this Section include:

(1) Sales of gold, silver, platinum or palladium in the form of coins, bars, ingots, blanks, rounds, and medallions.

(2) Sales of bullion that is or was at one time used as currency or a medium of exchange in the United States or a foreign country when:

(A) sold for an amount based on its value as a precious metal or

(B) sold or purchased as an investment.

(c) **Exclusions.** The exemption outlined in Subsection (a) does not apply to the following:

(1) Fabricated metals that have been processed or manufactured for artistic use or as jewelry,

(2) Jewelry or other accessory items such as belt buckles and money clips,

(3) Paper currency, and

(4) Bonds, certificates, and stocks.

PART 29. MANUFACTURING

710:65-13-153. Exemption for "qualified manufacturers"

(a) **Qualification.** Sales of construction materials to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility are exempt from sales and use tax. For purposes of this exemption, sales made to a contractor or subcontractor who has previously entered into a contractual relationship with a qualified manufacturer for construction or expansion of a manufacturing facility shall be considered sales made to the qualified manufacturer.

(1) **"Manufacturing facility"** for purposes of this exemption, means buildings and land improvements used in manufacturing as defined in Section 1352 of Title 68 of the Oklahoma Statutes, except that up to ten percent (10%) of the square feet of such building may be devoted to office to provide clerical support for the manufacturing operation and shall also mean building and land improvements used for the purpose of packing, packaging, repackaging, labeling or assembling for distribution to market, if at least seventy percent (70%) of the product is made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. Retail outlets will be included only if the retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility.

(2) **"Qualified manufacturer"** for purposes of this exemption, means:

(A) Any enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and the new or expanded facility adds at least One Hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission, and such employees are maintained for a period of at least thirty-six (36) months, upon completion of the facility.

(B) If the cost of construction exceeds Ten Million Dollars (\$10,000,000.00) and the combined cost of construction material, machinery, equipment, and other tangible personal property exceeds Fifty Million Dollars (\$50,000,000.00), the required number of new full-time-equivalent employees to be added and maintained to be a **"qualified manufacturer"** is Seventy-five (75).

(C) If the total cost of construction exceeds the sum of Three Hundred Million Dollars (\$300,000,000.00) the **"qualified manufacturer"** must maintain an employment level of at least 1,750 full time equivalent employees.

(3) **"Total costs of construction" defined.** For purposes of this Section, **"total cost of construction"** means and includes building and construction materials, and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility, but shall not include attorney fees. For purposes of (a)(2)(C) of this Section the **"total cost of construction"** shall also include the cost of qualified depreciable property, as defined by Section 2357.4 of Title 68 of the Oklahoma Statutes, and labor services performed in the construction of a new or expanded facility.

(4) **The employment requirement.** The employment requirement described in this Section can be satisfied by a portion of the required new full-time-equivalent employees being employed at a manufacturing facility related to or supported by the new or expanded business, so long as both or all facilities are owned by the same person.

(b) **Limitations.**

(1) The exemption pertains only to sales of tangible personal property consumed or incorporated in the construction of a new manufacturing facility or the expansion of an existing facility made after June 1, 1988. The exemption applies to sales made to a contractor or sub-

contractor to be consumed or incorporated in the construction of a new or expanded manufacturing facility pursuant to a contract with a qualified manufacturer as well as to sales made to a qualified manufacturer.

(2) The exemption applies only to tangible personal property that becomes a part of the facility or that is directly consumed in the construction process.

(3) No exemption shall be granted if the qualified manufacturer fails to file both the documentation required in (e)(1) of this Section and the required certification issued by the Employment Security Commission with the Commission.

(c) **Administration.** Pursuant to statute, the exemption for sales to a qualified manufacturer outlined in this Section will be administered as a refund for state and local taxes paid by the qualified manufacturer to the vendor or, in the case of use tax, self-remitted to the state of Oklahoma.

(d) **Application process.**

(1) **Application.** All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specification of the new or expanded manufacturing facility a complete description of the product to be manufactured, and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the application will be forwarded to the Employment Security Commission for establishment of the entities base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) **Claims process.**

(1) **Records required for claim.**

(A) For each purchase made, the entity who believes that it will be certified as a qualified manufacturer shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(i) Invoice indicating the amount of state and local taxes billed to the qualified manufacturer;

(ii) Affidavit of the vendor of the construction materials reflected on the invoice that state and local sales tax reflected on that invoice has not been audited, rebated, or refunded to the qualified manufacturer but rather the sales tax charge has been collected to the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the state and local sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with a qualified manufacturer, the qualified manufacturer shall file with the Commission the following:

(i) Invoices indicating the amount of state and local sales taxes billed;

(ii) An affidavit from the contractor or sub-contractor who made the purchase of construction materials reflected on the invoice stating that the sales tax reflected on the attached invoice and claimed by the qualified manufacturer is based on state and local sales tax paid by the contractor or sub-contractor on construction materials to be consumed or incorporated in a construction of new or expanded manufacturing facility and that the amount of state and local sales tax claimed was paid by the contractor or

sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;

(iii) Additional documentation required by the Commission.

(2) **Filing claims.** At the option of the entity who believes it will be certified as a qualified manufacturer, the documentation can be filed monthly, quarterly, semi-annually, or annually. Certification issued by the Employment Security Commission must be filed within thirty-six (36) months of the date of first purchase.

(3) **Review.** The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for denial. The person who submitted the documentation will similarly be notified that a claim has been approved.

(f) **Fiscal procedure.** Each month, the Commission shall transfer from sales tax collected the estimated amount of claims approved by the Commission the previous month.

(g) **Certification process.**

(1) **Application review.** Upon completion of the new or expanded facility and the addition of the employees as required by statute, the person who believes he falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the thresholds required by law have been met. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Commission will notify the applicant of the approval or denial of the certification requested.

(2) **Approval.** The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The applicant will also receive accrued interest upon the principal amount of the refund made. [See: 68 O.S. § 1359.1(C)]

(3) **Assessment.** If at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission the number of full-time-equivalent employees drops below one hundred (100) such employees, any use or sales tax and interest previously refunded to the taxpayer will be assessed against the taxpayer receiving such refund and interest.

(4) **Denial of certification; protest procedure.**

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or his duly authorized agent setting out:

- (i) a statement of denial as determined by the Commission;
- (ii) a statement of the applicant's disagreement with such denial; and
- (iii) supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission shall become final and no appeal will be entertained.

(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the

Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing.

(D) The burden of proving that the denial of certification was erroneous is on the applicants. The applicant can present testimony, evidence and argument in support of the requested certification.

(E) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [See: 68 O.S. § 225]

(F) For further information the applicant should refer to the Rules of Practice and Procedure ~~Before before the Oklahoma Tax Commission~~ Office of the Administrative Law Judges (710:1-5-21 through 710:1-5-49). [See: 68 O.S. §§ 1359.1, 1404.1]

710:65-13-155. Exemption for sales of tangible personal property to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility

(a) **Qualification.** Sales of tangible personal property to a qualified aircraft maintenance or manufacturing facility to be consumed or incorporated in a new facility or to expand an existing facility are exempt from sales and use tax. For purposes of this exemption, sales made to a contractor or sub-contractor who has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of a facility shall be considered sales made to the qualified aircraft maintenance or manufacturing facility.

(1) For purposes of this exemption "**facility**" is defined as buildings and land improvements used in maintaining or manufacturing aircraft, except that up to ten percent (10%) of the square feet of such building may be devoted to office space used to provide clerical support for the manufacturing operation.

(2) For purposes of this exemption, "**aircraft maintenance or manufacturing facility**" is defined as any enterprise whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least Two Hundred Fifty (250) new full-time-equivalent employees, as certified by the Employment Security Commission, upon completion of the facility.

(b) **Limitations.**

(1) The exemption pertains only to sales of tangible personal property made after the effective date of the statute. The exemption applies to sales of tangible personal property made to a contractor or sub-contractor to be consumed or incorporated in the construction of a new or expanded facility pursuant to a contract with an aircraft maintenance or manufacturing facility, as well as to sales of tangible personal property made to an aircraft maintenance or manufacturing facility.

(2) No exemption shall be granted if the aircraft maintenance or manufacturing facility fails to file both the documentation required below with the Commission within thirty-six (36) months of first purchase and the required certification issued by the Employment Security Commission within sixty (60) months of first purchase.

(c) **Administration.** Pursuant to statute, the exemption outlined above will be administered as a refund for state and local taxes paid to the vendor or, in the case of use tax, self-remitted to the State of Oklahoma.

(d) **Application process.**

(1) **Application.** All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specifications of the new or expanded facility, a complete description of the maintenance, repair or manufacturing that will take place within the facility, and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the Application will be forwarded to the Employment Security Commission for establishment of the entity's base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) **Claims process.**

(1) **Records required for claim.**

(A) For each purchase made, the entity who believes that it will be certified shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(i) Invoice indicating the amount of state and local taxes billed to the aircraft maintenance or manufacturing facility;

(ii) Affidavit of the vendor of the tangible personal property that state and local sales tax reflected on that invoice has not been credited, rebated, or refunded to the aircraft maintenance or manufacturing facility, but rather, that the sales tax charged has been collected by the vendor and remitted to the Tax Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the state and local sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with an aircraft maintenance or manufacturing facility, the aircraft maintenance or manufacturing facility shall file with the Commission the following:

(i) Invoices indicating the amount of state and local sales taxes billed;

(ii) An affidavit from the contractor or sub-contractor who made the purchase of tangible personal property stating that the sales tax reflected on the attached invoice is based on state and local sales tax paid by the contractor or sub-contractor on tangible personal property to be consumed or incorporated in a construction of new or expanded aircraft maintenance or manufacturing facility and that the amount of state and local sales tax claimed was paid by the contractor or sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;

(iii) Additional documentation required by the Commission.

(2) **Filing claims.** At the option of the entity who believes it will be certified as an aircraft maintenance or manufacturing facility, the documentation can be filed monthly, quarterly, semi-annually, or annually. However, all documentation must be filed no later than thirty-six (36) months after first purchase is made.

(3) **Review.** The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied,

the person who submitted the documentation will be notified by the Commission as to the reason for the denial. The person who submitted the documentation will similarly be notified that a claim has been approved.

(f) **Fiscal procedure.** Each month, the Commission shall transfer from sales tax collected, to an account designated by the Commission, the estimated amount of claims approved by the Commission the previous month.

(g) **Certification process.**

(1) **Application review.** Upon completion of the new or expanded facility and the addition of the employees as required by statute, the person who believes he falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the total costs of construction for such facility exceeded the sum of Five Million Dollars (\$5,000,000.00) required by law. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.

(2) **Approval.** The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The applicant will also receive accrued interest upon the principal amount of the refund made as provided for by statute. [See: 68 O.S. §1357.5(C)]

(3) **Denial of certification; protest procedure.**

(A) Any applicant whose request for certification is denied may, within thirty (30) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or a duly authorized agent setting out:

- (i) a statement of denial as determined by the Commission;
- (ii) a statement of the applicant's disagreement with such denial, and
- (iii) supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission, shall become final and no appeal will be entertained.

(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing.

(D) The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested certification.

(E) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [See: 68 O.S. §225]

(F) **Additional information.** For further information the applicant should refer to the Rules of Practice and Procedure ~~Before before the Oklahoma Tax Commission~~ Office of the Administrative Law Judges (710:1-5-21 through 710:1-5-49). [See: 68 O.S. §§1357.5, 1404.4]

710:65-13-156. Exemption for "qualified distributor"

(a) **Qualification.** Sales of construction materials to a qualified distributor to be consumed or incorporated in a new distribution facility or to expand an existing distributing facility are exempt from sales and use tax. For purposes of this exemption, sales made to a contractor or sub-contractor who has previously entered into a contractual relationship with a qualified distributor for construction or expansion of a distribution facility shall be considered sales made to the qualified distributor.

(1) **"Distribution facility"** for purposes of this exemption, means buildings and land improvements used in the general wholesale distribution of groceries as defined or classified in the North American Industry Classification System (NAICS) under Industry No. 4244 and 4245, except that up to ten percent (10%) of the square feet of such building may be devoted to office to provide clerical support for the distribution operation.

(2) **"Qualified distributor"** for purposes of this exemption, means an enterprise:

(A) Whose total cost of construction of a new or expanded facility exceeds the sum of Forty Million Dollars (\$40,000,000) and the new or expanded facility adds at least fifty (50) new full-time-equivalent employees, as certified by the Employment Security Commission, and such employees are maintained for a period of at least thirty-six (36) months, upon completion of the facility.

(B) Which has at least seventy-five percent (75%) of its total sales to in-state customers or buyers.

(C) Which starts construction of its new or expanded facility on or after July 1, 2005 and before December 31, 2005.

(D) The exemption authorized pursuant to subsection (a) of this Section shall only become effective when the governing body of the municipality in which the enterprises is located approves a resolution expressing the municipality's support for the construction for such new or expanded facility. Upon approval by the municipality, the municipality shall forward a copy of such resolution to the Oklahoma Tax Commission.

(3) **"Total costs of construction" defined.** For purposes of this Section, **"total cost of construction"** means and includes building and construction materials, and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility, but shall not include attorney fees. *It shall also include the cost of all parking, security and dock structures or facilities necessary to manage, process or secure vehicles used to receive and/or distribute groceries through such a facility.* For purposes of (a)(2)(A) of this Section the **"total cost of construction"** shall also include the cost of qualified depreciable property, as defined by Section 2357.4 of Title 68 of the Oklahoma Statutes, and labor services performed in the construction of a new or expanded facility.

(4) **The employment requirement.** The employment requirement described in this Section can be satisfied by a portion of the required new full-time-equivalent employees being employed at a distribution facility related to or supported by the new or expanded distribution facility, so long as both or all facilities are owned by the same person.

(b) **Limitations.**

(1) The exemption pertains only to sales of tangible personal property consumed or incorporated in the construction of a new manufacturing facility or the expansion of an existing facility made after June 1, 1988. The exemption applies to sales made to a contractor or sub-contractor to be consumed or incorporated in the construction of a new or expanded

manufacturing facility pursuant to a contract with a qualified manufacturer as well as to sales made to a qualified manufacturer.

(2) The exemption applies only to tangible personal property that becomes a part of the facility or that is directly consumed in the construction process.

(3) No exemption shall be granted if the qualified distributor fails to file both the documentation required in (e)(1) of this Section and the required certification issued by the Employment Security Commission with the Commission.

(c) **Administration.** Pursuant to statute, the exemption for sales to a qualified distributor outlined in this Section will be administered as a refund for state and local taxes paid by the qualified distributor to the vendor or, in the case of use tax, self-remitted to the state of Oklahoma.

(d) **Application process.**

(1) **Application.** All persons who believe that they fall within the exemption provided shall file an Application/Intent to Qualify with the Commission. The Application/Intent to Qualify shall be on forms provided by the Commission and shall include, as attachments, specification of the new or expanded manufacturing facility a complete description of the facility to be expanded or newly built, and other information requested by the Commission.

(2) **Review.** Upon receipt of the Application, the Application will be reviewed by the Commission for completeness and compliance with the exemption. A copy of the application will be forwarded to the Employment Security Commission for establishment of the entities base line employment. The applicant will be notified of any action taken regarding the Application by the Commission.

(e) **Claims process.**

(1) **Records required for claim.**

(A) For each purchase made, the entity who believes that it will be certified as a qualified distributor shall file the following documentation with the Commission on forms provided for that purpose by the Commission:

(i) Invoice indicating the amount of state and local taxes billed to the qualified distributor;

(ii) Affidavit of the vendor of the construction materials reflected on the invoice that state and local sales tax reflected on that invoice has not been audited, rebated, or refunded to the qualified manufacturer but rather the sales tax charge has been collected to the vendor and remitted to the Commission. Any number of invoices from the same vendor may be attached to one affidavit so long as the affidavit covers all invoices attached;

(iii) All additional documentation required to be submitted by the Commission.

(B) In cases where the state and local sales tax was paid by a contractor or sub-contractor who has previously entered into a contract with a qualified distributor, the qualified distributor shall file with the Commission the following:

(i) Invoices indicating the amount of state and local sales taxes billed;

(ii) An affidavit from the contractor or sub-contractor who made the purchase of construction materials reflected on the invoice stating that the sales tax reflected on the attached invoice and claimed by the qualified distributor is based on state and local sales tax paid by the contractor or sub-contractor on construction materials to be consumed or incorporated in a construction of new or expanded distribution facility and that the amount of state and local sales tax claimed was paid by the contractor or sub-contractor to the vendor and no credit, refund or rebate has been claimed by the contractor or sub-contractor. Any number of invoices can be attached to an affidavit of a contractor or

sub-contractor provided that all invoices attached reflect purchases made by that contractor or sub-contractor and are reflected in the affidavit;

(iii) Additional documentation required by the Commission.

(2) **Filing claims.** At the option of the entity who believes it will be certified as a qualified manufacturer, the documentation can be filed monthly, quarterly, semi-annually, or annually. Certification issued by the Employment Security Commission must be filed within thirty-six (36) months of the date of first purchase.

(3) **Review.** The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for denial. The person who submitted the documentation will similarly be notified that a claim has been approved.

(f) **Fiscal procedure.** Each month, the Commission shall transfer from sales tax collected the estimated amount of claims approved by the Commission the previous month.

(g) **Certification process.**

(1) **Application review.** Upon completion of the new or expanded distribution facility and the addition of the employees as required by statute, the person who believes he falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the thresholds required by law have been met. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Tax Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.

(2) **Approval.** The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Tax Commission. The applicant will also receive accrued interest upon the principal amount of the refund made. Provided, no claim for refund shall be filed by a qualified distributor before July 1, 2006. [See: 68 O.S. § 1359.1(C)]

(3) **Assessment.** If at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission the number of full-time-equivalent employees drops below fifty (50) such employees, any use or sales tax and interest previously refunded to the taxpayer will be assessed against the taxpayer receiving such refund and interest.

(4) **Denial of certification; protest procedure.**

(A) Any applicant whose request for certification is denied may, within sixty (60) days after the mailing of the denial by the Commission, file with the Commission a protest under oath, signed by the applicant or his duly authorized agent setting out:

- (i) a statement of denial as determined by the Commission;
- (ii) a statement of the applicant's disagreement with such denial; and
- (iii) supporting documentation relied on by the taxpayer in support of certification.

(B) If an applicant fails to file a written protest within the sixty (60) days, then the denial, without further action of the Commission shall become final and no appeal will be entertained.

(C) Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing en banc before the Commission for a date, time and place set by the

Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing.

(D) The burden of proving that the denial of certification was erroneous is on the applicants. The applicant can present testimony, evidence and argument in support of the requested certification.

(E) The Commission will issue an order in each case. That order is directly appealable to the Supreme Court. [See: 68 O. S. § 225]

(F) For further information the applicant should refer to the Rules of Practice and Procedure ~~Before~~ before the Oklahoma Tax Commission Office of the Administrative Law Judges (710:1-5-21 through 710:1-5-49). [See: 68 O.S. §§ 1359.1, 1404.1]

PART 31. MEDICINE, MEDICAL APPLIANCES, AND HEALTH CARE ENTITIES AND ACTIVITIES

710:65-13-171. Sales of prosthetic devices to individuals

(a) **General provisions.** Sales of prosthetic devices to an individual for use by such individual is ~~are~~ exempt from sales tax.

(b) Applicable definitions. For purposes of this Section:

(1) "**Prosthetic device**" means a replacement, corrective or supportive device, including repair and replacement parts for same, worn on or in the body to:

- (A) Artificially replace a missing portion of the body;
- (B) Prevent or correct physical deformity or malfunction; or,
- (C) Support a weak or deformed portion of the body.

(2) "**Prosthetic device**" does **not** include corrective eye glasses, contact lenses, or hearing aids. A non-exhaustive list of prosthetic devices is set forth in 710:65-13-173(e).

(3) "**Use by that individual**" means usage for the purposes and in a manner for which the device was designed and intended.

(c) **Medicare and ~~medicaid~~ Medicaid recipients.** Eye glasses, contact lenses, and hearing aids are considered items of "medical equipment", and if their cost will be reimbursed by Medicare or Medicaid pursuant to the terms set out in 710:65-13-173, the sale is tax exempt.

PART 35. NEWSPAPERS; PERIODICALS; PROGRAMS; MEDIA

710:65-13-194. Exemption for sales of tangible personal property and services to a motion picture or television production company to be used or consumed in connection with an eligible production

(a) **General provisions.** The sale of tangible personal property and services to a motion picture or television production company are exempt from sales and use taxes in Oklahoma, if used or consumed in connection with an eligible production.

(b) **Definitions.** Pursuant to 68 O.S. §1357(23), "**Eligible production**" means "*a documentary, special, music video, or a television commercial or television program that will serve as a pilot for or be a segment of an ongoing dramatic or situation comedy series, filmed or taped for network or national or regional syndication; or a feature-length motion picture intended for theatrical release or for network or national or regional syndication or broadcast.*" "**Qualified purchaser**" means a motion picture or television production company making purchases of tangible personal property and services for use in producing an eligible production, which has received an exemption letter for its eligible production.

(c) **Examples of exempt items.** Items that may be purchased exempt from sales tax by a qualified purchaser include, but are not limited to:

- (1) Accommodations and meals.
- (2) Production equipment purchases and rentals.
- (3) Set construction and rigging materials.
- (4) Production office equipment and supplies.
- (5) Prop and wardrobe purchases and rentals.
- (6) Utilities used by the production company on location and in the production office.

(d) **Application process.** Application for exemption is made by submitting to the Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 Lincoln Blvd. Oklahoma City, OK 73194, a completed Form 13-88, contained in Packet E available telephonically at (405) 521-3160 or online at www.tax.ok.gov.

(e) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, a letter certifying that the exemption is allowed will be forwarded to the applicant.

(f) **Denial of certification; cancellation, suspension, revocation of certification.** Certification may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue an exemption letter pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through ~~710:1-5-48~~ 710:1-5-49 of the permanent rules of the Commission.

(g) **Use of letter certifying eligibility for the exemption.** Persons claiming exemption under this Section should provide their vendors with a copy of the certification letter issued by the Commission and a signed statement that the purchase is being made exempt from sales tax. If purchases will be made from a vendor on a regular basis, the vendor may make subsequent sales without requiring proof of eligibility for each sale, providing the person to who the exempt sales are being made has agreed in writing to notify the vendor of any and all purchases which may be made to which the exemption would not apply. Vendors may accept the certification set out in this subsection in the same manner as any other letter or card certifying to a specific statutory exemption as set out in 710:65-7-6 and 710:65-7-15.

(h) **Limitations.** Any letter certifying an exemption issued under this Section is valid only for use by the addressee and is not transferable. The exemption may **not** be used by any other entity, even if that entity claims to be an agent, administrator, party to a contract or other relationship. Each entity desiring to obtain a letter certifying an exemption must make application in its own name.

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

710:65-13-348. Limited exemption for qualified neighborhood watch organizations

(a) **Qualification for exemption.** Effective July 1, 2005, the first \$2,000 of each calendar year's sales of tangible personal property or services, to, by, or for the benefit of a qualified neighborhood watch organization that is endorsed or supported by or working directly with a law enforcement agency with jurisdiction in the area in which the neighborhood watch organization is located are exempt from sales tax. For purposes of this exemption "**qualified neighborhood watch organization**" means an organization that is a not-for-profit corporation under the laws of the State of Oklahoma that was created to help prevent criminal activity in an area through community involvement and interaction with local law enforcement and which is one of the first two thousand

organizations which makes application to the Oklahoma Tax Commission for the exemption after the effective date of the act.

(b) **Application process.** Only the first two thousand applications received by the Oklahoma Tax Commission are eligible for exemption. Application for exemption is made by submitting to the Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 N. Lincoln Blvd., Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available telephonically at (405) 521-3160 or online at www.tax.ok.gov along with supporting documentation as follows:

(1) Documentation showing that the organization is a not-for profit corporation under the laws of Oklahoma established to help prevent criminal activity in a specific area through community involvement and interaction with local law enforcement, as may be evidenced by copies of one or more of the following:

(A) Articles of incorporation;

(B) By-laws;

(C) Other documents that show the intent of the incorporators at the time of incorporation.

(2) Documentation showing that the organization is either endorsed, supported by or working directly with a law enforcement agency that has jurisdiction in the area where the neighborhood watch is located. Documentation may consist of membership lists, notices or minutes of meetings or letters from the applicable law enforcement agencies concerning their support, endorsement or involvement with the organization.

(3) A description of the boundaries of the area in which the neighborhood watch organization is located.

(4) The name and address of the person representing the organization to whom the exemption card will be mailed and who will be responsible for keeping track of the sales made to, by, or for the benefit of the organization so that the annual limit of \$2,000 will not be exceeded by the organization.

(c) **Exemption limited to eligible, properly-documented transactions.** Only the first \$2,000 of either sales to, by or on behalf of the organization are exempt. The organization must keep accurate records to enable it to properly document the exemption. The exemption documentation that vendors are required to obtain on purchases to, or for the benefit of the organization is set out in 710:65-7-17.

(d) **Purchases by contractors.** Purchases of tangible 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 the qualified organizations.

(e) **Review and determination.** Upon receipt of the application, the Commission will review and make a determination as to the applicant's eligibility. Upon approval, an exemption card will be sent to the applicant.

(f) **Denial of exemption; cancellation, suspension, revocation of exemption card.** The exemption may be denied, and the exemption card cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a certification pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-48 710:1-5-49 of the permanent rules of the Commission.

SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES

PART 1. "A"

710:65-19-9. Antiques, works of art, and artists

(a) Sales of antiques and works of art are sales taxable, without deductions for trade-in values or expenses of any kind. Vendors regularly engaged in the business of selling antiques or works of art should collect, report and remit sales tax, regardless of the infrequency of the sales.

(b) Sales of curios, antiques, art work, coins, postage stamps and like articles to art collectors, philatelists, numismatists or other persons who purchase such items for use or storage and not for immediate resale are sales subject to tax.

(c) Artists are consumer users of all tangible personal property used to create a painting, statue, figurine, or other piece of tangible personal property. If an artist is hired to create a work of art to custom order, the artist is performing a service and the amounts received by the artist for rendering this service are not taxable. If the artist has an existing work of art, or if the artist creates a piece of art work for speculation, the sale of the piece of art is subject to sales tax without any deduction for the cost of the materials used.

PART 5. "C"

710:65-19-50. Coins and bullion [REVOKED]

~~Coins or currency exchanged in the open market at the current exchange rate are not subject to sales tax. However, with the exception of OAC 710:65-13-95 the following transactions are subject to Oklahoma sales tax:~~

~~(1) Coins, commemorative or otherwise, purchased at rates not reflecting actual currency value (as for numismatic or coin collecting purposes or where the precious metal content of the coins determine their value);~~

~~(2) Sales of bullion;~~

~~(3) Sales of gold and silver commodity contracts where delivery of the commodity is taken in Oklahoma. [See: 68 O.S. §§1352, 1354]~~

710:65-19-58. Cotton gins [REVOKED]

~~Cotton gin machinery and equipment used in separating lint from seed, in cleaning, conditioning and baling, and the equipment used to carry the cotton lint and seed, from step to step in the ginning process may be purchased exempt from tax. The blower which discharges the seed from the gin, the conveyor equipment used in unloading seed cotton and putting it into storage and moving cotton seed from the gin to storage and from storage into transport equipment are subject to tax. Other materials which are subject to tax are building materials used in the construction of storage facilities for seed cotton and cotton seed.~~

710:65-19-61. Collections and collectibles

Sales of stamps and currency at face value are not taxable. Sales of stamps and currency which do not meet the exemption requirements of OAC 710:65-13-95 for consideration in excess of face value are taxable.

PART 11. "F"

710:65-19-105. Sales by banks, savings and loan associations, credit unions and other financial institutions

- (a) Financial institutions are primarily engaged in providing nontaxable services. Such services include charges to customers for cashier's checks, money orders, traveler's checks, checking accounts and the use of safe deposit boxes.
- (b) A financial institution shall obtain a sales tax permit and regularly file sales and use tax returns if it regularly has taxable gross receipts. Taxable gross receipts include sales of the following:
- (1) Coin savings banks.
 - (2) Commemorative medals unless made from a precious metal that is in such a state or condition that its value depends upon its precious metal content and not its form.
 - (3) Collectors' coins or currency sold above face value which do not meet the requirements for exemption pursuant to OAC 710:65-13-95.
 - ~~(4) Gold and silver bullion.~~
 - ~~(5) Repossessed assets.~~
 - ~~(6) Meals and beverages in the institution's cafeteria.~~
 - ~~(7) Charges for providing parking space for motor vehicles.~~
- (c) Financial institutions who only occasionally make sales of tangible personal property need not obtain a sales tax permit but must collect, report and remit sales tax on all sales of tangible personal property.

PART 15. "H"

710:65-19-142. Hospitals

- (a) Hospitals, infirmaries, sanitariums, nursing homes, and like institutions are primarily engaged in the business of rendering services. They are not required to collect, report, and remit sales tax on gross receipts from meals, bandages, dressings, drugs, x-ray photographs or other tangible personal property when such items of tangible personal property are used in the rendering of a hospital service. This is true irrespective of whether or not such tangible items are billed separately to their patients.
- (b) With the exception of drugs, excluding over-the-counter drugs, as outlined in 710:65-13-170, hospitals, infirmaries, and sanitariums are deemed to be the purchasers for use or consumption of all tangible personal property used in the rendering of their service, and the sellers of these items to hospitals, infirmaries or sanitariums are required to collect tax on sales of such property to hospitals, unless the hospital is owned or operated by the federal government, the State of Oklahoma, a city, county, public trust, or a federally-recognized Indian Tribe, in which case the exemption described at OAC 710:65-13-130 will apply. Hospitals, infirmaries or sanitariums, engaged in the administration of drugs to their patients, may purchase drugs, except for over-the-counter drugs, exempt from sales tax ~~if the purchaser holds a valid sales tax permit.~~
- (c) When hospitals furnish meals to nurses, attendants and patients as a part of the service rendered, the hospitals are deemed to be the users or consumers of the food and beverages used in the preparation of these meals and the sellers of these items to the hospital are required to collect tax on the sales of such property.
- (d) When privately owned hospitals operate cafeterias that serve meals to the public, they will be allowed to purchase all foodstuffs used to operate the cafeteria exempt from tax for resale with a valid sales tax permit. The hospitals will then be required to collect the sales tax on sales to their customers and report and remit same to the Commission each month. The hospitals will also be required to pay sales tax on the cost of all foodstuffs withdrawn from stock, which are used to feed patients.

(e) State, city or county hospitals who operate cafeterias that serve meals to the public, or who charge their employees, are also required to collect the sales tax on sales to their customers and report and remit same to the Commission each month.

PART 39. " T "

710:65-19-330. Telecommunications services

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) *"Air-to-ground radiotelephone service"* means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft. [68 O.S.Supp.2003, § 1354.30(A)(1)]
- (2) *"Ancillary services"* means services that are associated with or incidental to the provision of telecommunication services, including but not limited to "detailed telecommunications billing", "directory assistance", "vertical service", and "voice mail service". [68 O.S. Supp 2007 § 1354(A)(4)(d)]
- (3) *"Call-by-call basis"* means any method of charging for telecommunications services where the price is measured by individual calls. [68 O.S.Supp.2003, § 1354.30(A)(2)]
- (4) *"Communications channel"* means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points. [68 O.S.Supp.2003, § 1354.30(A)(3)]
- (5) *"Customer"* means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. "Customer" does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area. [68 O.S.Supp.2003, § 1354.30(A)(4)]
- (6) *"Customer channel termination point"* means the location where the customer either inputs or receives the communications. [68 O.S.Supp.2003, § 1354.30(A)(5)]
- (7) *"End user"* means the person who utilizes the telecommunications service. In the case of an entity, "end user" means the individual who utilizes the service on behalf of the entity. [68 O.S.Supp.2003, § 1354.30(A)(6)]
- (8) *"Home service provider"* means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act. [68 O.S.Supp.2003, § 1354.30(A)(7)]
- (9) **"International telecommunications services" defined.** **"International telecommunications services"** means all telecommunications services that either (1) originate in this state and terminate outside of the United States or (2) originate outside of the United States and terminate in this state, where, in either instance, a service address of the telecommunications service is in this state.
- (10) **Interstate and International "800 service"** means a "telecommunications service" that allows a caller to dial a toll-free number without incurring a charge for the call typically marked under the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission,
- (11) **Interstate and International "900 service"** means an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call into the

subscriber's prerecorded announcement of live service typically marketed under the name "900" service and any subsequent numbers designated by the Federal Communications Commission. "900 service" does not include charges for collection services provided by the seller of the "telecommunications services" to the subscriber, or service or product sold by the subscriber to the subscriber's customer

(12) **"Interstate"** means a telecommunications service that originates in one state, territory or possession of the United States, and terminates in a different state, territory or possession of the United States.

(13) **"Intrastate"** means a telecommunications service that originates in one state, territory or possession of the United States, and terminates in the same state, territory or possession of the United States.

(14) **"Local exchange telecommunications services" defined.** **"Local exchange telecommunications services"** means the provision of each access line and each dial tone to a fixed location for sending and receiving service in the provider's local exchange network. Local exchange service includes, but is not limited to, all ordinary exchange and toll service, extra listings, joint-user service, customer access line charges, and auxiliary services (call waiting, call forwarding, etc.).

(15) **"Mobile telecommunications service"** means the same as that term is defined in Section 124(5) of Public Law 106-252, the Mobile Telecommunications Sourcing Act. [68 O.S.Supp.2007, § 1354.30(A)(8)]

(16) **"Paging service"** means a "telecommunications service" that provides transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

(17) **"Place of primary use"** means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, **"place of primary use"** must be within the licensed service area of the home service provider. [68 O.S.Supp.2007, § 1354.30(A)(9)]

(18) **"Post-paid calling service"** means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service. [68 O.S.Supp.2007, § 1354.30(A)(10)]

(19) **"Prepaid calling service"** means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount. [68 O.S.Supp.2007, § 1354.30(A)(11)]

(20) **"Private communication service"** means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels. [68 O.S.Supp.2003, § 1354.30(A)(13)]

(21) *"Prepaid wireless calling services"* means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other nontelecommunication services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount. [68 O.S. Supp-2007 1354.30(A)(12)]

(22) *"Service address"* means:

(A) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in subparagraph (A) of this paragraph is not known, *"service address"* means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and,

(C) If the locations in subparagraphs (A) and (B) of this paragraph are not known, *"service address"* means the location of the customer's place of primary use. [68 O.S. Supp-2007, § 1354.30(A)(14)]

(23) **"Value-added non-voice services"** means a service in which computer applications are used, other than for purposes of transmission conveyance or routing, to act on the form, content, code or protocol of the information or data.

(b) **Sales tax levied on the sale of telecommunications services, ancillary services and telecommunications nonrecurring charges.** Sales tax is levied on the sale of telecommunications services regardless of the vendor of said service as follows:

(1) Intrastate, interstate and international telecommunications services sourced to this state in accordance with Section 710:65-18-5.

(2) Ancillary services.

(3) Telecommunications nonrecurring charges, which means an amount billed for the installation, connection, charge or initiation of telecommunication services received by a customer.

(c) **Transactions to which the tax is applicable.** Telecommunications services include:

(1) The electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(2) The transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance or routing as voice-over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added.

(d) **Transactions to which the tax is not applicable.** Telecommunications services do not include:

(1) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser's primary purpose for the underlying transaction is the processed data or information.

(2) The installation or maintenance of wiring or equipment on a customer's premises.

(3) Tangible personal property.

(4) Advertising, including but not limited to directory advertising.

(5) Billing and collection services provided to third parties.

- (6) Regulatory assessments and charges, including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High Cost Fund Internet access services.
- (7) If charges for taxable telecommunications services are aggregated with and not separately stated from charges for nontaxable services or products, the nontaxable charges will be subject to taxation unless the provider can reasonably identify charges not subject to the tax, charge or fee from the provider's books and records kept in the regular course of business; Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S. C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3.
- (8) Ancillary services.
- (9) Digital products delivered electronically, including but not limited to, software, music video, reading materials or ring tones.
- (e) **Transactions exempted from the telecommunications levy.** The following transactions are exempt from the telecommunications levy:
- (1) Interstate and International "800 service".
 - (2) Interstate and International "900 service".
 - (3) Interstate and International "private communications service".
 - (4) Value-added non-voice services in which computer applications are used, other than for purposes of transmission, conveyance or routing, to act on the form, content, code or protocol of the information or data.
 - (5) Interstate and International telecommunication service which is:
 - (A) Rendered by a company for private use within its organization or
 - (B) Used, allocated, or distributed by a company to its affiliated group.
 - (6) Regulatory assessments and charges, including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High Cost Fund.
 - (7) Telecommunications nonrecurring charges, including but not limited to the installation, connection, change or initiation of telecommunications services which are not associated with a retail consumer sale.
- (f) **Coin-operated telephone taxable.** Gross receipts from a coin-operated telephone are subject to sales tax.
- (g) **Purchases of tangible personal property by persons providing telecommunications services.** Except as otherwise set out in this paragraph, persons engaged in the business of providing telecommunications services are the consumers of tangible personal property used in providing those services. Sales of such tangible personal property to persons providing telecommunications services are taxable. However, sales of wireless telecommunications equipment to a wireless telecommunications vendor, who subsequently transfers the equipment to a customer for no charge or for a discounted charge, in connection with the customer's purchase of new or continued wireless telecommunications service, is are exempt. 68 O.S. § 1357(26)
- (h) **Access charges billed to customer.** Access charges billed to consumers of telecommunications services are taxable.
- (i) Sales of telecommunications services shall be sourced as set out in Section 710:65-18-5.
- (j) If charges for taxable telecommunications services are aggregated with and not separately stated from charges for nontaxable services or products, the nontaxable charges will be subject to

taxation unless the provider can reasonably identify charges not subject to the tax, charge or fee from the provider's books and records kept in the regular course of business;

PART 45. "W"

710:65-19-367. Water conditioning and water softeners

- (a) Water conditioning companies (including all soft water companies) are vendors with respect to all tangible personal property sold, leased, or rented by them and must collect the sales tax on all such property unless the purchaser or user is entitled to claim exemption from the sales tax and furnished an exemption certification.
- (b) For purposes of collection of the tax, the term "**water conditioner**" means all automatic softeners, softener tanks, exchange tanks, purifiers, chlorinators, or any other device or equipment, together with the minerals contained therein used to condition, purify, or soften water.
- (c) Rented or leased water conditioners, including those leased with an option for purchase, or those otherwise furnished for a monthly or other periodic charge, ~~are~~ are subject to the sales tax on the amount charged. Such conditioners sold shall be subject to sales tax on the full selling price.
- (d) Purchases by a water conditioning or softening company of water conditioners, tanks, and other equipment to be sold or rented are not subject to tax.
- (e) Purchases of all other equipment supplies, and materials not for resale, including salt or any other cleaning agent used to rejuvenate water tanks or the minerals therein, are subject to sales or use tax.
- (f) When a customer is billed separately for materials used to alter or change plumbing to accommodate conditioning equipment, the sales tax shall be collected, reported and remitted on the gross receipts from such materials.

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

710:65-3-4. Contents of monthly sales report

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to require inclusion of a vendor's social security number or federal employer identification number only in the circumstances where the vendor's sales tax permit number is not provided.
- (b.) **Classes Affected:** Vendors filing monthly sales tax reports.
- (c.) **Persons Benefited:** Vendors filing monthly sales tax reports.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Christy Caesar **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

710:65-5-5. Issuance of sales tax assessments

710:65-7-3. Personal liability for sales tax due; ~~corporate officers, partners, individuals~~

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to implement the provisions of Senate Bill 1228 by outlining the parameters under which a person will be deemed personally liable for the nonpayment of sales tax.
- (b.) **Classes Affected:** Persons responsible for the collection and remittance of sales taxes.
- (c.) **Persons Benefited:** Persons responsible for the collection and remittance of sales taxes.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Christy Caesar **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

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

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to maintain Oklahoma's compliance as a member state with the Streamlined Sales and Use Tax Agreement.
- (b.) **Classes Affected:** Sellers making sales subject to Oklahoma sales/use tax and their certified service providers.
- (c.) **Persons Benefited:** Sellers making sales subject to Oklahoma sales/use tax and their certified service providers.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Marc Morrison **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

710:65-13-15. "Agricultural production" defined; taxable and exempt transactions.
[Amended]

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to remove the beekeeping exclusion from the activities that constitute agricultural production for purposes of the sales tax exemption afforded holders of agricultural exemption permits.
- (b.) **Classes Affected:** Beekeepers seeking to obtain an agricultural exemption permit.
- (c.) **Persons Benefited:** Beekeepers seeking to obtain an agricultural exemption permit.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Christy Caesar **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

710:65-13-40. Sales by churches; sales to churches. [Amended]

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to delete the requirement that an IRS determination letter be presented in order for a church to obtain a sales tax exemption card
- (b.) **Classes Affected:** Churches seeking to obtain a sales tax exemption card.
- (c.) **Persons Benefited:** Churches seeking to obtain a sales tax exemption card.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Christy Caesar **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

710:65-19-142. Hospitals [Amended]

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to remove the requirement that hospitals, infirmaries, or sanitariums possess a sales tax permit in order to purchase exempt from sales tax prescription drugs for patient treatment.
- (b.) **Classes Affected:** Hospitals and other similar medical facilities purchasing prescription drugs for patient treatment.
- (c.) **Persons Benefited:** Hospitals and other similar medical facilities purchasing prescription drugs for patient treatment.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Christy Caesar **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

710:65-13-95. Exemption for sales of gold, silver, platinum, palladium or other bullion items for storage in a recognized depository facility [Amended]

710:65-19-9. Antiques, works of art, and artists [Amended]

710:65-19-50. Coins and bullion [Revoked]

710:65-19-61. Collections and collectibles [Amended]

710:65-19-105. Sales by banks, savings and loan associations, credit unions and other financial institutions [Amended]

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is implement the provisions of SB 862 [2014] which amended the sales tax exemption for sales of gold, silver, platinum, palladium or other bullion items such as coins, bars and legal tender of any nation by removing the requirement that in order to be exempt the items must be stored within a recognized depository facility.
- (b.) **Classes Affected:** Purchasers and sellers of gold, silver, platinum, palladium and other bullion items.
- (c.) **Persons Benefited:** Purchasers and sellers of gold, silver, platinum, palladium and other bullion items.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Christy Caesar **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

- 710:65-3-4. Contents of monthly sales report [AMENDED]
- 710:65-9-10. Direct payment permits (DPP) [AMENDED]
- 710:65-13-51. Exemption for sales of computers, data processing, telephonic and certain related equipment and services to a qualified aircraft maintenance or manufacturing facility [AMENDED]
- 710:65-13-54. Exemption for sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing [AMENDED]
- 710:65-13-80. Exemption for purchases to reduce hazardous waste [AMENDED]
- 710:65-13-85. Exemption for refitting, refurbishing, or repairing of consumer electronic goods [AMENDED]
- 710:65-13-153. Exemption for "qualified manufacturers" [AMENDED]
- 710:65-13-155. Exemption for sales of tangible personal property to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility [AMENDED]
- 710:65-13-156. Exemption for "qualified distributor" [AMENDED]
- 710:65-13-194. Exemption for sales of tangible personal property and services to a motion picture or television production company to be used or consumed in connection with an eligible production [AMENDED]
- 710:65-13-348. Limited exemption for qualified neighborhood watch organizations [AMENDED]

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to replace *Rules of Practice and Procedure before the Oklahoma Tax Commission* with *Rules of Practice and Procedure before the Office of the Administrative Law Judges* and also to update the internal cross-references.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Lisa Haws **Phone Number:** 522-3133

OKLAHOMA TAX COMMISSION
Rule Impact Statement
CHAPTER 65 Sales and Use Tax

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

710:65-7-18. Vendor's responsibility – sales to, by, or for the benefit of, neighborhood watch organizations. [Amended]

710:65-13-171. Sales of prosthetic devices to individuals [Amended]

710:65-19-58. Cotton gins [Revoked]

710:65-19-330. Telecommunications services [Amended]

710:65-19-367. Water conditioning and water softeners [Amended]

- (a.) **Purpose of the Proposed Rule:** The purpose of the rulemaking action is to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and ensure accurate internal cross-references.
- (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 not levy, implement, or 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:** December 17, 2014 **Date Modified:** N/A
- (l.) **Prepared By:** Christy Caesar **Phone Number:** 522-3133